



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLVI  
January 10, 2024

NUMBER 14  
Pages 4913 to 5578

## CONTENTS IN THIS ISSUE

Pages 5011 to 5578 include **ARC 7282C** to **ARC 7287C**; **ARC 7316C** to **ARC 7329C**; **ARC 7379C**; **ARC 7380C**; **ARC 7384C** to **ARC 7416C**; and **ARC 7435C** to **ARC 7502C**

### ACCOUNTANCY EXAMINING BOARD[193A]

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

Notice, Definitions, ch 1 <b>ARC 7384C</b> . . . . .	5011
Notice, Organization and administration, ch 2 <b>ARC 7385C</b> . . . . .	5014
Notice, Certification of CPAs, ch 3 <b>ARC 7386C</b> . . . . .	5017
Notice, Licensure of LPAs, ch 4 <b>ARC 7387C</b> . . . . .	5022
Notice, Licensure status and renewal of certificates and licenses, ch 5 <b>ARC 7388C</b> . . . . .	5026
Notice, Attest and compilation services, ch 6 <b>ARC 7389C</b> . . . . .	5031
Notice, Certified public accounting firms, ch 7 <b>ARC 7390C</b> . . . . .	5035
Notice, Licensed public accounting firms, ch 8 <b>ARC 7391C</b> . . . . .	5038
Notice, Reciprocity and substantial equivalency, ch 9 <b>ARC 7392C</b> . . . . .	5041
Notice, Continuing education, ch 10 <b>ARC 7393C</b> . . . . .	5045
Notice, Peer review, ch 11 <b>ARC 7394C</b> . . . . .	5053
Notice, Fees, ch 12 <b>ARC 7395C</b> . . . . .	5056
Notice, Rules of professional ethics and conduct, ch 13 <b>ARC 7396C</b> . . . . .	5058
Notice, Disciplinary authority and grounds for discipline, ch 14 <b>ARC 7397C</b> . . . . .	5063
Notice, Disciplinary investigations, ch 15 <b>ARC 7398C</b> . . . . .	5068
Notice, Disciplinary proceedings, ch 16 <b>ARC 7399C</b> . . . . .	5073
Notice, Enforcement proceedings against nonlicensees, ch 17 <b>ARC 7400C</b> . . . . .	5077

Notice, Licensees’ duty to report, ch 18 <b>ARC 7401C</b> . . . . .	5080
Notice, Practice privilege for out-of-state certified public accountants, ch 20 <b>ARC 7402C</b> . . . . .	5082
Notice, Practice privilege for out-of-state certified public accounting firms, ch 21 <b>ARC 7403C</b> . . . . .	5087

### ALL AGENCIES

Agency identification numbers . . . . .	4929
Citation of administrative rules. . . . .	4917
Schedule for rulemaking . . . . .	4918

### ARCHITECTURAL EXAMINING BOARD[193B]

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

Notice, Description of organization, ch 1 <b>ARC 7435C</b> . . . . .	5091
Notice, Licensure, ch 2 <b>ARC 7436C</b> . . . . .	5094
Notice, Continuing education, ch 3 <b>ARC 7437C</b> . . . . .	5101
Notice, Rules of conduct, ch 4 <b>ARC 7438C</b> . . . . .	5104
Notice, Exceptions, ch 5 <b>ARC 7439C</b> . . . . .	5110
Notice, Disciplinary action against licensees, ch 6 <b>ARC 7440C</b> . . . . .	5116
Notice, Disciplinary action—unlicensed practice, ch 7 <b>ARC 7441C</b> . . . . .	5120

### COLLEGE STUDENT AID COMMISSION[283]

Regulatory Analysis, All Iowa opportunity scholarship program, ch 8. . . . .	4931
Regulatory Analysis, Iowa tuition grant program—for-profit institutions, ch 11 . . . . .	4936

**COLLEGE STUDENT AID COMMISSION[283]**

(Cont'd)

Regulatory Analysis, Iowa vocational-technical tuition grant program, ch 13 ..... 4941

Regulatory Analysis, Skilled workforce shortage tuition grant program, ch 23 ..... 4945

**ECONOMIC DEVELOPMENT**

**AUTHORITY[261]**

Filed, Tax credit programs, 43.3, 47.3(3), 48.4(1), 116.3(6), 116.6 **ARC 7492C** ..... 5532

Filed, Renewable chemical production tax credit program, ch 81 **ARC 7493C** ..... 5535

**ENGINEERING AND LAND SURVEYING**

**EXAMINING BOARD[193C]**

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

Notice, Administration, ch 1 **ARC 7404C** ..... 5122

Notice, Fees and charges, ch 2 **ARC 7405C** ..... 5130

Notice, Application and renewal process, ch 3 **ARC 7406C** ..... 5132

Notice, Engineering licensure, ch 4 **ARC 7407C** ..... 5137

Notice, Land surveying licensure, ch 5 **ARC 7408C** ..... 5147

Notice, Seal and certificate of responsibility, ch 6 **ARC 7409C** ..... 5152

Notice, Professional development, ch 7 **ARC 7410C** ..... 5156

Notice, Professional conduct of licensees, ch 8 **ARC 7411C** ..... 5162

Notice, Complaints, investigations, and disciplinary action, ch 9 **ARC 7412C** ..... 5168

Notice, Peer review, ch 10 **ARC 7413C** ..... 5174

Notice, Minimum standards for property surveys, ch 11 **ARC 7414C** ..... 5177

Notice, Minimum standards for U.S. public land survey corner certificates, ch 12 **ARC 7415C** ..... 5180

Notice, Civil penalties for unlicensed practice, ch 13 **ARC 7416C** ..... 5183

**HUMAN SERVICES DEPARTMENT[441]**

Regulatory Analysis, Disability services management, ch 25 ..... 4950

Regulatory Analysis, Foster care placement and services, ch 202 ..... 4991

**MANAGEMENT DEPARTMENT[541]**

Filed, Organization and operation, ch 1 **ARC 7494C** ..... 5539

Filed, Petitions for rulemaking, ch 5 **ARC 7495C** ..... 5541

Filed, Declaratory orders, ch 6 **ARC 7496C** ..... 5543

Filed, Agency procedure for rulemaking, ch 7 **ARC 7497C** ..... 5545

Filed, Public records and fair information practices, ch 8 **ARC 7498C** ..... 5547

Filed, Grants enterprise management system, ch 11 **ARC 7499C** ..... 5552

Filed, DAS customer council, ch 12 **ARC 7500C** ..... 5555

Filed, Suspension and reinstatement of state funds, adopt ch 13; rescind ch 16 **ARC 7501C** ..... 5559

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Licensure of chiropractic physicians, ch 41 **ARC 7463C** ..... 5186

Notice, Colleges for chiropractic physicians, ch 42 **ARC 7464C** ..... 5191

Notice, Practice of chiropractic physicians, ch 43 **ARC 7465C** ..... 5194

Notice, Continuing education for chiropractic physicians, ch 44 **ARC 7466C** ..... 5202

Notice, Discipline for chiropractic physicians, ch 45 **ARC 7467C** ..... 5206

Notice, Licensure of hearing aid specialists, ch 121 **ARC 7483C** ..... 5208

Notice, Continuing education for hearing aid specialists, ch 122 **ARC 7484C** ..... 5213

Notice, Practice of hearing aid dispensing, ch 123 **ARC 7485C** ..... 5216

Notice, Discipline for hearing aid specialists, ch 124 **ARC 7486C** ..... 5220

Notice, Licensure of massage therapists, ch 131 **ARC 7479C** ..... 5222

Notice, Massage therapy education curriculum, ch 132 **ARC 7480C** ..... 5228

Notice, Continuing education for massage therapists, ch 133 **ARC 7481C** ..... 5231

Notice, Discipline for massage therapists, ch 134 **ARC 7482C** ..... 5235

Notice, Licensure of nursing home administrators, ch 141 **ARC 7476C** ..... 5238

Notice, Continuing education for nursing home administration, ch 143 **ARC 7477C** ..... 5243

Notice, Discipline for nursing home administrators, ch 144 **ARC 7478C** ..... 5246

Notice, Licensure of optometrists, ch 180 **ARC 7472C** ..... 5249

Notice, Continuing education for optometrists, ch 181 **ARC 7473C** ..... 5253

Notice, Practice of optometrists, ch 182 **ARC 7474C** ..... 5256

**PROFESSIONAL LICENSURE DIVISION[645]**

(Cont'd)

Notice, Discipline for optometrists, ch 183 <b>ARC 7475C</b> .....	5261	Notice, Plumbing and mechanical systems board—complaints and investigations, ch 34 <b>ARC 7320C</b> .....	5361
Notice, Licensure of speech pathologists and audiologists, ch 300 <b>ARC 7468C</b> .....	5263	Notice, Plumbing and mechanical systems board—alternative licensure pathways, ch 35 <b>ARC 7322C</b> .....	5364
Notice, Practice of speech pathologists and audiologists, ch 301 <b>ARC 7469C</b> .....	5270	Notice, Plumbing and mechanical systems board—petitions for rule making, rescind ch 36 <b>ARC 7325C</b> .....	5368
Notice, Continuing education for speech pathologists and audiologists, ch 303 <b>ARC 7470C</b> .....	5272	Notice, Minimum requirements for tanning facilities, ch 46 <b>ARC 7282C</b> .....	5369
Notice, Discipline for speech pathologists and audiologists, ch 304 <b>ARC 7471C</b> .....	5276	Notice, Plumbing and mechanical systems board—declaratory orders, rescind ch 57 <b>ARC 7323C</b> .....	5378
Notice, Licensure of sign language interpreters and transliterators, ch 361 <b>ARC 7487C</b> .....	5278	Notice, Plumbing and mechanical systems board—agency procedure for rule making, rescind ch 58 <b>ARC 7324C</b> .....	5380
Notice, Continuing education for sign language interpreters and transliterators, ch 362 <b>ARC 7488C</b> .....	5284	Notice, Plumbing and mechanical systems board—fair information practices and public records, rescind ch 59 <b>ARC 7326C</b> .....	5381
Notice, Discipline for sign language interpreters and transliterators, ch 363 <b>ARC 7489C</b> .....	5288	Notice, Plumbing and mechanical systems board—noncompliance regarding child support, nonpayment of state debt, and noncompliance regarding student loan repayment, rescind ch 60 <b>ARC 7327C</b> .....	5383
<b>PUBLIC HEALTH DEPARTMENT[641]</b>		Notice, Plumbing and mechanical systems board—military service, veteran reciprocity, and spouses of active duty service members, rescind ch 62 <b>ARC 7328C</b> .....	5384
Notice, Practice of tattooing, ch 22 <b>ARC 7283C</b> .....	5290	Notice, Impaired practitioner review committee, ch 193 <b>ARC 7287C</b> .....	5386
Notice, Plumbing and mechanical systems board—licensee practice, ch 23 <b>ARC 7316C</b> .....	5300	Notice, Certificate of need program, ch 202 <b>ARC 7379C</b> .....	5389
Notice, Backflow prevention assembly tester registration, ch 26 <b>ARC 7284C</b> .....	5306	Notice, Standards for certificate of need review, ch 203 <b>ARC 7380C</b> .....	5397
Notice, Plumbing and mechanical systems board—administrative and regulatory authority, ch 27 <b>ARC 7317C</b> .....	5313		
Notice, Plumbing and mechanical systems board—licensure fees, ch 28 <b>ARC 7318C</b> .....	5316	<b>PUBLIC HEARINGS</b>	
Notice, Plumbing and mechanical systems board—application, licensure, and examination, ch 29 <b>ARC 7329C</b> .....	5319	Summarized list .....	4919
Notice, Continuing education for plumbing and mechanical systems professionals, ch 30 <b>ARC 7286C</b> .....	5328		
Notice, Plumbing and mechanical systems board—waivers from administrative rules, rescind ch 31 <b>ARC 7321C</b> .....	5334	<b>REAL ESTATE COMMISSION[193E]</b>	
Notice, Plumbing and mechanical systems board—licensee discipline, ch 32 <b>ARC 7285C</b> .....	5336	<small>Professional Licensing and Regulation Bureau[193] COMMERCE DEPARTMENT[181]“umbrella”</small>	
Notice, Plumbing and mechanical systems board—contested cases, ch 33 <b>ARC 7319C</b> .....	5342	Notice, Administration, ch 1 <b>ARC 7442C</b> .....	5413
		Notice, Definitions, ch 2 <b>ARC 7443C</b> .....	5415
		Notice, Broker license, ch 3 <b>ARC 7444C</b> .....	5420
		Notice, Salesperson license, ch 4 <b>ARC 7445C</b> .....	5424
		Notice, Licensees of other jurisdictions and reciprocity, ch 5 <b>ARC 7446C</b> .....	5428
		Notice, Termination and transfer, ch 6 <b>ARC 7447C</b> .....	5432

**REAL ESTATE COMMISSION[193E] (Cont'd)**

Notice, Offices and management, ch 7 <b>ARC 7448C</b> .....	5434
Notice, Closing a real estate business, ch 8 <b>ARC 7449C</b> .....	5444
Notice, Fees, ch 9 <b>ARC 7450C</b> .....	5446
Notice, Advertising, ch 10 <b>ARC 7451C</b> .....	5448
Notice, Brokerage agreements and listings, ch 11 <b>ARC 7452C</b> .....	5451
Notice, Disclosure of relationships, ch 12 <b>ARC 7453C</b> .....	5456
Notice, Trust accounts and closings, ch 13 <b>ARC 7454C</b> .....	5465
Notice, Seller property condition disclosure, ch 14 <b>ARC 7455C</b> .....	5472
Notice, Property management, ch 15 <b>ARC 7456C</b> .....	5477
Notice, Prelicense education and continuing education, ch 16 <b>ARC 7457C</b> .....	5480
Notice, Approval of schools, courses and instructors, ch 17 <b>ARC 7458C</b> .....	5485
Notice, Investigations and disciplinary procedures, ch 18 <b>ARC 7459C</b> .....	5491

Notice, Requirements for mandatory errors and omissions insurance, ch 19 <b>ARC 7460C</b> .....	5501
Notice, Time-share filing, ch 20 <b>ARC 7461C</b> .....	5507
Notice, Enforcement proceedings against unlicensed persons, ch 21 <b>ARC 7462C</b> .....	5508

**REVENUE DEPARTMENT[701]**

Notice, Property assessment appeal board, ch 115 <b>ARC 7490C</b> .....	5512
Filed, Retirement income exclusion, 301.1, 301.5, 302.47, 302.80, 307.1, 307.3(5) <b>ARC 7502C</b> .....	5561

**TRANSPORTATION DEPARTMENT[761]**

Notice, Special permits; commercial driver's licenses; commercial learner's permits, amendments to chs 511, 607 <b>ARC 7491C</b> .....	5524
---	------

## 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]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

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

JACK EWING, Administrative Code Editor  
Publications Editing Office (Administrative Code)

Telephone: 515.281.6048  
Telephone: 515.281.3355

Email: [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov)  
Email: [AdminCode@legis.iowa.gov](mailto:AdminCode@legis.iowa.gov)

### CITATION of Administrative Rules

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

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

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)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

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 Rulemaking 2023

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
16	Friday, January 19, 2024	February 7, 2024
17	Friday, February 2, 2024	February 21, 2024
18	Friday, February 16, 2024	March 6, 2024

**PLEASE NOTE:**

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

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

**ACCOUNTANCY EXAMINING BOARD[193A]**

Definitions, ch 1; organization and administration, ch 2; Certification of CPAs, ch 3; licensure of LPAs, ch 4; licensure status and renewal of certificates and licenses, ch 5; attest and compilation services, ch 6; certified public accounting firms, ch 7; licensed public accounting firms, ch 8; reciprocity and substantial equivalency, ch 9; continuing education, ch 10; peer review, ch 11; fees, ch 12; rules of professional ethics and conduct, ch 13; disciplinary authority and grounds for discipline, ch 14; disciplinary investigations, ch 15; disciplinary proceedings, ch 16; enforcement proceedings against nonlicensees, ch 17; licensees' duty to report, ch 18; practice privilege for out-of-state certified public accountants, ch 20; practice privilege for out-of-state certified public accounting firms, ch 21

IAB 1/10/24 **ARC 7384C** to **ARC 7403C**

6200 Park Ave.  
Des Moines, Iowa  
Video call link:

[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

Phone numbers:

[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 30, 2024  
12:30 to 12:50 p.m.

January 31, 2024  
12:30 to 12:50 p.m.

**ARCHITECTURAL EXAMINING BOARD[193B]**

Description of organization, ch 1; licensure, ch 2; continuing education, ch 3; rules of conduct, ch 4; exceptions, ch 5; disciplinary action against licensees, ch 6; disciplinary action—unlicensed practice, ch 7

IAB 1/10/24 **ARC 7435C** to **ARC 7441C**

6200 Park Ave., Suite 100  
Des Moines, Iowa  
Video call link:

[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

January 30, 2024  
11:50 a.m.

January 31, 2024  
11:50 a.m.

**CIVIL RIGHTS COMMISSION[161]**

Complaint process, ch 3; discrimination in employment, ch 8

IAB 12/27/23 **ARC 7312C** and **ARC 7313C**

Suite 100  
6200 Park Ave.  
Des Moines, Iowa

January 16, 2024  
10 a.m.

February 16, 2024  
10 a.m.

**COLLEGE STUDENT AID COMMISSION[283]**

<p>All Iowa opportunity scholarship program, ch 8; Iowa tuition grant program—for-profit institutions, ch 11; Iowa vocational-technical tuition grant program, ch 13; skilled workforce shortage tuition grant program, ch 23 IAB 1/10/24 <b>Regulatory Analyses</b></p>	<p>State Board Room Grimes State Office Building Des Moines, Iowa</p>	<p>January 31, 2024 4 p.m.</p>
--	---	------------------------------------

**EDUCATIONAL EXAMINERS BOARD[282]**

<p>Complaints, investigations, contested case hearings—confidentiality, 11.4(9), 11.5; renewal or extension fees—licenses, certificates, statements of professional recognition, authorizations, 12.2 IAB 12/13/23 <b>ARC 7194C</b> and <b>ARC 7193C</b></p>	<p>Board Room 701 E. Court Ave., Suite A Des Moines, Iowa</p>	<p>January 31, 2024 1 to 2 p.m.</p>
--	---	---

**ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**

<p>Administration, ch 1 IAB 1/10/24 <b>ARC 7404C</b> to <b>ARC 7416C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a> More phone numbers: <a href="https://tel.meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a> 6200 Park Ave. Des Moines, Iowa</p>	<p>January 30, 2024 12:50 to 1:10 p.m.</p> <p>January 31, 2024 12:50 to 1:10 p.m.</p>
--	---	---

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

<p>Operation of environmental protection commission, ch 1 IAB 12/27/23 <b>ARC 7205C</b></p>	<p>DNR Conference Room 5W Wallace State Office Bldg. Des Moines, Iowa</p> <p>DNR Conference Room 5E Wallace State Office Bldg. Des Moines, Iowa</p>	<p>January 17, 2024 1 to 2 p.m.</p> <p>January 24, 2024 9 to 10 a.m.</p>
<p>Submission of information and complaints; environmental self-audits; compliance and enforcement procedures, rescind chs 3, 12, 17; adopt ch 10 IAB 12/27/23 <b>ARC 7206C</b></p>	<p>DNR Conference Room 5E Wallace State Office Bldg. Des Moines, Iowa</p> <p>Via video/conference call Contact Kelli Book Email: <a href="mailto:kelli.book@dnr.iowa.gov">kelli.book@dnr.iowa.gov</a></p>	<p>January 16, 2024 1:30 to 3:30 p.m.</p> <p>January 25, 2024 10 to 11:30 a.m.</p>
<p>Delegation of construction permitting authority, rescind ch 9 IAB 12/27/23 <b>ARC 7207C</b></p>	<p>Via video/conference call Contact Adam Schnieders Email: <a href="mailto:adam.schnieders@dnr.iowa.gov">adam.schnieders@dnr.iowa.gov</a></p>	<p>January 18, 2024 11 a.m. to 12 noon</p>



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

Tax certification of pollution control or recycling property, ch 11 IAB 12/27/23 <b>ARC 7222C</b>	Via video/conference call Contact Amie Davidson Email: <a href="mailto:amie.davidson@dnr.iowa.gov">amie.davidson@dnr.iowa.gov</a>	January 16, 2024 1 p.m.
		January 17, 2024 11 a.m.
Environmental covenants, rescind ch 14 IAB 12/27/23 <b>ARC 7208C</b>	Via video/conference call Contact Keith Wilken Email: <a href="mailto:keith.wilken@dnr.iowa.gov">keith.wilken@dnr.iowa.gov</a>	January 17, 2024 11 a.m.
Cross-media electronic reporting, ch 15; certificate of acceptance, ch 27 IAB 12/27/23 <b>ARC 7225C, ARC 7226C</b>	Via video/conference call Contact Jim McGraw Email: <a href="mailto:jim.mcgraw@dnr.iowa.gov">jim.mcgraw@dnr.iowa.gov</a>	January 29, 2024 1 p.m.
		January 30, 2024 1 p.m.
Revocation, suspension, and nonrenewal of license for failure to pay state liabilities, ch 16 IAB 12/27/23 <b>ARC 7221C</b>	DNR Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 16, 2024 1 to 2 p.m.
Rescissions: Scope of title—definitions, ch 20; measurement of emissions, ch 25; prevention of air pollution emergency episodes, ch 26; ambient air quality standards, ch 28; qualification in visual determination of the opacity of emissions, ch 29; animal feeding operations field study, ch 32; provisions for air quality emissions trading programs, ch 34; air emissions reduction assistance program, ch 35 IAB 12/27/23 <b>ARCs 7210C, 7212C, 7216C to ARC 7218C, 7220C, 7224C, 7227C</b>	Via video/conference call Contact Christine Paulson Email: <a href="mailto:christine.paulson@dnr.iowa.gov">christine.paulson@dnr.iowa.gov</a>	January 29, 2024 1 p.m.
Compliance, excess emissions, and measurement of emissions, ch 21; controlling air pollution, ch 22; air emission standards, ch 23; operating permits, ch 24; nonattainment new source review, ch 31 IAB 12/27/23 <b>ARC 7209C, ARC 7211C, ARC 7213C, ARC 7215C, ARC 7228C</b>	Via video/conference call Contact Christine Paulson Email: <a href="mailto:christine.paulson@dnr.iowa.gov">christine.paulson@dnr.iowa.gov</a>	January 29, 2024 1 p.m.  January 30, 2024 1 p.m.

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

Fees, ch 30; construction permit requirements for major stationary sources—prevention of significant deterioration (PSD), ch 33; IAB 12/27/23 <b>ARC 7219C, ARC 7223C</b>	Via video/conference call Contact Wendy Walker Email: <a href="mailto:wendy.walker@dnr.iowa.gov">wendy.walker@dnr.iowa.gov</a>	January 29, 2024 1 p.m.  January 30, 2024 1 p.m.
--	--	--

Animal feeding operations, ch 65 IAB 12/27/23 <b>ARC 7214C</b>	Auditorium Wallace State Office Bldg. Des Moines, Iowa  Via video/conference call Contact the Department Email: <a href="mailto:afo@dnr.iowa.gov">afo@dnr.iowa.gov</a>	February 14, 2024 1:30 to 3:30 p.m.  February 19, 2024 1:30 to 3:30 p.m.
---	--	--

**HUMAN SERVICES DEPARTMENT[441]**

Child care assistance program, 170.2, 170.4 IAB 12/27/23 <b>Regulatory Analysis</b>	Via video/conference call <a href="https://meet.google.com/jsa-xaxv-keg">meet.google.com/jsa-xaxv-keg</a>	January 18, 2024 11 to 11:30 a.m.
---	--	--------------------------------------

Disability services management, ch 25; foster care placement and services, ch 202 IAB 1/10/24 <b>Regulatory Analysis</b>	Via video/conference call <a href="https://meet.google.com/xmo-jfss-sjv">meet.google.com/xmo-jfss-sjv</a>	February 14, 2024 11 to 11:30 a.m.
--	--	---------------------------------------

**INSURANCE DIVISION[191]**

Captive companies, ch 113 IAB 12/27/23 <b>Regulatory Analysis</b>	1963 Bell Ave. Des Moines, Iowa	January 23, 2024 10 a.m.
---	------------------------------------	-----------------------------

**NATURAL RESOURCE COMMISSION[571]**

Operation of natural resource commission, ch 1 IAB 12/27/23 <b>ARC 7249C</b>	Conference Room 5W Wallace State Office Bldg. Des Moines, Iowa	January 17, 2024 2 to 3 p.m.
---	--	---------------------------------

Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 24, 2024 10 to 11 a.m.
--	-----------------------------------

Forfeited property, rescind ch 10 IAB 12/27/23 <b>ARC 7250C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 18, 2024 1 to 2 p.m.
--	--	---------------------------------

Conservation education, ch 12 IAB 12/27/23 <b>ARC 7234C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 16, 2024 1 p.m.
--	--	----------------------------

January 18, 2024 1 p.m.
----------------------------

**NATURAL RESOURCE COMMISSION[571] (cont'd)**

Permits and easements for construction and other activities on public lands and waters, ch 13 IAB 12/27/23 <b>ARC 7248C</b>	Via video/conference call Contact Casey Laskowski Email: <a href="mailto:casey.laskowski@dnr.iowa.gov">casey.laskowski@dnr.iowa.gov</a>	January 30, 2024 12 noon to 1 p.m.  January 23, 2024 12 noon to 1 p.m.
Concessions, ch 14; docks and other structures on public waters, ch 16; land and water conservation fund program, ch 27; all-terrain vehicle registration revenue grant program, ch 28 IAB 12/27/23 <b>ARC 7232C, ARC 7244C, ARC 7246C, ARC 7255C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 30, 2024 12 noon to 1 p.m.  January 31, 2024 4 to 5 p.m.
General license regulations, ch 15 IAB 12/27/23 <b>ARC 7245C</b>	Conference Room 4E Wallace State Office Building Des Moines, Iowa	January 16, 2024 12 noon  January 18, 2024 1 to 2 p.m.
Leases and permits, ch 17 IAB 12/27/23 <b>ARC 7242C</b>	Via video/conference call Contact Nathan Schmitz Email: <a href="mailto:nathan.schmitz@dnr.iowa.gov">nathan.schmitz@dnr.iowa.gov</a>	January 23, 2024 12 noon to 1 p.m.  January 30, 2024 12 noon to 1 p.m.
Rental fee schedule for state-owned property, riverbed, lakebed, and waterfront lands; sand and gravel permits, rescind chs 18, 19 IAB 12/27/23 <b>ARC 7252C</b>	Via video/conference call Contact Nathan Schmitz Email: <a href="mailto:nathan.schmitz@dnr.iowa.gov">nathan.schmitz@dnr.iowa.gov</a>	January 23, 2024 12 noon to 1 p.m.
Manufacturer's certificate of origin, ch 20; habitat and public access program, ch 22; wildlife habitat promotion with local entities program, ch 23; certification of land as native prairie or wildlife habitat, ch 25 IAB 12/27/23 <b>ARC 7230C, ARC 7235C, ARC 7251C, ARC 7254C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 16, 2024 1 to 2 p.m.  January 18, 2024 1 to 2 p.m.
Habitat lease program, ch 21 IAB 12/27/23 <b>ARC 7247C</b>	Via video/conference call Contact Nathan Schmitz Email: <a href="mailto:nathan.schmitz@dnr.iowa.gov">nathan.schmitz@dnr.iowa.gov</a>	January 23, 2024 12 noon to 1 p.m.  January 30, 2024 12 noon to 1 p.m.

**NATURAL RESOURCE COMMISSION[571] (cont'd)**

Relocation assistance, rescind ch 26 IAB 12/27/23 <b>ARC 7253C</b>	Via video/conference call Contact Travis Baker Email: <a href="mailto:travis.baker@dnr.iowa.gov">travis.baker@dnr.iowa.gov</a>	January 23, 2024 12 noon to 1 p.m.
Local recreation infrastructure grants program, rescind ch 29 IAB 12/27/23 <b>ARC 7233C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 16, 2024 1 to 2 p.m.
Waters cost-share and grant programs, ch 30 IAB 12/27/23 <b>ARC 7237C</b>	Via video/conference call Contact Nate Hoogeveen Email: <a href="mailto:nate.hoogeveen@dnr.iowa.gov">nate.hoogeveen@dnr.iowa.gov</a>	January 23, 2024 12 noon to 1 p.m.  January 30, 2024 12 noon to 1 p.m.
Publicly owned lakes watershed program, ch 31 IAB 12/27/23 <b>ARC 7229C</b>	Via video/conference call Contact George Antoniou Email: <a href="mailto:george.antoniou@dnr.iowa.gov">george.antoniou@dnr.iowa.gov</a>	January 23, 2024 12 noon to 1 p.m.  January 30, 2024 12 noon to 1 p.m.
Private space open lands, rescind ch 32 IAB 12/27/23 <b>ARC 7241C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 16, 2024 1 to 2 p.m.
Resources enhancement and protection program: county, city, private open spaces and conservation education grant programs, ch 33 IAB 12/27/23 <b>ARC 7236C</b>	Conference Room 5W Wallace State Office Bldg. Des Moines, Iowa  Via video/conference call Contact Michelle Wilson Email: <a href="mailto:michelle.wilson@dnr.iowa.gov">michelle.wilson@dnr.iowa.gov</a>	January 18, 2024 1:30 to 3:30 p.m.  January 25, 2024 1:30 to 3:30 p.m.
Community forestry grant program (CFGP), rescind ch 34 IAB 12/27/23 <b>ARC 7231C</b>	Via video/conference call Contact Jeff Goerndt Email: <a href="mailto:jeff.goerndt@dnr.iowa.gov">jeff.goerndt@dnr.iowa.gov</a>	January 23, 2024 12 noon to 1 p.m.
Fish habitat promotion for county conservation boards, ch 35 IAB 12/27/23 <b>ARC 7240C</b>	Via video/conference call Contact Randall Schultz Email: <a href="mailto:randy.schultz@dnr.iowa.gov">randy.schultz@dnr.iowa.gov</a>	January 23, 2024 12 noon to 1 p.m.  January 30, 2024 12 noon to 1 p.m.
Waterfowl and coot hunting seasons, ch 91; deer hunting, rescind ch 94, adopt ch 106 IAB 12/27/23 <b>ARC 7238C,</b> <b>ARC 7239C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 16, 2024 1 to 2 p.m.  January 18, 2024 1 to 2 p.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

<p>Licensure of chiropractic physicians, ch 41; colleges for chiropractic physicians, ch 42; practice of chiropractic physicians, ch 43; continuing education for chiropractic physicians, ch 44; discipline for chiropractic physicians, ch 45 IAB 1/10/24 <b>ARC 7463C</b> to <b>ARC 7467C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427# More phone numbers: <a href="tel:meet/jji-jaoj-uqy?pin=4753713549740">tel.meet/jji-jaoj-uqy?pin=4753713549740</a></p>	<p>January 31, 2024 12:30 p.m.  January 30, 2024 12:30 p.m.</p>
<p>Licensure of hearing aid specialists, ch 121; continuing education for hearing aid specialists, ch 122; practice of hearing aid dispensing, ch 123; discipline for hearing aid specialists, ch 124 IAB 1/10/24 <b>ARC 7483C</b> to <b>ARC 7486C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 10:50 to 11:10 a.m.  January 31, 2024 10:50 to 11:10 a.m.</p>
<p>Licensure of massage therapists, ch 131; massage therapy education curriculum, ch 132; continuing education for massage therapists, ch 133; discipline for massage therapists, ch 134 IAB 1/10/24 <b>ARC 7479C</b> to <b>ARC 7482C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 10:30 a.m.  January 31, 2024 10:30 a.m.</p>
<p>Licensure of nursing home administrators, ch 141; continuing education for nursing home administration, ch 143; discipline for nursing home administrators, ch 144 IAB 1/10/24 <b>ARC 7476C</b> to <b>ARC 7478C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 11:30 to 11:50 a.m.  January 31, 2024 11:30 to 11:50 a.m.</p>
<p>Licensure of optometrists, ch 180; continuing education for optometrists, ch 181; practice of optometrists, ch 182; discipline for optometrists, ch 183 IAB 1/10/24 <b>ARC 7472C</b> to <b>ARC 7475C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 11:50 a.m.  January 31, 2024 11:50 a.m.</p>

**PROFESSIONAL LICENSURE DIVISION[645] (cont'd)**

<p>Licensure of podiatrists, ch 220; licensure of orthotists, prosthetists, and pedorthists, ch 221; continuing education for podiatrists, ch 222; practice of podiatry, ch 223; continuing education for orthotists, prosthetists, and pedorthists, ch 225 IAB 12/13/23 <b>ARC 7175C</b> to <b>ARC 7180C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Via video/conference call: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.402.921.2210 PIN: 744 558 427#</p>	<p>January 30, 2024 10 to 10:20 a.m.  January 31, 2024 10 to 10:20 a.m.</p>
<p>Licensure of speech pathologists and audiologists, ch 300; practice of speech pathologists and audiologists, ch 301; continuing education for speech pathologists and audiologists, ch 303; discipline for speech pathologists and audiologists, ch 304 IAB 1/10/24 <b>ARC 7468C</b> to <b>ARC 7471C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 11:10 to 11:30 a.m.  January 31, 2024 11:10 to 11:30 a.m.</p>
<p>Licensure of sign language interpreters and transliterators, ch 361; continuing education for sign language interpreters and transliterators, ch 362; discipline for sign language interpreters and transliterators, ch 363 IAB 1/10/24 <b>ARC 7487C</b> to <b>ARC 7489C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone: 1.904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 12:10 to 12:30 p.m.  January 31, 2024 12:10 to 12:30 p.m.</p>

**PUBLIC HEALTH DEPARTMENT[641]**

<p>Practice of tattooing, ch 22; backflow prevention assembly tester registration, ch 26; minimum requirements for tanning facilities, ch 46 IAB 1/10/24 <b>ARC 7282C</b> to <b>ARC 7284C</b></p>	<p>6200 Park Ave. Des Moines, Iowa</p>	<p>January 30, 2024 9:40 a.m.  January 31, 2024 9:40 a.m.</p>
<p>Plumbing and mechanical systems board—repromulgation of chs 23, 27 to 30, 32 to 35; rescission of chs 31, 36, 57 to 60, 62 IAB 1/10/24 <b>ARC 7285C</b>; <b>ARC 7286C</b>; <b>ARC 7316C</b> to <b>ARC 7329C</b></p>	<p>6200 Park Ave. Des Moines, Iowa</p>	<p>January 30, 2024 9:20 a.m.  January 31, 2024 9:20 a.m.</p>

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

Impaired practitioner review committee, ch 193  
IAB 1/10/24 **ARC 7287C**

6200 Park Ave.  
Des Moines, Iowa

January 30, 2024  
9:20 a.m.

January 31, 2024  
9:20 a.m.

Certificate of need program, ch 202; standards for certificate of need review, ch 203  
IAB 1/10/24 **ARC 7379C**

6200 Park Ave.  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 30, 2024  
9 to 9:20 a.m.

January 31, 2024  
9 to 9:20 a.m.

**REAL ESTATE COMMISSION[193E]**

Administration, ch 1; definitions, ch 2; broker license, ch 3; salesperson license, ch 4; licensees of other jurisdictions and reciprocity, ch 5; termination and transfer, ch 6; offices and management, ch 7; closing a real estate business, ch 8; fees, ch 9; advertising, ch 10; brokerage agreements and listings, ch 11; disclosure of relationships, ch 12; trust accounts and closings, ch 13; seller property condition disclosure, ch 14; property management, ch 15; prelicense education and continuing education, ch 16; approval of schools, courses and instructors, ch 17; investigations and disciplinary procedures, ch 18; requirements for mandatory errors and omissions insurance, ch 19; time-share filing, ch 20; enforcement proceedings against unlicensed persons, ch 21

IAB 1/10/24 **ARC 7442C to ARC 7462C**

6200 Park Ave.  
Des Moines, Iowa

January 30, 2024  
11 to 11:20 a.m.

January 31, 2024  
11 to 11:20 a.m.

**REVENUE DEPARTMENT[701]**

Property assessment appeal board, ch 115  
IAB 1/10/24 **ARC 7490C**

Via video/conference call  
Contact Jessica Braunschweig-Norris  
Email:  
[jessica.braunschweig-norris@iowa.gov](mailto:jessica.braunschweig-norris@iowa.gov)

February 5, 2024  
11 a.m. to 12 noon

February 5, 2024  
4 to 4:30 p.m.

**REVENUE DEPARTMENT[701]** (cont'd)

Filing returns and payment of tax, ch 202; exemption certificates, amend chs 202, 204, adopt ch 209, rescind ch 288; purchases by businesses, ch 210; taxable services, ch 211; governments and nonprofits, exempt sales, taxable and exempt sales determined by method of transaction or usage, adopt chs 212, 285, rescind ch 284; miscellaneous taxable sales, ch 213; events, amusements, and other related activities, ch 216; sales and services related to vehicles, ch 218; sales and use tax on construction activities, ch 219; exemptions primarily of benefit to consumers, ch 220; miscellaneous nontaxable transactions, ch 221; receipts subject to use tax, receipts exempt from use tax, receipts subject to use tax depending on method of transaction, rescind chs 280, 281, adopt ch 282  
IAB 12/27/23 **ARC 7196C** to **ARC 7204C, ARC 7354C, ARC 7375C, ARC 7377C**

Via video/conference call  
Contact Nick Behlke  
Email: [nick.behlke@iowa.gov](mailto:nick.behlke@iowa.gov)

January 16, 2024  
9 to 11 a.m.

January 16, 2024  
1 to 3 p.m.

**TRANSPORTATION DEPARTMENT[761]**

Special permits; commercial driver's licenses; commercial learner's permits, amendments to chs 511, 607  
IAB 1/10/24 **ARC 7491C**

Iowa Department of Transportation  
Motor Vehicle Division, First Floor Training Room  
6320 SE Convenience Blvd.  
Ankeny, Iowa

February 2, 2024  
10 a.m.  
(If requested)

**UTILITIES DIVISION[199]**

Nonutility services—recordkeeping and cost allocations, ch 33; nonutility service, ch 34  
IAB 11/15/23 **ARC 7111C, ARC 7112C**

Board Hearing Room  
1375 E. Court Ave.  
Des Moines, Iowa

January 23, 2024  
9 to 11 a.m.

**WORKFORCE DEVELOPMENT DEPARTMENT[871]**

Employer audits, 21.1(2)“d,” 22.17, 24.29(3), 25.6(5)  
IAB 12/27/23  
**Regulatory Analysis**

1000 E. Grand Ave.  
Des Moines, Iowa

January 16, 2024  
10 a.m.



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.

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Soil Conservation and Water Quality Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]  
OMBUDSMAN[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
ECONOMIC DEVELOPMENT AUTHORITY[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Child Advocacy Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
IOWA PUBLIC INFORMATION BOARD[497]  
LAW ENFORCEMENT ACADEMY[501]

LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Professional Licensure Division[645]  
    Dental Board[650]  
    Medicine Board[653]  
    Nursing Board[655]  
    Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and Workforce Development Center Administration Division[877]

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 8  
“All Iowa Opportunity Scholarship Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.212  
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.212

### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 31, 2024  
4 p.m.

State Board Room  
Grimes State Office Building  
Des Moines, Iowa

### *Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the College Student Aid Commission no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Julie Ntem, Interim Executive Director  
Bureau of Iowa College Aid  
400 East 14th Street  
Des Moines, Iowa 50319  
Email: [julie.ntem@iowa.gov](mailto:julie.ntem@iowa.gov)

### *Purpose and Summary*

The Commission proposes to rescind and adopt a new Chapter 8, pursuant to Executive Order 10. The new Chapter 8 is proposed to ensure that the Commission meets the requirements set forth in law by adopting rules for the administration of the All Iowa Opportunity Scholarship. The proposed rulemaking establishes the eligibility criteria and awarding of funds for the scholarship; describes the processes, procedures, and duties of the Commission, applicants, and institutions; provides the priority criteria for awarding in the event that all eligible applicants cannot receive the award; and provides the conditions that must be met to suspend participation in the scholarship. The rulemaking also includes cross-references to definitions for use under the grant. The rulemaking includes two citations to Iowa Code section 256.227, which was transferred by 2023 Iowa Acts, Senate File 514, section 2641.

### *Analysis of Impact*

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law. The rulemaking defines the processes that will be utilized to ensure eligible applicants receive scholarships and articulates priority criteria and general provisions of eligibility to align with other state-funded scholarships and grants. The rulemaking stipulates that the Commission will periodically review compliance of the eligible institutions participating in the scholarship (paragraph 8.4(4)“g”). This requirement is not specifically established in law. The Commission currently performs compliance reviews based on a risk assessment of all colleges/universities participating in all state-funded scholarship and grant programs. Typically, the Commission reviews the three to five colleges/universities that score highest on the risk assessment. This rulemaking does not increase the number of eligible institutions that will be selected for a

compliance review. Thus, there will be no significant additional enforcement cost tied to this provision. However, the Commission and eligible institutions bear the costs involved with compliance reviews.

- Classes of persons that will benefit from the proposed rulemaking:

Iowa residents, eligible institutions, and the Commission will benefit from the rulemaking since it clarifies the processes by which Iowans will apply for and qualify for the scholarship, while also illustrating the duties of the eligible institutions, the Commission, and applicants in the administration of the scholarship.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Other than compliance reviews, the rulemaking does not impose measurable costs beyond those imposed by law. Compliance reviews are performed at the institution level, covering all state-funded financial aid programs for which an institution disburses funds. Since the review itself covers multiple programs, the Commission cannot assign a direct cost to a specific program. Staff spend an estimated cumulative total of 40 hours on a compliance review for an institution, a fraction of which could be assigned to a specific program. Data obtained from institutions suggests that institutional staff spend under ten hours collecting the required documents, transmitting them to the Commission, answering questions, responding to findings, and developing corrective action plans, a fraction of which could be assigned to an individual program.

- Qualitative description of impact:

Performing compliance reviews is a core tenet of any program administered by the State of Iowa. Compliance reviews add accountability for all partners participating in a program, ensure proper communication and understanding of any requirement under the program, and can generally enhance the integrity of the program. While some costs are imposed by such a requirement, the qualitative impact is positive because compliance reviews ensure the funds are being disbursed to the target audience in a manner that is consistent across all participating institutions.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Commission estimates that it takes approximately 40 hours to perform a compliance review. Given the average hourly wage of individuals involved in this process, the review would cost approximately \$1,600 annually. Since a compliance review covers multiple programs, only a fraction of this cost could be assigned to a specific program.

- Anticipated effect on state revenues:

The proposed rulemaking is not anticipated to have any effect on state revenues beyond that of the legislation it is intended to implement.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The benefit of the proposed rulemaking is to publicly illustrate the process that will be used to consistently administer and disburse the scholarships, articulate priority criteria and general provisions of eligibility, and ensure the future integrity of the scholarship through periodic compliance reviews. The cost of inaction would be confusion and inconsistency in the process and criteria to be used in the application and awarding of funds under the scholarship, as well as errors and irregularities in the award process that would remain unchecked without periodic compliance reviews.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The rulemaking proposes an efficient administrative method of collecting applications and disbursing funding, reducing any administrative burden that otherwise might be introduced.

6. Alternative methods considered by the agency:
- Description of any alternative methods that were seriously considered by the agency:  
No other methods were seriously considered by the Commission since the method proposed is the most cost-efficient and seamless for all entities involved.
  - Reasons why alternative methods were rejected in favor of the proposed rulemaking:  
The alternative methods were rejected because they would lead to additional burdens on students, eligible institutions, and the Commission.

#### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking is not expected to impact small business.

#### *Text of Proposed Rulemaking*

ITEM 1. Rescind 283—Chapter 8 and adopt the following **new** chapter in lieu thereof:

### CHAPTER 8 ALL IOWA OPPORTUNITY SCHOLARSHIP PROGRAM

**283—8.1(256) Basis of aid.** Assistance available under the all Iowa opportunity scholarship program is based on the financial metric and financial need of Iowa residents enrolled at eligible institutions.

**283—8.2(256) Definitions.** Additional terms not defined in this chapter are defined in Iowa Code section 256.212.

*“Eligible foster care student”* means the same as defined in Iowa Code section 256.212(1).

*“Eligible surviving-child student”* means the same as defined in Iowa Code section 256.212(1).

*“Financial metric”* means the same as defined in rule 283—10.2(256).

*“Financial need”* means the same as defined in rule 283—10.2(256).

*“Full-time”* means the same as defined in rule 283—10.2(256).

*“Iowa resident”* means the same as defined in rule 283—10.2(256).

*“Part-time”* means the same as defined in rule 283—10.2(256).

*“Program of study”* means the same as defined in rule 283—10.2(256).

*“Satisfactory academic progress”* means the same as defined in rule 283—10.2(256).

**283—8.3(256) Eligible applicant.** An eligible applicant is an Iowa resident who enrolls at least part-time in a program of study at an eligible institution and who meets the program eligibility criteria and the following provisions:

1. Begins attendance in a program of study at an eligible institution within two academic years of graduation from an Iowa high school, completion of an Iowa home school program, or receipt of a high school equivalency diploma under Iowa Code chapter 259A, and continuously receives the scholarship during the fall and spring semester, or the equivalent; or is an eligible foster care student.

2. Completes the applications the commission deems necessary on or before the date established by the commission, establishes financial need, has a financial metric at or below the average undergraduate tuition and fee rate for regent university students in the academic year prior to the year for which awards are being made, meets satisfactory academic progress standards, and does not meet a condition in 283—subrule 10.3(1).

**283—8.4(256) Awarding of funds.**

**8.4(1) Selection criteria.** All eligible applicants will be considered for an award.

**8.4(2) Maximum award and extent of award.** Eligible applicants may receive no more than the equivalent of eight full-time awards.

*a.* The maximum award for full-time students will be the lesser of:

(1) The student's financial need, or

(2) One-half of the average tuition and mandatory fees for Iowa resident regent university students in the year prior to the academic year in which awards are being made.

*b.* The maximum award for a full-time student will not be affected by the ranking system used to prioritize grants. A part-time student will receive a prorated award, as defined by the commission, which is calculated by dividing the number of hours for which the student is enrolled by the required number of hours for full-time enrollment, and multiplying the quotient by the maximum award.

**8.4(3) Priority for awards among eligible applicants.** Awards will be made in the order of the following priority categories. If all eligible applicants within a priority category cannot be funded, awards will be made to eligible applicants with the lowest financial metrics. If all eligible applicants with a given financial metric cannot be funded, those eligible applicants will be ranked according to the date the Free Application for Federal Student Aid was completed.

*a.* All new and renewal eligible foster care students will receive first priority for funding.

*b.* All new and renewal eligible surviving-child students will receive second priority for funding.

*c.* All eligible renewal applicants not awarded in paragraphs 8.4(3) "a" and "b" will receive third priority for funding.

*d.* If funding remains after all eligible foster care students, eligible surviving-child students, and renewal students have been awarded, fourth priority will be given to students who participated in federal TRIO programs, participated in alternative programs in high school, or graduated from alternative high schools.

*e.* If funding remains after each of the previous priority categories has been awarded, fifth priority will be given to students who participated in federal GEAR UP programs.

*f.* If funding is available, funding will be awarded to remaining eligible applicants.

**8.4(4) Awarding process.**

*a.* The commission will verify the eligibility and priority category of eligible applicants.

*b.* The commission will designate eligible applicants for awards and provide eligible institutions with rosters of designated eligible applicants.

*c.* The commission will notify recipients and eligible institutions of the awards. Eligible institutions will notify the student of the award amount and the state program from which funding is being provided and will state that the award is contingent on the availability of state funds.

*d.* Eligible institutions will apply awards directly to student accounts to cover items included in the cost of attendance, as defined in Title IV, Part B, of the federal Higher Education Act of 1965, as of July 1, 2023.

*e.* Eligible institutions will provide information about eligible applicants to the commission in a format specified by the commission. Eligible institutions will make necessary changes to awards due to a change in enrollment or financial situation, and promptly report those changes to the commission.

*f.* Eligible institutions are responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. Eligible institutions will report changes in student eligibility to the commission.

*g.* The commission will periodically investigate and review compliance of eligible institutions participating in this program with the criteria established in Iowa Code section 256.212 and this rule.

**283—8.5(256) Exceptions.**

**8.5(1)** Individuals who have military obligations may delay the initial period of enrollment for up to four academic years beyond graduation from an Iowa high school, completion of an Iowa home school program, or receipt of a high school equivalency diploma under Iowa Code chapter 259A and must begin postsecondary enrollment within two academic years of discharge. Exceptions for health or other personal reasons for delaying the initial period of enrollment will be reviewed by commission staff on a case-by-case basis.

**8.5(2)** If a scholarship recipient suspends enrollment at the eligible institution after receipt of the scholarship due to military deployment; due to a temporary medical incapacity; in relation to the declaration of a national or state emergency; due to service in AmeriCorps, Volunteers in Service to America, or the federal Peace Corps; due to a period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Service; or due to other exceptional circumstances approved by the commission, the recipient must apply for a waiver. If the waiver is approved, the recipient is not required to continuously receive the scholarship during the period covered by the waiver.

These rules are intended to implement Iowa Code section 256.212.

### **Regulatory Analysis**

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 11  
“Iowa Tuition Grant Program—For-Profit Institutions”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.191 as transferred by 2023 Iowa Acts, Senate File 514, section 2641

State or federal law(s) implemented by the rulemaking: Iowa Code section 256.191 as transferred by 2023 Iowa Acts, Senate File 514, section 2641

### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 31, 2024  
4 p.m.

State Board Room  
Grimes State Office Building  
Des Moines, Iowa

### *Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the College Student Aid Commission no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Julie Ntem, Interim Executive Director  
Bureau of Iowa College Aid  
400 East 14th Street  
Des Moines, Iowa 50319  
Email: [julie.ntem@iowa.gov](mailto:julie.ntem@iowa.gov)

### *Purpose and Summary*

The Commission proposes to rescind and adopt a new Chapter 11, pursuant to Executive Order 10. New Chapter 11 is proposed to ensure the Commission meets the requirements set forth in law by adopting rules for the administration of the for-profit Iowa Tuition Grant. The proposed rulemaking establishes the eligibility criteria and awarding of funds for the grant, and describes the processes, procedures, and duties of the Commission, applicants, and institutions. The rulemaking also includes cross-references to definitions for use under the grant. The rulemaking includes citations to Iowa Code sections 256.183 and 256.191, both of which were transferred by 2023 Iowa Acts, Senate File 514, section 2641.

### *Analysis of Impact*

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law. The rulemaking defines the processes that will be utilized to ensure eligible applicants receive grants and articulates the awarding of funds and general provisions of eligibility to align with other state-funded scholarships and grants. The rulemaking stipulates that the Commission will periodically review compliance of the eligible institutions participating in the scholarship (subrule 11.5(4)). This requirement is not specifically established in law. The Commission currently performs compliance reviews based on a risk assessment of all colleges/universities participating in all state-funded scholarship and grant programs. Typically, the Commission reviews the three to five colleges/universities that score highest on the risk assessment.



This rulemaking does not increase the number of eligible institutions that will be selected for a compliance review. Thus, there will be no significant additional enforcement cost tied to this provision. However, the Commission and eligible institutions bear the costs involved with compliance reviews.

- Classes of persons that will benefit from the proposed rulemaking:

Iowa residents, eligible institutions, and the Commission will benefit from the rulemaking since it clarifies the processes by which Iowans will apply for and qualify for the grant, while also illustrating the duties of the eligible institutions, the Commission, and applicants in the administration of the grant.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Other than compliance reviews, the rulemaking does not impose measurable costs beyond those imposed by law. Compliance reviews are performed at the institution level, covering all state-funded financial aid programs for which an institution disburses funds. Since the review itself covers multiple programs, the Commission cannot assign a direct cost to a specific program. Staff spend an estimated cumulative total of 40 hours on a compliance review for an institution, a fraction of which could be assigned to a specific program. Data obtained from institutions suggests that institutional staff spend under ten hours collecting the required documents, transmitting them to the Commission, answering questions, responding to findings, and developing corrective action plans, a fraction of which could be assigned to an individual program.

- Qualitative description of impact:

Performing compliance reviews is a core tenet of any program administered by the State of Iowa. Compliance reviews add accountability for all partners participating in a program, ensure proper communication and understanding of any requirement under the program, and can generally enhance the integrity of the program. While some costs are imposed by such a requirement, the qualitative impact is positive because compliance reviews ensure the funds are being disbursed to the target audience in a manner that is consistent across all participating institutions.

The proposed rulemaking requires an applicant institution to apply on or before October 1 prior to the academic year in which the institution plans to participate in the program. This application deadline will provide the Commission adequate time to update systems and to train institutional staff who will be involved in the administration of the program, and will provide time for students who may attend the applicant institution to apply for funding.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Commission estimates that it takes approximately 40 hours to perform a compliance review. Given the average hourly wage of individuals involved in this process, the review would cost approximately \$1,600 annually. Since a compliance review covers multiple programs, only a fraction of this cost could be assigned to a specific program.

- Anticipated effect on state revenues:

The proposed rulemaking is not anticipated to have any effect on state revenues beyond that of the legislation it is intended to implement.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The benefit of the proposed rulemaking is to publicly illustrate the process that will be used to consistently administer and disburse the grants, articulate the awarding of funds and general provisions of eligibility, and ensure the future integrity of the grant through periodic compliance reviews. The cost of inaction would be confusion and inconsistency in the process and criteria to be used in the application and awarding of funds under the grant, as well as errors and irregularities in the award process that would remain unchecked without periodic compliance reviews.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The rulemaking proposes an efficient administrative method of collecting applications and disbursing funding, reducing any administrative burden that otherwise might be introduced.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No other methods were seriously considered by the Commission, since the method proposed is the most cost-efficient and seamless for all entities involved.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The alternative methods were rejected because they would lead to additional burdens on students, eligible institutions, and the Commission.

### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking is not expected to impact small business.

### *Text of Proposed Rulemaking*

ITEM 1. Rescind 283—Chapter 11 and adopt the following **new** chapter in lieu thereof:

#### CHAPTER 11

#### IOWA TUITION GRANT PROGRAM—FOR-PROFIT INSTITUTIONS

**283—11.1(256) Basis of aid.** Assistance available under the for-profit Iowa tuition grant program is tuition-restricted and is also based on the financial metric and financial need of Iowa residents enrolled at for-profit eligible institutions.

**283—11.2(256) Definitions.**

“*Eligible institution*” is a for-profit private institution that meets the criteria in Iowa Code section 256.183(3) and rule 283—11.5(256).

“*Financial metric*” means the same as defined in rule 283—10.2(256).

“*Financial need*” means the same as defined in rule 283—10.2(256).

“*Full-time*” means the same as defined in rule 283—10.2(256).

“*Iowa resident*” means the same as defined in rule 283—10.2(256).

“*Located in Iowa*” means a postsecondary for-profit institution that has made a substantial investment in a permanent Iowa campus and staff and that offers a full range of courses leading to the credentials offered by the institution as well as a full range of student services.

“*Part-time*” means the same as defined in rule 283—10.2(256).

“*Program of study*” means a sequence of educational courses that prepares the student for licensure as a barber or a cosmetology arts and sciences program of study that prepares the student for licensure in the state of Iowa as provided in Iowa Code chapter 157.

“*Satisfactory academic progress*” means the same as defined in rule 283—10.2(256).

**283—11.3(256) Eligible applicant.** An eligible applicant is an Iowa resident who is enrolled at least part-time in a program of study at an eligible institution; meets the program eligibility criteria; and meets the following provisions:

1. Completes the applications the commission deems necessary on or before the date established by the commission.
2. Establishes financial need, has an eligible financial metric, meets satisfactory academic progress standards, and does not meet a condition in 283—subrule 10.3(1).

**283—11.4(256) Awarding of funds.**

**11.4(1) Selection criteria.** All eligible applicants will be considered for an award.

**11.4(2) Maximum award and extent of award.** Eligible applicants may receive no more than the equivalent of four full-time awards.

a. The maximum award for full-time students will not exceed the student’s financial need and will be the lesser of:

- (1) \$3,000 per semester, or the equivalent, during the fall, spring and summer semesters.
- (2) The award established by the commission that allows all eligible applicants to receive an award.

b. When awarded in combination with other tuition-restricted funds, the total amount of tuition-restricted funding including an Iowa tuition grant cannot exceed the total tuition and mandatory fees charged to the recipient.

c. A part-time student will receive a prorated award, as defined by the commission, which is calculated by dividing the number of hours for which the student is enrolled by the required number of hours for full-time enrollment and multiplying the quotient by the maximum award.

**11.4(3) Awarding process.**

a. The commission will provide notice of the eligibility criteria and maximum award to participating eligible institutions annually to authorize awarding.

b. The commission will designate eligible applicants for awards and provide eligible institutions with rosters of designated eligible applicants.

c. Eligible institutions will notify recipients of the awards, clearly indicating the award amount and the state program from which funding is being provided and stating that the award is contingent on the availability of state funds.

d. Eligible institutions will apply awards directly to student accounts to cover tuition and mandatory fees.

e. Eligible institutions will provide information about eligible applicants to the commission in a format specified by the commission. Eligible institutions will make necessary changes to awards due to a change in enrollment or financial situation, and promptly report those changes to the commission.

f. Eligible institutions are responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. Eligible institutions will report changes in student eligibility to the commission.

**283—11.5(256) Institution eligibility.**

**11.5(1) Application.** An eligible institution that is located in Iowa may request participation in the Iowa tuition grant program using the commission’s designated application. The institution will meet the eligibility criteria in Iowa Code section 256.183(3) at the time the application is submitted.

**11.5(2) Deadline to apply.** Eligible institutions seeking to participate in the Iowa tuition grant program will submit applications on or before October 1 of the year prior to the beginning of the academic year for which they are applying for participation.

**11.5(3) *Ongoing eligibility.*** An eligible institution that is participating in the Iowa tuition grant program will immediately notify the commission if its national accreditation is lost or if it will fail to meet the necessary institutional match. Failure to meet any provision in Iowa Code section 256.183(3), Iowa Code section 256.191, or this rule may result in the immediate cessation of the institution's participation in the Iowa tuition grant and in the institution's returning Iowa tuition grant funds to the commission.

**11.5(4) *Compliance audits.*** The commission will periodically investigate and review compliance of eligible institutions participating in this program with the criteria established in Iowa Code section 256.183(3), Iowa Code section 256.191, and this rule.

These rules are intended to implement Iowa Code chapter 256.

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 13  
“Iowa Vocational-Technical Tuition Grant Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.192 as transferred by 2023 Iowa Acts, Senate File 514, section 2641

State or federal law(s) implemented by the rulemaking: Iowa Code section 256.192 as transferred by 2023 Iowa Acts, Senate File 514, section 2641

### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 31, 2024  
4 p.m.

State Board Room  
Grimes State Office Building  
Des Moines, Iowa

### *Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the College Student Aid Commission no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Julie Ntem, Interim Executive Director  
Bureau of Iowa College Aid  
400 East 14th Street  
Des Moines, Iowa 50319  
Email: [julie.ntem@iowa.gov](mailto:julie.ntem@iowa.gov)

### *Purpose and Summary*

The Commission proposes to rescind and adopt a new Chapter 13, pursuant to Executive Order 10. New Chapter 13 is proposed to ensure the Commission meets the requirements set forth in law by adopting rules for the administration of the Vocational-Technical Tuition Grant. The proposed rulemaking establishes the eligibility criteria and awarding of funds for the grant and describes the processes, procedures, and duties of the Commission, applicants, and institutions. The rulemaking also includes cross-references to definitions for use under the grant. The rulemaking includes citations to Iowa Code sections 256.192, which was transferred by 2023 Iowa Acts, Senate File 514, section 2641.

### *Analysis of Impact*

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law. The rulemaking defines the processes that will be utilized to ensure eligible applicants receive grants and articulates the awarding of funds and general provisions of eligibility to align with other state-funded scholarships and grants.

The rulemaking stipulates that the Commission will periodically review compliance of the eligible institutions participating in the grant (paragraph 13.4(3)“g”). This requirement is not specifically established in law. The Commission currently performs compliance reviews based on a risk assessment of all colleges/universities participating in all state-funded scholarship and grant programs. Typically, the Commission reviews the three to five colleges/universities that score highest on the risk assessment. This rulemaking does not increase the number of eligible institutions that will be selected for a

compliance review. Thus, there will be no significant additional enforcement cost tied to this provision. However, the Commission and eligible institutions bear the costs involved with compliance reviews.

- Classes of persons that will benefit from the proposed rulemaking:

Iowa residents, eligible institutions, and the Commission will benefit from the rulemaking since it clarifies the processes by which Iowans will apply for and qualify for the grant, while also illustrating the duties of the eligible institutions, the Commission, and applicants in the administration of the grant.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Other than compliance reviews, the rulemaking does not impose measurable costs beyond those imposed by law. Compliance reviews are performed at the institution level, covering all state-funded financial aid programs for which an institution disburses funds. Since the review itself covers multiple programs, the Commission cannot assign a direct cost to a specific program. Staff spend an estimated cumulative total of 40 hours on a compliance review for an institution, a fraction of which could be assigned to a specific program. Data obtained from institutions suggests that institutional staff spend under ten hours collecting the required documents, transmitting them to the Commission, answering questions, responding to findings, and developing corrective action plans, a fraction of which could be assigned to an individual program.

- Qualitative description of impact:

Performing compliance reviews is a core tenet of any program administered by the State of Iowa. Compliance reviews add accountability for all partners participating in a program, ensure proper communication and understanding of any requirement under the program, and can generally enhance the integrity of the program. While some costs are imposed by such a requirement, the qualitative impact is positive because compliance reviews ensure the funds are being disbursed to the target audience in a manner that is consistent across all participating institutions.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Commission estimates that it takes approximately 40 hours to perform a compliance review. Given the average hourly wage of individuals involved in this process, the review would cost approximately \$1,600 annually. Since a compliance review covers multiple programs, only a fraction of this cost could be assigned to a specific program.

- Anticipated effect on state revenues:

The proposed rulemaking is not anticipated to have any effect on state revenues beyond that of the legislation it is intended to implement.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The benefit of the proposed rulemaking is to publicly illustrate the process that will be used to consistently administer and disburse the grants, articulate priority criteria and general provisions of eligibility, and ensure the future integrity of the grant through periodic compliance reviews. The cost of inaction would be confusion and inconsistency in the process and criteria to be used in the application and awarding of funds under the grant, as well as errors and irregularities in the award process that would remain unchecked without periodic compliance reviews.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The rulemaking proposes an efficient administrative method of collecting applications and disbursing funding, reducing any administrative burden that otherwise might be introduced.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:  
No other methods were seriously considered by the Commission, since the method proposed is the most cost-efficient and seamless for all entities involved.
- Reasons why alternative methods were rejected in favor of the proposed rulemaking:  
The alternative methods were rejected because they would lead to additional burdens on students, eligible institutions, and the Commission.

### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking is not expected to impact small business.

### *Text of Proposed Rulemaking*

ITEM 1. Rescind 283—Chapter 13 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 13 IOWA VOCATIONAL-TECHNICAL TUITION GRANT PROGRAM

**283—13.1(256) Basis of aid.** Assistance available under the Iowa vocational-technical tuition grant program is tuition-restricted and is also based on the financial metric and financial need of Iowa residents enrolled in eligible programs of study at Iowa community colleges.

**283—13.2(256) Definitions.**

*“Financial metric”* means the same as defined in rule 283—10.2(256).

*“Financial need”* means the same as defined in rule 283—10.2(256).

*“Full-time”* means the same as defined in rule 283—10.2(256).

*“Iowa resident”* means the same as defined in rule 283—10.2(256).

*“Part-time”* means the same as defined in rule 283—10.2(256).

*“Program of study”* means the same as defined in rule 283—10.2(256).

*“Satisfactory academic progress”* means the same as defined in rule 283—10.2(256).

**283—13.3(256) Eligible applicant.** An eligible applicant is an Iowa resident who is enrolled at least part-time in a program of study that is classified as a career and technical education program by the Iowa department of education; meets the award eligibility criteria; and meets the following provisions:

1. Completes the applications the commission deems necessary on or before the date established by the commission.
2. Establishes financial need, has an eligible financial metric, meets satisfactory academic progress standards, and does not meet a condition in 283—subrule 10.3(1).

**283—13.4(256) Awarding of funds.**

**13.4(1) Selection criteria.** All eligible applicants will be considered for an award.

**13.4(2) Extent of award and maximum award.** Eligible applicants may receive no more than the equivalent of four full-time awards. If the program of study cannot be completed by the eligible applicant within the extent of the award, the eligible applicant may qualify for the equivalent of one additional full-time award. These limits reset after two years of no postsecondary enrollment, pursuant to Iowa Code section 256.192(3) “b.”

*a.* The maximum award for full-time students will not exceed the student’s financial need and may be the lesser of:

(1) The difference between the cost of tuition, mandatory fees, books and supplies, as determined by the commission, and the amount of the federal Pell Grant for which the student qualifies,

(2) \$1,200,

(3) An award amount established by the commission that allows all eligible applicants to receive an award.

*b.* When awarded in combination with other tuition-restricted funds, the total amount of tuition-restricted funding including an Iowa vocational-technical tuition grant cannot exceed the total tuition and mandatory fees charged to the recipient.

*c.* A part-time student will receive a prorated award, as defined by the commission, which is calculated by dividing the number of hours for which the student is enrolled by the required number of hours for full-time enrollment and multiplying the quotient by the maximum award.

**13.4(3) Awarding process.**

*a.* The commission will provide notice of the eligibility criteria and maximum award to participating Iowa community colleges annually to authorize awarding.

*b.* The commission will designate eligible applicants for awards and provide Iowa community colleges with rosters of designated eligible applicants.

*c.* Iowa community colleges will notify recipients of the awards, clearly indicating the award amount and the state program from which funding is being provided and stating that the award is contingent on the availability of state funds.

*d.* Iowa community colleges will apply awards directly to student accounts to cover tuition and mandatory fees.

*e.* Iowa community colleges will provide information about eligible applicants to the commission in a format specified by the commission. Iowa community colleges will make necessary changes to awards due to a change in enrollment, program of study, and financial situation, and promptly report those changes to the commission.

*f.* Iowa community colleges are responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. Iowa community colleges will report changes in student eligibility to the commission.

*g.* The commission will periodically investigate and review compliance of Iowa community colleges participating in this program with the criteria established in Iowa Code section 256.192 and this rule.

These rules are intended to implement Iowa Code chapter 256.



### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 23  
“Skilled Workforce Shortage Tuition Grant Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.227 as transferred by 2023 Iowa Acts, Senate File 514, section 2641

State or federal law(s) implemented by the rulemaking: Iowa Code section 256.227 as transferred by 2023 Iowa Acts, Senate File 514, section 2641

### Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 31, 2024  
4 p.m.

State Board Room  
Grimes State Office Building  
Des Moines, Iowa

### Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the College Student Aid Commission no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Julie Ntem, Interim Executive Director  
Bureau of Iowa College Aid  
400 East 14th Street  
Des Moines, Iowa 50319  
Email: [julie.ntem@iowa.gov](mailto:julie.ntem@iowa.gov)

### Purpose and Summary

The Commission plans to rescind and adopt a new Chapter 23, pursuant to Executive Order 10. New Chapter 23 is proposed to ensure the Commission meets the requirements set forth in law by adopting rules for the administration of the Skilled Workforce Shortage Tuition Grant. The proposed rulemaking establishes the eligibility criteria and awarding of funds for the grant; describes the processes, procedures, and duties of the Commission, applicants, and institutions; and provides the process used to align high-demand jobs to programs of study offered at participating institutions. The rulemaking also includes cross-references to definitions for use under the grant. The rulemaking includes two citations to Iowa Code section 256.227, which was transferred by 2023 Iowa Acts, Senate File 514, section 2641.

### Analysis of Impact

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law. The rulemaking defines the processes that will be utilized to ensure eligible applicants receive grants, articulates the awarding of funds and general provisions of eligibility to align with other state-funded scholarships and grants, and demonstrates the alignment between high-demand jobs and eligible programs of study.

The rulemaking stipulates that the Commission will periodically review compliance of the eligible institutions participating in the grant (paragraph 23.4(3)“g”). This requirement is not specifically established in law. The Commission currently performs compliance reviews based on a risk assessment of all colleges/universities participating in all state-funded scholarship and grant programs. Typically,

the Commission reviews the three to five colleges/universities that score highest on the risk assessment. This rulemaking does not increase the number of eligible institutions that will be selected for a compliance review. Thus, there will be no significant additional enforcement cost tied to this provision. However, the Commission and eligible institutions bear the costs involved with compliance reviews.

- Classes of persons that will benefit from the proposed rulemaking:

Iowa residents, eligible institutions, and the Commission will benefit from the rulemaking since it clarifies the processes by which Iowans will apply for and qualify for the grant, while also illustrating the duties of the eligible institutions, the Commission, and applicants in the administration of the grant.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Other than compliance reviews, the rulemaking does not impose measurable costs beyond those imposed by law. Compliance reviews are performed at the institution level, covering all state-funded financial aid programs for which an institution disburses funds. Since the review itself covers multiple programs, the Commission cannot assign a direct cost to a specific program. Staff spend an estimated cumulative total of 40 hours on a compliance review for an institution, a fraction of which could be assigned to a specific program. Data obtained from institutions suggests that institutional staff spend under ten hours collecting the required documents, transmitting them to the Commission, answering questions, responding to findings, and developing corrective action plans, a fraction of which could be assigned to an individual program.

- Qualitative description of impact:

Performing compliance reviews is a core tenet of any program administered by the State of Iowa. Compliance reviews add accountability for all partners participating in a program, ensure proper communication and understanding of any requirement under the program, and can generally enhance the integrity of the program. While some costs are imposed by such a requirement, the qualitative impact is positive because compliance reviews ensure the funds are being disbursed to the target audience in a manner that is consistent across all participating institutions.

The proposed rulemaking leverages existing official public data aligning high-demand jobs to eligible programs of study, ensuring that an administratively burdensome process to recreate a crosswalk that aligns high-demand jobs to programs of study is not necessary.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Commission estimates that it takes approximately 40 hours to perform a compliance review. Given the average hourly wage of individuals involved in this process, the review would cost approximately \$1,600 annually. Since a compliance review covers multiple programs, only a fraction of this cost could be assigned to a specific program.

- Anticipated effect on state revenues:

The proposed rulemaking is not anticipated to have any effect on state revenues beyond that of the legislation it is intended to implement.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The benefit of the proposed rulemaking is to publicly illustrate the process that will be used to consistently administer and disburse the grants, articulate criteria and general provisions of eligibility, and ensure the future integrity of the grant through periodic compliance reviews. The cost of inaction would be confusion and inconsistency in the process and criteria to be used in the application and awarding of funds under the grant, as well as errors and irregularities in the award process that would remain unchecked without periodic compliance reviews.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The rulemaking proposes an efficient administrative method of collecting applications and disbursing funding, reducing any administrative burden that otherwise might be introduced.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No other methods were seriously considered by the Commission, since the method proposed is the most cost-efficient and seamless for all entities involved.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The alternative methods were rejected because they would lead to additional burdens on students, eligible institutions, and the Commission.

### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking is not expected to impact small business.

### *Text of Proposed Rulemaking*

ITEM 1. Rescind 283—Chapter 23 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 23 SKILLED WORKFORCE SHORTAGE TUITION GRANT PROGRAM

**283—23.1(256) Basis of aid.** Assistance available under the Iowa skilled workforce shortage tuition grant program is tuition-restricted and is also based on the financial metric and financial need of Iowa residents enrolled in eligible programs of study at Iowa community colleges.

**283—23.2(256) Definitions.**

“*Financial metric*” means the same as defined in rule 283—10.2(256).

“*Financial need*” means the same as defined in rule 283—10.2(256).

“*Full-time*” means the same as defined in rule 283—10.2(256).

“*Iowa resident*” means the same as defined in rule 283—10.2(256).

“*Part-time*” means the same as defined in rule 283—10.2(256).

“*Program of study*” means the same as defined in rule 283—10.2(256).

“*Satisfactory academic progress*” means the same as defined in rule 283—10.2(256).

**283—23.3(256) Eligible applicant.** An eligible applicant is an Iowa resident who is enrolled at least part-time in a program of study that is classified as a career and technical education program by the Iowa department of education and aligns with a high-demand job identified by the department of workforce development or an Iowa community college as specified in rule 283—23.5(256); meets the award eligibility criteria; and meets the following provisions:

1. Completes the applications the commission deems necessary on or before the date established by the commission.
2. Establishes financial need, has an eligible financial metric, meets satisfactory academic progress standards, and does not meet a condition in 283—subrule 10.3(1).

**283—23.4(256) Awarding of funds.**

**23.4(1) Selection criteria.** All eligible applicants will be considered for an award.

**23.4(2) Extent of award and maximum award.** Eligible applicants may receive no more than the equivalent of four full-time awards. If the program of study cannot be completed by the eligible applicant within the extent of the award, the eligible applicant can qualify for the equivalent of one additional full-time award. These limits reset after two years of no postsecondary enrollment, pursuant to Iowa Code section 256.227(5) “b” as transferred by 2023 Iowa Acts, Senate File 514, section 2641.

*a.* The maximum award for full-time students will not exceed the student’s financial need and will not exceed one-half of the average community college tuition and fee rate in the year prior to the academic year in which the award is calculated.

*b.* The award is calculated in conjunction with the federal Pell Grant and the Iowa vocational-technical tuition grant, with the goal of providing awards to as many eligible applicants as possible.

*c.* When awarded in combination with other tuition-restricted funds, the total amount of tuition-restricted funding including a skilled workforce shortage tuition grant cannot exceed the total tuition and mandatory fees charged to the recipient.

*d.* A part-time student will receive a prorated award, as defined by the commission, which is calculated by dividing the number of hours for which the student is enrolled by the required number of hours for full-time enrollment and multiplying the quotient by the maximum award.

**23.4(3) Awarding process.**

*a.* The commission will provide notice of the eligibility criteria and maximum award to participating Iowa community colleges annually to authorize awarding.

*b.* The commission will designate eligible applicants for awards and provide Iowa community colleges with rosters of designated eligible applicants.

*c.* Iowa community colleges will notify recipients of the awards, clearly indicating the award amount and the state program from which funding is being provided and stating that the award is contingent on the availability of state funds.

*d.* Iowa community colleges will apply awards directly to student accounts to cover tuition and mandatory fees.

*e.* Iowa community colleges will provide information about eligible applicants to the commission in a format specified by the commission. Iowa community colleges will make necessary changes to awards due to a change in enrollment, program of study, and financial situation and promptly report those changes to the commission.

*f.* Iowa community colleges are responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. Iowa community colleges will report changes in student eligibility to the commission.

*g.* The commission will periodically investigate and review compliance of Iowa community colleges participating in this program with the criteria established in Iowa Code section 256.227 and this rule.

**283—23.5(256) Determination of programs of study aligned with high-demand jobs.**

**23.5(1) *Statewide high-demand jobs.*** The commission will utilize the department of workforce development's most recent list of statewide high-demand jobs pursuant to Iowa Code section 84A.1B(14) and align those jobs to eligible programs of study. Programs aligned with new statewide high-demand jobs will be added to the list of eligible programs to the extent that funding allows. After consideration of additional programs under subrule 23.5(2), and to the extent that funding allows, the commission will utilize the department of workforce development's most recent list of high-demand occupations that meet the growth thresholds in Iowa Code section 84A.1B(14) but do not meet the wage threshold and will align those jobs to eligible programs of study.

**23.5(2) *Regional high-demand jobs.*** The commission will request submissions of regional high-demand jobs that align with eligible programs of study if funding allows. The Iowa community college must conduct a regional skills gap analysis and provide the corresponding documentation to the commission.

**23.5(3) *Eligible programs of study.*** All programs of study that are identified as career and technical education programs by the Iowa department of education will be considered. The classification of instructional program code and the standard occupation code will be used to align eligible programs of study to high-demand jobs.

**23.5(4) *Grandfather clause.*** If a high-demand job is removed from eligibility, students who received an award based on their enrollment in a program of study aligned with the removed high-demand job in the previous year can continue to qualify for the award if they remain enrolled in the same program of study and continuously enroll each consecutive fall and spring semester, or the equivalent.

These rules are intended to implement Iowa Code chapter 256.

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 441—Chapter 25  
“Disability Services Management”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 2023 Iowa Acts, House File 471  
State or federal law(s) implemented by the rulemaking: Iowa Code sections 225C.55 through  
225C.69

### Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 14, 2024  
11 to 11:30 a.m.

Via video/conference call:  
[meet.google.com/xmo-jfss-sjv](https://meet.google.com/xmo-jfss-sjv)

### Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

### Purpose and Summary

The proposed revised Chapter 25 is designed to provide oversight and establish standards for the regional Mental Health and Disability Services (MHDS) system. Chapter 25 needs to be updated to reflect changes made in 2023 Iowa Acts, House File 471, which changed the governance structure for MHDS regions. Other revisions are designed to clarify a new core (required) service of competency restoration. Specifically, the rulemaking clarifies for the courts, attorneys, practitioners, and the public that “community” means “outpatient.”

The revised chapter includes citations to some Iowa Code sections that were transferred to Iowa Code chapter 225C in House File 471.

### Analysis of Impact

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:  
Not applicable.
  - Classes of persons that will benefit from the proposed rulemaking:  
Not applicable.
  
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
  - Quantitative description of impact:  
No answer given.
  - Qualitative description of impact:

The Iowa Code names 27 mental health and disability core services for adults and 11 core services for children but does not define most of those services. Those definitions are only found in Chapter 25. Without these definitions, providers could deliver and MHDS regions could fund a wide array of activities that would fall outside the intent of the legislation.

Similarly, the Iowa Code requires regions to provide services to certain disability populations, but the diagnostic eligibility criteria are only found in rules; without these criteria it would be unclear who qualifies for services.

Additionally, the Iowa Code requires MHDS regions to fund certain services (e.g., access centers, assertive community treatment, and intensive residential services) that do not have provider standards set in Iowa Code or in other Iowa Administrative Code chapters. Those standards for the provision of service are only in Chapter 25 and ensure that providers meet standards for qualifications, training, and service delivery.

The Iowa Code also requires the Department to set access standards for these services to ensure equitable access throughout the state, but it does not provide the standards, which are only found in Chapter 25.

Finally, 2023 Iowa Acts, House File 471, required MHDS regions to develop and fund a new core service, Outpatient Competency Restoration, which also lacks definition, eligibility criteria, provider standards, and access standards in the Iowa Code. These need to be established in rule to ensure that the intended service is available statewide, is provided to the intended population, and is delivered by trained and qualified providers.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Not applicable.

- Anticipated effect on state revenues:

None.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

All revisions to Chapter 25 are to implement 2023 Iowa Acts, House File 471.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Not applicable.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Not applicable.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

All revisions to Chapter 25 are to implement 2023 Iowa Acts, House File 471.

### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The revisions to this chapter will have no substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 441—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25  
DISABILITY SERVICES MANAGEMENT

PREAMBLE

This chapter provides for definitions of regional core services; access standards; implementation dates; practice standards; reporting of regional expenditures; development and submission of regional management plans; data collection; applications for funding as they relate to regional service systems for adults with mental illness, intellectual disabilities, developmental disabilities, or brain injury and children with a serious emotional disturbance.

DIVISION I  
REGIONAL SERVICES

**441—25.1(225C) Definitions.**

“*Access center*” means the coordinated provision of intake assessment, screening for multi-occurring conditions, care coordination, crisis stabilization residential services, subacute mental health services, and substance abuse treatment for individuals experiencing a mental health or substance use crisis who do not need inpatient psychiatric hospital treatment, but who do need significant amounts of supports and services not available in other home- and community-based settings.

“*Adult*” means the same as defined in 441—subrule 78.27(1).

“*Assertive community treatment*” or “*ACT*” means a program of comprehensive outpatient services consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration, provided in the community and directed toward the amelioration of symptoms and the rehabilitation of behavioral, functional, and social deficits of individuals with severe and persistent mental illness and individuals with complex symptomology who require multiple mental health and supportive services to live in the community.

“*Assessment and evaluation*” means the clinical review by a mental health professional of the current functioning of the individual using the service in regard to the individual’s situation, needs, strengths, abilities, desires and goals to determine the appropriate level of care.

“*Behavioral health inpatient treatment*” or “*mental health inpatient treatment*” means inpatient psychiatric services to treat an acute psychiatric condition provided in a licensed hospital with a psychiatric unit or a licensed freestanding psychiatric hospital.

“*Behavioral health outpatient therapy*” means the same as “outpatient services” described in Iowa Code section 230A.106(2)“a.”

“*Brain injury*” means the same as defined in rule 441—83.81(249A).

“*Care coordination*” means facilitating communication and ensuring provision of services among multiple professionals and service providers, the individual, and family members or other natural supports when designated by the individual, and ensuring the individual has the information necessary to actively participate in service and discharge or transition planning.

“*Case management*” means service provided by a case manager who assists individuals in gaining access to needed medical, social, educational, and other services through assessment, development



of a care plan, referral, monitoring and follow-up using a strengths-based service approach that helps individuals achieve specific desired outcomes leading to a healthy self-reliance and interdependence with their community.

“*Case manager*” means a person who has completed specified and required training to provide case management through the medical assistance program.

“*Child*” or “*children*” means a person or persons under 18 years of age.

“*Children’s behavioral health services*” means behavioral health services for children who have a diagnosis of serious emotional disturbance.

“*Children’s behavioral health system*” or “*children’s system*” means the behavioral health system for children implemented pursuant to Iowa Code chapter 225C.

“*Comprehensive assessment*” means the same as “crisis assessment” defined in rule 441—24.20(225C) for individuals being referred to crisis stabilization residential services and means the same as “assessment” defined in rule 481—71.2(135G) for individuals being referred to subacute mental health services.

“*Crisis assessment*” means the same as defined in rule 441—24.20(225C).

“*Crisis care coordination*” means a service provided during an acute crisis episode that facilitates working together to organize a plan and service transition programing, including working agreements with inpatient behavioral health units and other community programs. The service shall include referrals to mental health services and other supports necessary to maintain community-based living capacity, including case management as defined herein.

“*Crisis evaluation*” means the process used with an individual to collect information related to the individual’s history and needs, strengths, and abilities in order to determine appropriate services or referral during an acute crisis episode.

“*Crisis intervention plan*” means the same as defined in rule 441—24.1(225C).

“*Crisis screening*” means a brief assessment to make a determination of the presenting problem and referral to the appropriate level of care.

“*Crisis stabilization community-based services*” or “*CSCBS*” means the same as defined in rule 441—24.20(225C).

“*Crisis stabilization residential services*” or “*CSRS*” means the same as defined in rule 441—24.20(225C).

“*Day habilitation*” means services that assist or support the individual in developing or maintaining life skills and community integration. Services shall enable or enhance the individual’s functioning, physical and emotional health and development, language and communication development, cognitive functioning, socialization and community integration, functional skill development, behavior management, responsibility and self-direction, daily living activities, self-advocacy skills, or mobility.

“*Early identification*” means the process of detecting developmental delays, mental illness, or untreated conditions that may indicate the need for further evaluation.

“*Early intervention*” means services designed to address the social, emotional, and developmental needs of children at their earliest stages to decrease long-term effects and provide support in meeting developmental milestones.

“*Education services*” means activities that increase awareness and understanding of the causes and nature of conditions or factors that affect an individual’s development and functioning.

“*Emergency services*” means the same as defined in 441—subrule 24.4(15).

“*Emergency detention*” means the same as “immediately detained” as described in Iowa Code section 229.22(1).

“*Evidence-based services*” or “*evidence-based practices*” means using interventions that have been rigorously tested; have yielded consistent, replicable results; and have proven safe, beneficial and effective and have established standards for fidelity of the practice.

“*Face-to-face*” means the same as defined in rule 441—24.20(225C).

“*Family psychoeducation*” means services including the provision of emotional support, education, resources during periods of crisis, and problem-solving skills consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

*“Family support”* means services provided by a family support peer specialist that assist the family of an individual to live successfully in the family or community including, but not limited to, education and information, individual advocacy, family support groups, and crisis response.

*“Family support peer specialist”* means a parent, primary caregiver, foster parent or family member of an individual who has successfully completed standardized training to provide family support through the medical assistance program.

*“Group supported employment”* means the job and training activities in business and industry settings for groups of no more than eight workers with disabilities. Group settings include enclaves, mobile crews, and other business-based workgroups employing small groups of workers with disabilities in integrated, sustained, paid employment.

*“HCBS”* means home- and community-based services as defined in rule 441—78.27(249A).

*“Health homes”* means a service model that facilitates access to an interdisciplinary array of medical care, behavioral health care, and community-based social services and supports for both children and adults with chronic conditions. Services may include comprehensive care management; care coordination and health promotion; comprehensive transitional care from inpatient to other settings, including appropriate follow-up; individual and family support, which includes authorized representatives; referral to community and social support services, if relevant; and the use of health information technology to link services, as feasible and appropriate.

*“Home and vehicle modification”* means a service that provides physical modifications to the home or vehicle that directly address the medical health or remedial needs of the individual and that are necessary to provide for the health, welfare, and safety of the individual and to increase or maintain independence.

*“Home health aide services”* means unskilled medical services that provide direct personal care. This service may include assistance with activities of daily living, such as helping the recipient to bathe, get in and out of bed, care for hair and teeth, exercise, and take medications specifically ordered by the physician.

*“Homeless”* means the same as “homeless person” as defined in Iowa Code section 48A.2.

*“Illness management and recovery”* means a broad set of strategies designed to help individuals with serious mental illness collaborate with professionals, reduce the individuals’ susceptibility to the illness, and cope effectively with the individuals’ symptoms consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

*“Individual”* means any person seeking or receiving services in a regional service system.

*“Individual supported employment”* means services including ongoing supports needed by an individual to acquire and maintain a job in the integrated workforce at or above the state’s minimum wage. The outcome of this service is sustained paid employment that meets personal and career goals.

*“Intake assessment”* means the process used with an individual to collect information related to the individual’s history, needs, strengths, and abilities for the purpose of determining the individual’s need for comprehensive assessment, appropriate services or referral.

*“Integrated treatment for co-occurring substance abuse and mental health disorders”* means effective dual diagnosis programs that combine mental health and substance abuse interventions tailored for the complex needs of individuals with co-morbid disorders. Critical components of effective programs include a comprehensive, long-term, staged approach to recovery; assertive outreach; motivational interviews; provision of help to individuals in acquiring skills and supports to manage both illnesses and pursue functional goals with cultural sensitivity and competence consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

*“Intensive residential service homes”* or *“intensive residential services”* means intensive, community-based services provided 24 hours a day, 7 days a week, 365 days a year to individuals with a severe and persistent mental illness who have functional impairments and may also have multi-occurring conditions. Providers of intensive residential service homes are enrolled with Medicaid as providers of HCBS habilitation or HCBS intellectual disability waiver supported community living and meet additional criteria specified in subrule 25.6(8).

*“Job development”* means services that assist individuals in preparing for, securing and maintaining gainful, competitive employment. Employment shall be integrated into normalized work settings, shall provide pay of at least minimum wage, and shall be based on the individual’s skills, preferences, abilities, and talents. Services assist individuals seeking employment to develop or re-establish skills, attitudes, personal characteristics, interpersonal skills, work behaviors, and functional capacities to achieve positive employment outcomes.

*“Medical assistance program”* means the same as defined in Iowa Code section 249A.2.

*“Medication management”* means services provided directly to or on behalf of the individual by a licensed professional as authorized by Iowa law including, but not limited to, monitoring effectiveness of and compliance with a medication regimen; coordination with care providers; investigating potentially negative or unintended psychopharmacologic or medical interactions; reviewing laboratory reports; and activities pursuant to licensed prescriber orders.

*“Medication prescribing”* means services with the individual present provided by an appropriately licensed professional as authorized by Iowa law including, but not limited to, determining how the medication is affecting the individual; determining any drug interactions or adverse drug effects on the individual; determining the proper dosage level; and prescribing medication for the individual for the period of time before the individual is seen again.

*“Mental health inpatient treatment”* or *“behavioral health inpatient treatment”* means inpatient psychiatric services to treat an acute psychiatric condition that are provided in a licensed hospital with a psychiatric unit or a licensed freestanding psychiatric hospital.

*“Mental health outpatient therapy”* means the same as defined in Iowa Code section 230A.106(2)“a.”

*“Mental health professional”* means the same as defined in Iowa Code section 228.1(7).

*“Mobile response”* means the same as defined in rule 441—24.20(225C).

*“Multi-occurring conditions”* means a diagnosis of a severe and persistent mental illness occurring along with one or more of the following: a physical health condition, a substance use disorder, an intellectual or developmental disability, or a brain injury.

*“No reject, no eject”* means that an individual who otherwise meets the eligibility criteria for a service shall not be denied access to that service or discharged from that service based on the severity or complexity of that individual’s mental health and multi-occurring needs.

*“Outpatient competency restoration”* means a community-based service to restore competency for individuals found by a court not to pose a danger to the public but to be incompetent to stand trial. The service includes components such as psychiatric prescribing and medication management, mental health and substance use disorder treatment services, competency education, and service coordination.

*“Peer support services”* means a program provided by a peer support specialist including but not limited to education and information, individual advocacy, family support groups, crisis response, and respite to assist individuals in achieving stability in the community.

*“Peer support specialist”* means an individual who has experienced a severe and persistent mental illness and who has successfully completed standardized training to provide peer support services through the medical assistance program.

*“Permanent supportive housing”* means voluntary, flexible supports to help individuals with psychiatric disabilities choose, get, and keep housing that is decent, safe, affordable, and integrated into the community. Tenants have access to an array of services that help them keep their housing, such as case management, assistance with daily activities, conflict resolution, and crisis response consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

*“Personal emergency response system”* means an electronic device connected to a 24-hour staffed system that allows the individual to access assistance in the event of an emergency.

*“Precariously housed”* means that a person does not have a permanent household and is living day-to-day in a motel, in a vehicle, with family or friends, or in some other temporary location.

*“Prescreening assessment”* means a face-to-face clinical interview to ascertain an individual’s current and previous level of functioning, potential for dangerousness, physical health, and psychiatric and medical condition.

*“Prevention”* means efforts to increase awareness and understanding of the causes and nature of conditions or situations that affect an individual’s functioning in society. Prevention activities are designed to convey information about the cause of conditions, situations, or problems that interfere with an individual’s functioning or ways in which that information can be used to prevent their occurrence or reduce their effect and may include, but are not limited to, training events, webinars, presentations, and public meetings.

*“Prevocational services”* means services that focus on developing generalized skills that prepare an individual for employment. Prevocational training topics include but are not limited to attendance, safety skills, following directions, and staying on task.

*“Reasonably close proximity”* means a distance of 100 miles or less or a driving distance of two hours or less from the county seat or county seats of the region.

*“Region”* means a mental health and disability service region that operates as the “regional administrator” or “regional administrative entity” as defined in rule 441—25.11(225C).

*“Respite”* means a temporary period of relief and support for individuals and their families provided in a variety of settings. The intent is to provide a safe environment with staff assistance for individuals who lack an adequate support system to address current issues related to a disability. Respite may be provided for a defined period of time; respite is either planned or provided in response to a crisis.

*“Routine care”* means care that is not urgent or emergent in nature and can wait for a regularly scheduled appointment without risk to the individual. A condition requiring routine care is not likely to substantially worsen without immediate intervention.

*“Rural”* means any area that is not defined as urban.

*“Serious emotional disturbance”* means the same as defined in Iowa Code section 225C.2.

*“Severe and persistent mental illness”* or *“SPMI”* means a documented primary mental health disorder diagnosed by a mental health professional that causes symptoms and impairments in basic mental and behavioral processes that produce distress and major functional disability in adult role functioning inclusive of social, personal, family, educational or vocational roles. The individual has a degree of impairment arising from a psychiatric disorder such that: (1) the individual does not have the resources or skills necessary to maintain function in the home or community environment without assistance or support; (2) the individual’s judgment, impulse control, or cognitive perceptual abilities are compromised; (3) the individual exhibits significant impairment in social, interpersonal, or familial functioning; and (4) the individual has a documented mental health diagnosis. For this purpose, a “mental health diagnosis” means a disorder, dysfunction, or dysphoria diagnosed pursuant to the current version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, excluding neurodevelopmental disorders, substance use disorders, personality disorders, medication-induced movement disorders and other adverse effects of medication, and other conditions that may be a focus of clinical attention as defined in the current version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

*“Subacute mental health services”* means the same as defined in Iowa Code section 225C.6(4) “c” and includes both subacute facility-based services and subacute community-based services.

*“Substance use disorder”* means the same as defined in rule 641—155.1(125,135).

*“Supported community living services”* means services as defined in Iowa Code section 225C.21(1).

*“Supported employment”* means an approach to helping individuals participate as much as possible in competitive work in integrated work settings that are consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals. Services are targeted for individuals with significant disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a significant disability including either individual or group supported employment, or both, consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

*“Trauma-focused services”* means services provided by caregivers and professionals that recognize when an individual who has been exposed to violence is in need of help to recover from adverse impacts; recognize and understand the impact that exposure to violence has on victims’ physical, psychological, and psychosocial development and well-being; and respond by helping in ways that reflect awareness of adverse impacts and consistently support the individual’s recovery.

*“Trauma-informed care”* means services that are based on an understanding of the vulnerabilities or triggers of those who have experienced violence, that recognize the role violence has played in the lives of those individuals, that are supportive of recovery, and that avoid retraumatization including trauma-focused services and trauma-specific treatment.

*“Trauma-specific treatment”* means services provided by a mental health professional using therapies that are free from the use of coercion, restraints, seclusion and isolation; and designed specifically to promote recovery from the adverse impacts of violence exposure on physical, psychological, psychosocial development, health and well-being.

*“Twenty-four-hour crisis response”* means the same as defined in rule 441—24.20(225C).

*“Twenty-three-hour observation and holding”* means the same as defined in rule 441—24.20(225C).

*“Urban”* means a county that has a total population of 50,000 or more residents or includes a city with a population of 20,000 or more.

*“Urgent”* means the existence of conditions that are not emergent in nature but that require expeditious treatment because of the prospect of the condition worsening without immediate intervention.

*“Warm handoff”* means an approach to care transitions in which a health care provider uses face-to-face or telephone contact to directly link individuals being treated to other providers or specialists.

#### **441—25.2(225C) Core service domains.**

**25.2(1)** The region shall ensure that core service domains are available in regions as determined in Iowa Code sections 225C.65 and 225C.66.

**25.2(2)** The region shall include and respect the recommendation of the individual and the individual’s care team in the process of transition to new services.

**25.2(3)** The region shall ensure that the following services are available for adults in the region:

- a. Access centers.
- b. Assertive community treatment.
- c. Assessment and evaluation.
- d. Case management.
- e. Crisis evaluation.
- f. Crisis stabilization community-based services.
- g. Crisis stabilization residential services.
- h. Day habilitation.
- i. Family support.
- j. Health homes.
- k. Home and vehicle modification.
- l. Home health aide.
- m. Intensive residential service homes.
- n. Job development.
- o. Medication prescribing and management.
- p. Mental health inpatient treatment.
- q. Mental health outpatient treatment.
- r. Mobile response.
- s. Outpatient competency restoration.
- t. Peer support.
- u. Personal emergency response system.
- v. Prevocational services.

- w. Respite.
- x. Subacute mental health services.
- y. Supported employment.
- z. Supportive community living.
- aa. Twenty-four-hour access to crisis response.
- ab. Twenty-three-hour crisis observation and holding.

Regions may fund or provide other services in addition to the required core services consistent with requirements set forth in subrules 25.2(5) and 25.2(6).

**25.2(4)** The region shall ensure that the following services are available for children in the region:

- a. Assessment and evaluation relating to eligibility for services.
- b. Behavioral health inpatient treatment.
- c. Behavioral health outpatient therapy.
- d. Crisis stabilization community-based services.
- e. Crisis stabilization residential services.
- f. Early identification.
- g. Early intervention.
- h. Education services.
- i. Medication prescribing and management.
- j. Mobile response.
- k. Outpatient competency restoration.
- l. Prevention.

**25.2(5)** A regional service system shall consider the scope of services included in addition to the required core services. Each service included shall be described and projection of need and the funding necessary to meet the need shall be included.

**25.2(6)** A regional service system may provide funding for other appropriate services or support. In considering whether to provide such funding, a region may consider the following criteria:

- a. Applying a person-centered planning process to identify the need for the services or other support.
- b. The efficacy of the services or other support is recognized as an evidence-based practice, is deemed to be an emerging and promising practice, or providing the services is part of a demonstration and will supply evidence as to the effectiveness of the services.
- c. A determination that the services or other support provides an effective alternative to existing services that have been shown by the evidence base to be ineffective, to not yield the desired outcome, or to not support the principles outlined in *Olmstead v. L.C.*, 527 U.S. 581.

**441—25.3** Reserved.

**441—25.4(225C) Access standards.** Regions shall meet the following access standards:

**25.4(1)** A sufficient provider network that shall include:

- a. A community mental health center or federally qualified health center that provides psychiatric and outpatient mental health services to individuals in the region.
- b. A hospital with an inpatient psychiatric unit or state mental health institute located in or within reasonably close proximity that has the capacity to provide inpatient services.

**25.4(2)** Crisis services shall be available 24 hours per day, 7 days per week, 365 days per year for individuals experiencing mental health and disability-related emergencies. A region may make arrangements with one or more other regions to meet the required access standards.

a. *Basic crisis response.*

(1) Twenty-four-hour crisis response. An individual shall have immediate access to crisis response services by means of telephone, electronic, or face-to-face communication.

(2) Crisis evaluation. An individual shall have immediate access to a crisis screening and will have a crisis assessment by a licensed mental health professional within 24 hours of referral.

*b. Crisis stabilization community-based services.* An individual who has been determined to need CSCBS shall receive face-to-face contact from the CSCBS provider within 120 minutes from the time of referral.

*c. Crisis stabilization residential services.* CSRS shall be located within 120 miles from the residence of the individual or be available within 120 minutes from the time of the determination that the individual needs CSRS.

*d. Mobile response.* An individual in need of mobile response services shall have face-to-face contact with mobile crisis staff within 60 minutes of dispatch.

*e. Twenty-three-hour observation and holding.* Twenty-three-hour observation and holding shall be located within 120 miles from the residence of the individual or be available within 120 minutes from the time of the determination that the individual needs 23-hour observation and holding.

**25.4(3)** The region shall provide the following treatment services:

*a. Outpatient.*

(1) Emergency services: During an emergency, outpatient services shall be initiated to an individual within 15 minutes of telephone contact.

(2) Urgent: Outpatient services shall be provided to an individual within 1 hour of presentation or 24 hours of telephone contact.

(3) Routine care: Outpatient services shall be provided to an individual within four weeks of request for appointment.

(4) Distance: Outpatient services shall be offered within 30 miles for an individual residing in an urban community and 45 miles for an individual residing in a rural community.

*b. Inpatient.*

(1) An individual in need of emergency inpatient services shall receive treatment within 24 hours.

(2) Inpatient services shall be available within reasonably close proximity to the region.

*c. Assessment and evaluation.* An individual who has received inpatient services shall be assessed and evaluated within four weeks.

**25.4(4)** Subacute facility-based mental health services. An adult shall receive subacute facility-based mental health services within 24 hours of referral. The service shall be located within 120 miles of the residence of the individual.

**25.4(5)** Support for community living for adults. The first appointment shall occur within four weeks of the individual's request of support for community living services, including a home health aide, home and vehicle modifications, respite, and supportive community living.

**25.4(6)** Support for employment for adults. The initial referral shall take place within 60 days of the individual's request of support for employment services, including day habilitation, job development, supported employment, and prevocational services.

**25.4(7)** Recovery services for adults. An individual receiving recovery services, including family support and peer support, shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

**25.4(8)** Service coordination.

*a.* An adult receiving service coordination shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

*b.* An adult shall receive service coordination within ten days of the initial request for such service or being discharged from an inpatient facility.

**25.4(9)** The region shall make the following intensive mental health services available for adults. A region may make arrangements with one or more other regions to meet the required access standards.

*a. Assertive community treatment.*

(1) A minimum of 22 ACT teams shall be operational statewide.

(2) A sufficient number of ACT teams shall be available to serve the number of individuals in the region who are eligible for ACT services. As a guideline for planning purposes, the ACT-eligible population is estimated to be about 0.06 percent of the adult population of the region. The region may identify multiple geographic areas within the region for ACT team coverage. Regions may work with one or more other regions to identify geographic areas for ACT team coverage.

*b. Access centers.*

- (1) A minimum of six access centers shall be operational statewide.
- (2) An access center shall be located within 120 miles of the residence of the individual or be available within 120 minutes from the time of the determination that the individual needs access center services.

*c. Intensive residential services.*

- (1) A minimum of 120 intensive residential service beds shall be available statewide.
- (2) An individual receiving intensive residential services shall have the service available within two hours of the individual's residence.
- (3) An individual shall be admitted to intensive residential services within four weeks from referral.

**25.4(10)** The following limitations apply to home and vehicle modification for an individual receiving mental health and disability services:

*a.* A lifetime limit equal to that established for the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

*b.* A provider reimbursement payment will be no lower than that provided through the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

**25.4(11)** The region shall make the following efforts and activities related to children's behavioral health available to the residents of the region:

*a. Prevention.* Prevention activities shall be carried out at least four times a year.

*b. Education services.* Education activities shall be carried out at least four times a year.

**25.4(12)** The region shall ensure that the following behavioral health services are available to children in the region:

*a. Early identification.* A child shall receive early identification services within four weeks of the time the request for such services is made.

*b. Early intervention.* A child shall receive early intervention services within four weeks of the time the request for such services is made.

**441—25.5(225C) Practices.** A region shall ensure that access is available to providers of core services that demonstrate the following competencies:

**25.5(1)** Regions shall have service providers that are trained to provide effective services to individuals with multi-occurring conditions. Training for serving individuals with multi-occurring conditions provided by the region shall be training identified by the Substance Abuse and Mental Health Services Administration, the Dartmouth Psychiatric Research Center or other generally recognized professional organization specified in the regional service system management plan.

**25.5(2)** Regions shall have service providers that are trained to provide effective trauma-informed care. Trauma-informed care training provided by the region shall be recognized by the National Center for Trauma-Informed Care or other generally recognized professional organization specified in the regional service system management plan.

**25.5(3)** Regions must have evidence-based practices that the region has independently verified as meeting established fidelity to evidence-based practice models including, but not limited to, assertive community treatment; integrated treatment for co-occurring substance use and mental health disorders; supported employment; family psychoeducation; illness management and recovery; and permanent supportive housing.

**441—25.6(225C) Intensive mental health services.** The purpose of intensive mental health services is to provide a continuum of services and supports to adults with complex mental health and multi-occurring conditions who need a high level of intensive and specialized support to attain stability in health, housing, and employment and to work toward recovery.

**25.6(1)** *Access centers.* The purpose of an access center is to serve adults experiencing a mental health or substance use crisis who are not in need of an inpatient psychiatric level of care and who do not have alternative, safe, effective services immediately available.



*a. Regional coordination.* Each region shall designate at least one access center provider and ensure that access center services are available to the residents of the region consistent with subrule 25.4(9).

(1) Regions shall work collaboratively to develop a minimum of six access centers strategically located throughout the state, with the support of the medical assistance program.

(2) Access centers may be shared by two or more regions.

(3) Each region shall establish methods to provide for reimbursement of a region when a non-Medicaid-eligible resident of another region utilizes an access center or other non-Medicaid-covered services located in that region.

*b. Access center standards.* A designated access center shall meet all of the following criteria:

(1) An access center shall have no residential facility-based setting with more than 16 beds.

(2) An access center provider shall be accredited to provide crisis stabilization residential services pursuant to 441—Chapter 24.

(3) An access center provider shall be licensed to provide subacute mental health services as described in rule 441—77.56(249A).

(4) An access center provider shall be licensed as a substance abuse treatment program pursuant to Iowa Code chapter 125 or have a cooperative agreement with and immediate access to licensed substance abuse treatment services or medical care that incorporates withdrawal management.

(5) An access center shall provide services on a no reject, no eject basis to individuals who meet service eligibility criteria.

(6) An access center shall accept and serve eligible individuals who are court-ordered to participate in mental health or substance use disorder treatment.

(7) An access center shall provide all required services listed in paragraph 25.6(1)“d” in a coordinated manner. An access center may provide coordinated services in one or more locations.

*c. Eligibility for access center services.* To be eligible to receive access center services, an individual shall meet all of the following criteria:

(1) The individual is an adult in need of screening, assessment, services or treatment related to a mental health or substance use crisis.

(2) The individual shows no obvious signs of illness or injury indicating a need for immediate medical attention.

(3) The individual has not been determined to need acute inpatient psychiatric hospitalization.

*d. Access center services.* An access center shall provide or arrange for the provision of all of the following:

(1) Immediate intake assessment and screening that includes but is not limited to mental and physical health conditions, suicide risk, brain injury, and substance use. A crisis evaluation that includes all required screenings may serve as an intake assessment.

(2) Comprehensive person-centered mental health assessments by appropriately licensed or credentialed professionals, as indicated by the intake assessment.

(3) Comprehensive person-centered substance use disorder assessments by appropriately licensed or credentialed professionals, as indicated by the intake assessment.

(4) Peer support services, as indicated by a comprehensive assessment.

(5) Mental health treatment, as indicated by a comprehensive assessment.

(6) Substance use treatment, as indicated by a comprehensive assessment.

(7) Physical health care services as indicated by a health screening.

(8) Care coordination.

(9) Service navigation and linkage to needed services including housing, employment, shelter services, intellectual and developmental disability services, and brain injury services, with warm handoffs to other service providers.

**25.6(2) Assertive community treatment (ACT) services.** The purpose of assertive community treatment is to serve adults with the most severe and persistent mental illness conditions and functional impairments. ACT services provide a set of comprehensive, integrated, intensive outpatient services delivered by a multidisciplinary team under the supervision of a psychiatrist, an advanced registered

nurse practitioner, or a physician assistant under the supervision of a psychiatrist. An ACT program shall designate a staff member to be responsible for administration of the program and with the authority to sign documents and receive payments on behalf of the program.

*a. Regional coordination.* Each region shall designate at least one ACT provider and ensure that ACT services are available to the residents of the region consistent with subrule 25.4(9). Regions may work collaboratively with other regions when an ACT team is serving more than one region.

(1) Each region shall determine the number and size of ACT teams needed to serve the ACT-eligible population in that region.

(2) Each region shall verify that all ACT programs operating in the region have periodic fidelity reviews consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration (SAMHSA). Each ACT program shall have a fidelity review, including a peer review, on the following schedule:

1. Within the first 12 months of operation.
2. Annually during each of the second and third years of operation.
3. Biennially thereafter for teams with satisfactory fidelity reviews. Teams with unsatisfactory reviews shall be reviewed again after one year.

Results of the ACT team fidelity reviews shall be included in the region's annual report.

*b. ACT team composition.* Each ACT team shall include a minimum of six members and must include a member qualified to fill each of the eight following roles. One team member may fill more than one role if all other qualifications are met.

(1) A psychiatrist, an advanced registered nurse practitioner, or a physician assistant under the supervision of a psychiatrist who is board-certified or eligible for board certification.

- (2) A team leader.
- (3) A registered nurse.
- (4) A mental health professional.
- (5) A substance abuse treatment provider.
- (6) A community support specialist.
- (7) A peer support specialist.
- (8) An employment specialist.

*c. Staff qualifications.* ACT team members shall meet the following qualifications:

(1) Psychiatrist. A psychiatrist on the team shall be a person who meets all of the following criteria:

1. Is a doctor of medicine (M.D.) or a doctor of osteopathy (D.O.).
2. Is licensed in Iowa pursuant to 653—Chapter 9.
3. Is certified or is eligible to be certified as a psychiatrist by the American Board of Medical Specialties' Board of Psychiatry and Neurology or by the American Osteopathic Board of Neurology and Psychiatry.

4. Has experience working with persons with severe and persistent mental illness.
5. Provides a minimum of 16 hours per week of psychiatrist time for every 50 ACT clients.

(2) Advanced registered nurse practitioner. An advanced registered nurse practitioner on the team shall be a person who meets all of the following criteria:

1. Is licensed pursuant to 655—Chapter 7.
2. Has a mental health certification.
3. Has experience working with persons with severe and persistent mental illness.
4. Provides a minimum of 16 hours per week of advanced registered nurse practitioner time for every 50 ACT clients.

(3) Physician assistant. A physician assistant on the team shall be a person who meets all of the following criteria:

1. Is licensed pursuant to 645—Chapter 326.
2. Has experience working with persons with severe and persistent mental illness.
3. Is practicing under the supervision of a psychiatrist who is board-certified or eligible for board certification.
4. Provides a minimum of 16 hours per week of physician assistant time for every 50 ACT clients.

- (4) Team leader. A team leader shall be a person on the team who meets all of the following criteria:
  1. Has a master's degree in a mental health field, including but not limited to nursing, social work, mental health counseling, psychiatric rehabilitation, or psychology.
  2. Is actively involved in direct contact with individuals being served by the team.
  3. Is a full-time staff member whose responsibilities are limited to the ACT team and who serves as the clinical and administrative supervisor of the team.
- (5) Registered nurse. A registered nurse on the team shall be a person who meets all of the following criteria:
  1. Is licensed as a registered nurse pursuant to 655—Chapter 3.
  2. Has experience working with persons with severe and persistent mental illness.
- (6) Mental health professional. A mental health professional on the team shall be a person who meets all of the following criteria:
  1. Is a mental health counselor or marital and family therapist licensed pursuant to 645—Chapter 31; a social worker licensed as a master or independent social worker pursuant to 645—Chapter 280; or an occupational therapist licensed pursuant to 645—Chapter 206.
  2. Has experience working with persons with severe and persistent mental illness.
- (7) Substance abuse treatment professional. A substance abuse treatment professional on the team shall be a person who meets all of the following criteria:
  1. Is an appropriately credentialed counselor pursuant to 641—subparagraph 155.21(8) "b"(1).
  2. Has at least three years of experience working with persons with substance use disorders.
- (8) Community support specialist. A community support specialist on the team shall be a person who meets all of the following criteria:
  1. Has a bachelor's degree with at least 30 semester hours or equivalent quarter hours in a human services field, including but not limited to sociology, social work, counseling, psychology, or human services.
  2. Has experience working with persons with severe and persistent mental illness.
- (9) Peer support specialist. A peer support specialist on the team shall be a person who meets all of the following criteria:
  1. Has been diagnosed with a severe and persistent mental illness.
  2. Has met all requirements of the Appalachian Consulting Group Peer Support Training Model by no later than six months after the date of hire.
- (10) Employment specialist. An employment specialist on the team shall be a person who meets all of the following criteria:
  1. Has experience working with persons with severe and persistent mental illness.
  2. Meets one of the following:
    - Has a bachelor's degree with at least 30 semester hours or equivalent quarter hours in a human services field, including but not limited to sociology, social work, counseling, or psychology, and completes at least 12 hours of employment services training within six months of the date of hire.
    - Has a high school diploma or equivalent, has at least one year of specialized vocational training or supervised experience in vocational and related services, including but not limited to supported employment, job coaching, supported community living, or habilitation, and completes at least 12 hours of employment services training within six months of the date of hire.
- (11) Psychologist. A psychologist on the team shall be a person who meets all of the following criteria:
  1. Is licensed pursuant to 645—Chapter 240.
  2. Has experience working with persons with a severe and persistent mental illness.
  - d. *ACT provider standards.* Organizations seeking regional designation as an ACT provider shall meet the following criteria at initial application and annually thereafter. A designated ACT provider shall:
    - (1) Develop and maintain written ACT-specific admission policies and procedures, including but not limited to a gradual rate of admission and program eligibility requirements.

(2) Develop and maintain written ACT-specific discharge policies and procedures. Discharge criteria shall include but are not limited to the following:

1. An individual reaches individually established goals for discharge, and the individual and program staff mutually agree to the termination of services; or

2. An individual requests discharge, demonstrates the ability to function in all major role areas without ongoing assistance from the program and without significant relapse when services are withdrawn, and the program staff agree to the termination of services; or

3. An individual moves outside the geographic area of the team's responsibility. In such cases, the team shall arrange for transfer of responsibility for mental health services to an ACT program or another provider wherever the individual is relocating, and the team shall maintain contact with the individual until the service transfer is implemented; or

4. An individual declines or refuses services and requests discharge despite the team's best efforts to develop an acceptable treatment plan with the individual.

(3) Documentation of discharges. Documentation shall include:

1. The reason(s) for discharge as stated by both the individual and the team.

2. A summary of the individual's biopsychosocial status at the time of discharge.

3. A written final evaluation summary of the individual's progress toward the goals in the treatment plan.

4. A plan developed in conjunction with the individual for follow-up treatment after discharge.

5. The signature of each of the following:

- The individual, or documentation of why the individual's signature was not obtained.

- The service coordinator.

- The team leader.

- The psychiatrist, advanced registered nurse practitioner, or physician assistant under the supervision of a board-certified psychiatrist.

*e. ACT team standards.* All designated ACT teams shall:

(1) Participate in all of the individual's mental health services.

(2) Ensure that services for the psychiatric needs of the individual are available 24 hours a day.

(3) Develop a specific treatment plan based on the assessment of needs and including goals and actions to address the individual's medical, social, educational, and other needs.

(4) Make referrals to services and related activities to assist the individual with the individual's assessed needs.

(5) Monitor and perform follow-up activities necessary to ensure that the treatment plan is carried out and that the individual has access to necessary services. Activities may include monitoring contacts with providers, family members, natural supports, and others.

(6) Hold team meetings at least four times a week to facilitate ACT services and briefly review the status of the individual with other members of the team.

(7) Have the capacity to provide multiple contacts a week with individuals experiencing severe symptoms, trying a new medication, experiencing a health problem or serious life event, trying to go back to school or starting a new job, making changes in a living situation or employment, or having significant ongoing problems in daily living. All members of the team share responsibility for addressing the needs of all individuals. The number of team contacts per individual served shall average at least three per week per individual when calculated across all individuals served by the team. Contacts may be weekly, daily, or more frequent. The frequency of contacts is determined by the needs of the individual.

(8) Have the capacity to rapidly increase service intensity to an individual when the individual's status requires it or the individual requests it.

(9) Ensure that treatment, rehabilitation, and support activities are available 24 hours a day, 7 days a week, 365 days a year, including nights, weekends, and holidays. If there are insufficient numbers of staff to operate an after-hours on-call system, staff shall provide crisis response during regular work hours and arrange coverage for all other hours through a reliable crisis response service.

(10) Provide no more than 20 percent of service contacts in office-based settings.

*f. Staff-to-client ratio.* ACT teams shall maintain a ratio of at least one full-time or full-time equivalent staff person to every ten individuals served. The ACT team staff-to-client ratios do not include the psychiatrist, advanced nurse practitioner, or physician assistant practicing under the supervision of a psychiatrist.

*g. Eligibility criteria for ACT services.* To be eligible to receive ACT services, the individual shall meet all of the following criteria:

(1) Is at least 17 years of age.

(2) Has a severe and persistent mental illness or complex mental health symptomology. Individuals with a primary diagnosis of substance use disorder, developmental disability, personality disorder, or organic disorder are not eligible for ACT services.

(3) Is in need of a consistent team of professionals and multiple mental health and support services to live independently in the community and reduce hospitalizations, as evidenced by one or both of the following:

1. A pattern of repeated treatment failures during the previous 12 months, including at least two psychiatric hospitalizations or psychiatric care delivered at least twice in an emergency department, at an access center, or by a mobile crisis team; or

2. The need for multiple or combined mental health and basic living supports to prevent the need for a more intrusive level of care.

(4) Presents a reasonable likelihood that ACT services will lead to specific, observable improvements in the individual's functioning and assist the individual in achieving or maintaining independent community living. Specifically, the individual:

1. Is medically stable;

2. Does not require a level of care that includes more intensive medical monitoring;

3. Presents a low risk to self, others, or property, with treatment and support; and

4. Lives independently in the community or demonstrates a capacity and desire to live independently in the community.

*h. ACT services.* ACT teams shall provide the following services:

(1) Initial assessment and treatment planning.

1. An assessment of the individual shall be completed within 30 days of admission that includes psychiatric history, medical history, educational history, employment, substance use, problems with activities of daily living, social interests, and family relationships.

2. An individualized written treatment plan shall be developed based on the assessment. The treatment plan shall identify the necessary psychiatric rehabilitation treatment and support services, including all of the following:

- Treatment objectives and outcomes.
- The expected frequency and duration of each service.
- The location where the services will be provided.
- A crisis plan.
- The schedule for updates of the treatment plan.

(2) Evaluation and medication management.

1. The evaluation portion of ACT services consists of a comprehensive mental health evaluation and assessment of the individual by a psychiatrist, advanced registered nurse practitioner, or physician assistant.

2. Medication management consists of the prescription and management of medication by a psychiatrist, advanced registered nurse practitioner, or physician assistant in response to the individual's complaints and symptoms. A psychiatric registered nurse assists in this management by making contact with the individual regarding medications and their effect on the individual's complaints and symptoms.

(3) Integrated therapy and counseling for mental health and substance abuse. Integrated therapy and counseling consists of direct counseling for treatment of mental health and substance abuse symptoms by a psychiatrist, licensed mental health professional, advanced registered nurse practitioner, physician assistant, or substance abuse specialist. Individual counseling may be provided by other team members under the supervision of a psychiatrist or licensed mental health practitioner.

(4) Skill teaching. Skill teaching consists of side-by-side demonstration and observation of daily living activities by any team member.

(5) Community support. Community support may be provided by any team member and consists of the following activities focused on recovery and rehabilitation:

1. Personal and home skills training to assist the individual to develop and maintain skills for self-direction and coping with the living situation.

2. Community skills training to assist the individual in maintaining a positive level of participation in the community through development of socialization skills and personal coping skills.

(6) Medication monitoring. Medication monitoring services shall be provided by a psychiatric nurse and other team members under the supervision of a psychiatrist or psychiatric nurse and consists of:

1. Monitoring the individual's day-to-day functioning, medication compliance, and access to medications; and

2. Ensuring that the individual keeps appointments.

(7) Case management for treatment and service plan coordination. Case management consists of the development of an individualized treatment and service plan, including personalized goals and outcomes, to address the individual's medical symptoms and remedial functional impairments. Case management includes:

1. Assessments, referrals, follow-up, and monitoring.

2. Assisting the individual in gaining access to necessary medical, social, educational, and other services.

3. Assessing the individual to determine service needs by collecting relevant historical information through records and other information from relevant professionals and natural supports.

(8) Crisis response. Crisis response consists of direct assessment and treatment of the individual's urgent or crisis symptoms in the community by any team member, as appropriate.

(9) Work-related services. Work-related services may be provided by any team member. Services consist of assisting the individual in managing mental health symptoms as they relate to job performance and may include:

1. Collaborating with the individual to look for job situations of the individual's choice and creating strategies to manage situations that cause symptoms to increase.

2. Assisting the individual to develop or enhance skills to obtain a work placement, such as individual work-related behavioral management.

3. Providing supports to maintain employment, such as crisis intervention related to employment.

4. Teaching communication, problem-solving, and safety skills.

5. Teaching personal skills, such as time management and appropriate grooming for employment.

(10) Peer support services. Peer support services are provided by a peer support specialist and include, but are not limited to, education and information, individual advocacy, and crisis response.

(11) Support services. All team members are responsible for providing support services. Services consist of assisting the individual in obtaining the basic necessities of daily life, including but not limited to:

1. Medical and dental services.

2. Safe, clean, and affordable housing.

3. Financial support.

4. Benefits counseling.

5. Social services.

6. Transportation.

7. Legal advocacy and representation.

(12) Education, support, and consultation to family members and other major supports of individuals. All team members are responsible for providing education, support, and consultation to family members and other major supports of individuals with the agreement or consent of the individual. Services include but are not limited to:

1. Individualized psychoeducation about the individual's illness and the role of the family and other significant people in the therapeutic process.
2. Intervention to restore contact, resolve conflicts, and maintain relationships with family or other significant people or both.
3. Ongoing communication and collaboration, face-to-face and by telephone, between the ACT team and the family.
4. Introduction and referral to family self-help programs and advocacy organizations that promote recovery.
5. Assistance to obtain necessary services for individuals with children, including but not limited to:
  - Individual supportive counseling.
  - Parenting training.
  - Service coordination.
  - Services to help the individual throughout pregnancy and the birth of a child.
  - Services to help the individual fulfill parenting responsibilities and coordinate services for the child or children.
  - Services to help the individual restore relationships with children who are not in the individual's custody.

**25.6(3) *Mobile response.*** The purpose of mobile response is to provide short-term individualized crisis stabilization, following a crisis screening or assessment, that is designed to restore the individual to a prior functional level. Mobile response services shall be provided as described in rule 441—24.36(225C).

**25.6(4) *23-hour observation and holding.*** The purpose of 23-hour observation and holding is to provide up to 23 hours of care for adults in a safe and secure, medically staffed treatment environment. Twenty-three-hour observation and holding shall be provided as described in rule 441—24.37(225C).

**25.6(5) *Crisis stabilization community-based services.*** The purpose of crisis stabilization community-based services is to provide short-term services designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis in the setting where the individual lives, works, or recreates. Crisis stabilization community-based services shall be provided as described in rule 441—24.38(225C).

**25.6(6) *Crisis stabilization residential services.*** The purpose of crisis stabilization residential services is to provide a short-term alternative living arrangement in a setting of no more than 16 beds that is designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis. Crisis stabilization residential services shall be provided as described in rule 441—24.39(225C).

**25.6(7) *Subacute mental health services.*** The purpose of subacute mental health services is to provide a comprehensive set of wraparound services to adults who have had or are at imminent risk of having acute or crisis mental health symptoms.

*a. Regional coordination.* Each region shall designate at least one subacute mental health service provider and ensure that subacute mental health services are available to the residents of the region consistent with subrule 25.4(4).

*b. Subacute mental health services standards.*

(1) Subacute mental health services in a facility-based setting shall be provided as described in Iowa Code chapter 135G and 481—Chapter 71.

(2) Subacute mental health services in a community-based setting are the same as assertive community treatment (ACT) services provided as described in subrule 25.6(2).

**25.6(8) *Intensive residential services.*** The purpose of intensive residential services is to serve adults with the most intensive severe and persistent mental illness conditions who have functional impairments and may also have multi-occurring conditions. Intensive residential services provide intensive 24-hour supervision, behavioral health services, and other supportive services in a community-based residential setting.

*a. Regional coordination.* Each region shall designate at least one intensive residential services provider and ensure that intensive residential services are available to the residents of the region consistent with subrule 25.4(9).

(1) Regions shall work collaboratively to develop intensive residential services strategically located throughout the state with the capacity to serve a minimum of 120 individuals, with the support of the medical assistance program.

(2) Intensive residential services may be shared by two or more regions.

(3) Each region shall establish methods to provide for reimbursement of a region when the non-Medicaid-eligible resident of another region utilizes intensive residential services or other non-Medicaid-covered services located in that region.

(4) Regional reimbursement rates for non-Medicaid individuals receiving intensive residential services shall be negotiated by the region and the provider and shall be no less than the minimum Medicaid rate.

*b. Intensive residential services standards.* An organization that seeks regional designation as an intensive residential service provider shall meet the following criteria at initial application and annually thereafter. A designated intensive residential service provider shall:

(1) Be enrolled as an HCBS 1915(i) habilitation provider or an HCBS 1915(c) intellectual disability waiver supported community living provider and in good standing with Iowa Medicaid.

(2) Provide staffing 24 hours a day, 7 days a week, 365 days a year.

(3) Maintain a minimum staffing ratio of one staff to every two and one-half residents. Staffing ratios shall be responsive to the needs of the individuals served.

(4) Ensure that all staff members have the following minimum qualifications:

1. One year of experience working with individuals with a mental illness or multi-occurring conditions.

2. A high school diploma or equivalent.

(5) Ensure that within the first year of employment, staff members complete 48 hours of competency-based training in mental health and multi-occurring conditions. During each consecutive year of employment, staff members shall complete 24 hours of competency-based training in mental health and multi-occurring conditions. Staff training shall include, but is not limited to, the following:

1. Applied behavioral analysis.

2. Autism spectrum disorders, diagnoses, symptomology and treatment.

3. Brain injury diagnoses, symptomology and treatment.

4. Crisis management and de-escalation and mental health diagnoses, symptomology and treatment.

5. Motivational interviewing.

6. Psychiatric medications.

7. Substance use disorders and treatment.

8. Other diagnoses or conditions present in the population served.

(6) Provide coordination with the individual's clinical mental health and physical health treatment, and other services and supports.

(7) Provide clinical oversight by a mental health professional. The mental health professional shall review and consult on all behavioral health services provided to the individual, and any other plans developed for the individual, including but not limited to service plans, behavior intervention plans, crisis intervention plans, emergency plans, cognitive rehabilitation plans, or physical rehabilitation plans.

(8) Have a written cooperative agreement with an outpatient mental health provider and ensure that individuals have timely access to outpatient mental health services, including but not limited to ACT.

(9) Be licensed as a substance abuse treatment program pursuant to Iowa Code chapter 125 or have a written cooperative agreement with and timely access to licensed substance abuse treatment services for those individuals with a demonstrated need.

(10) Accept and serve eligible individuals who are court-ordered to intensive residential services.

(11) Provide services to eligible individuals on a no reject, no eject basis.



(12) If funded through HCBS and not licensed as a residential care facility, serve no more than five individuals at a site.

(13) Be located in a neighborhood setting to maximize community integration and natural supports.

(14) Demonstrate specialization in serving individuals with an SPMI or multi-occurring conditions and serve individuals with similar conditions in the same site.

*c. Eligibility criteria for admission to intensive residential services.* To be eligible to receive intensive residential services, an individual shall meet all of the following criteria:

(1) The individual is an adult with a diagnosis of a severe and persistent mental illness or multi-occurring conditions.

(2) The individual has had a standardized functional assessment and screening for multi-occurring conditions completed 30 days or less prior to application for intensive residential services, and the functional assessment and screening demonstrates that the individual:

1. Has a diagnosis that meets the criteria of severe and persistent mental illness as defined in rule 441—25.1(225C);

2. Has three or more areas of significant impairment in activities of daily living or instrumental activities of daily living;

3. Is in need of 24-hour supervised and monitored treatment to maintain or improve functioning and avoid relapse that would require a higher level of treatment;

4. Has exhibited a lack of progress or regression after an adequate trial of active treatment at a less intensive level of care;

5. Is at risk of significant functional deterioration if intensive residential services are not received or continued; and

6. Meets one or more of the following:

- Has a record of three or more psychiatric hospitalizations in the 12 months preceding application for intensive residential services.

- Has a record of more than 30 medically unnecessary psychiatric hospital days in the 12 months preceding application for intensive residential services.

- Has a record of more than 90 psychiatric hospital days in the 12 months preceding application for intensive residential services.

- Has a record of three or more emergency room visits related to a psychiatric diagnosis in the 12 months preceding application for intensive residential services.

- Is residing in a state resource center and has an SPMI.

- Is being served out of state due to the unavailability of medically necessary services in Iowa.

- Has an SPMI and is scheduled for release from a correctional facility or a county jail.

- Is homeless or precariously housed.

**441—25.7(225C) Non-core services.** When a mental health and disability services region chooses to make the following non-core services available, the region shall ensure that such services meet the requirements of this rule.

**25.7(1) Prescreening assessments.** Prescreening assessments provided by the region or an entity contracting with the region shall meet the following requirements:

*a.* The prescreening assessment shall be provided in an emergency room or other crisis assessment setting within four hours of an emergency detention of an individual believed to be mentally ill to determine if inpatient psychiatric hospitalization is necessary.

*b.* The prescreening assessment shall be performed by a licensed physician or mental health professional who shall also provide ongoing consultations while the individual remains in the emergency room or other crisis assessment setting. The services provided by the consulting professional are intended to supplement, but do not replace, the services of the emergency room or other crisis setting staff.

*c.* The licensed physician or mental health professional shall submit appropriate documentation and reports to the emergency room or other crisis setting and the court as necessary.

d. The region or entity contracting with the region shall ensure the coordination of appropriate levels of care. Coordination may include but is not limited to:

- (1) Securing an inpatient psychiatric bed when inpatient psychiatric hospitalization is needed.
- (2) Utilizing community-based resources and services such as 23-hour observation and holding, crisis stabilization community-based or residential services, subacute facility-based mental health services or detoxification centers.
- (3) Facilitating outpatient treatment appointments when inpatient psychiatric hospitalization is not needed.

**25.7(2) Transportation.** A service provider that is under contract with a region and transports individuals pursuant to an Iowa Code chapter 229 court order shall meet the following requirements:

- a. The transport vehicle shall be secure such that the individual being transported cannot open doors or windows of the vehicle while it is moving.
- b. Transportation staff shall complete a minimum of eight hours of training in mental health issues and crisis intervention in the first month of employment. After the initial training, each staff member shall complete a minimum of two hours of training annually.

These rules are intended to implement Iowa Code chapter 225C.

**441—25.8 to 25.10** Reserved.

DIVISION II  
REGIONAL SERVICE SYSTEM

PREAMBLE

These rules define the standards for a regional service system. The mental health and disability services and children's behavioral health services shall be delivered in accordance with a regional service system management plan approved by the region's governing board and implemented by the regional administrator (Iowa Code section 225C.60). It is the intent of the Iowa general assembly that the adult residents of this state should have access to needed mental health and disability services and that Iowa children should have access to needed behavioral health services regardless of the location of their residence.

**441—25.11(225C) Definitions.**

*“Access point”* means a provider, public or private institution, advocacy organization, legal representative, or educational institution with staff trained to complete applications and guide individuals with a disability to needed services.

*“Assessment and evaluation”* means the same as defined in rule 441—25.1(225C).

*“Assistive technology account”* means funds in contracts, savings, trust or other financial accounts, financial instruments, or other arrangements with a definite cash value that are set aside and designated for the purchase, lease, or acquisition of assistive technology, assistive technology services, or assistive technology devices. Assistive technology accounts must be held separately from other accounts. Funds must be used to purchase, lease, or otherwise acquire assistive technology services or devices for a working individual with a disability. Any withdrawal from an assistive technology account other than for the designated purpose becomes a countable resource.

*“Authorized representative”* means a person designated by the individual or by Iowa law to act on the individual's behalf in specified affairs to the extent prescribed by law.

*“Cash flow”* means the same as “ending fund balance.”

*“Chief executive officer”* means the person chosen and supervised by the governing board who serves as the single point of accountability for the mental health and disability services region and whose responsibilities include, but are not limited to, planning, budgeting, monitoring county and regional expenditures, and ensuring the delivery of quality services that achieve expected outcomes for the individuals served.

“*Choice*” means the individual or authorized representative chooses the services, supports, and goods needed to best meet the individual’s goals and accepts the responsibility and consequences of those choices.

“*Clear lines of accountability*” means the structure of the governing board’s organization makes it evident that the ultimate responsibility for the administration of the non-Medicaid-funded mental health and disability services lies with the governing board and that the governing board directly and solely supervises the organization’s chief executive officer.

“*Community*” means an integrated setting of an individual’s choice.

“*Conflict-free case management*” means there is no real or seeming incompatibility between the case manager’s other interests and the case manager’s duties to the individual served and includes case management separate from direct service provision; eligibility determination for services; establishment of funding levels for the individual’s services; and requirements that prohibit the case manager from performing evaluations, assessments, and plans of care if the case manager is related by blood or marriage to the individual or any of the individual’s paid caregivers or persons financially responsible for the individual or empowered to make financial or health-related decisions on behalf of the individual.

“*Coordinator of children’s behavioral health services*” means a member of the regional administrative entity staff who meets the requirements described in Iowa Code section 225C.57(3) “b” and is responsible for coordinating behavioral health services for children.

“*Coordinator of mental health and disability services*” means a member of the regional administrative entity staff who meets the requirements described in Iowa Code section 225C.57(3) “b” and is responsible for coordinating mental health and disability services for adults.

“*Countable household income*” means earned and unearned income of the family of a child according to the modified adjusted gross income methodology.

“*Countable resource*” means real or personal property that has a cash value that is available to the owner upon disposition and is capable of being liquidated.

“*Countable value*” means the equity value of a resource, which is the current fair market value minus any legal debt on the item.

“*County of residence*” means the same as defined in Iowa Code section 225C.61.

“*Department*” means the department of health and human services.

“*Director*” means the director of health and human services.

“*Disability services*” means the same as defined in Iowa Code section 225C.2.

“*Emergency services*” means the same as defined in 441—subrule 24.4(15).

“*Empowerment*” means that the service system ensures the rights, dignity, and ability of individuals and their families to exercise choices, take risks, provide input, and accept responsibility.

“*Encumbered*” or “*encumbrances*” means regional commitments related to obligations or contracts as defined in subrule 25.13(6).

“*Ending balance limitation*” means the percentage limit allowable by state law that a region’s ending fund balance can exceed actual expenditures for the previous fiscal year.

“*Ending balance threshold*” means the same as defined in Iowa Code section 225C.7A.

“*Ending fund balance*” means the amount of residual funds remaining in a region’s combined account at the conclusion of a fiscal year after the region has met the financial obligations for implementation of its regional service system management plan.

“*Exempt resource*” means a resource that is disregarded in the determination of eligibility for public funding assistance and in the calculation of client participation amounts.

“*Federal poverty level*” means the most recently revised annual poverty income guidelines published in the Federal Register by the United States Department of Health and Human Services.

“*Homeless person*” means the same as defined in Iowa Code section 48A.2.

“*Household*” means, for an individual who is 18 years of age or over, the individual, the individual’s spouse or domestic partner, and any children, stepchildren, or wards under the age of 18 who reside with the individual. For an individual under the age of 18, “household” means the individual, the individual’s parents (or parent and domestic partner), stepparents or guardians, and any children, stepchildren, or

wards under the age of 18 of the individual's parents (or parent and domestic partner), stepparents, or guardians who reside with the individual.

*"Income"* means all gross income received by the individual's household, including but not limited to wages, income from self-employment, retirement benefits, disability benefits, dividends, annuities, public assistance, unemployment compensation, alimony, child support, investment income, rental income, and income from trust funds.

*"Individual"* means any person seeking or receiving services in a regional service system.

*"Individualized services"* means services and supports that are tailored to meet the personalized needs of the individual.

*"Judicial system"* means the same as defined in Iowa Code section 602.1102.

*"Law enforcement"* or *"law enforcement representative"* means the same as "law enforcement officer" defined in Iowa Code section 80B.3(3), or state and local correctional officers, and community-based corrections personnel.

*"Liquid assets"* means assets that can be converted to cash in 20 days. Liquid assets include but are not limited to cash on hand, checking accounts, savings accounts, stocks, bonds, cash value of life insurance, individual retirement accounts, certificates of deposit, and other investments.

*"Managed care"* means a system that provides the coordinated delivery of services and supports that are necessary and appropriate, delivered in the least restrictive settings and in the least intrusive manner. Managed care seeks to balance three factors: achieving high-quality outcomes for participants, coordinating access, and containing costs.

*"Managed system"* means a system that integrates planning, administration, financing, and service delivery. The system consists of the financing or governing organization, the entity responsible for care management, and the network of service providers.

*"Management organization"* means an organization contracted to manage part or all of the service system for a region.

*"Medical savings account"* means an account that is exempt from federal income taxation pursuant to Section 223 of the U.S. Internal Revenue Code (26 U.S.C. §223) as supported by documentation provided by the bank or other financial institution. Any withdrawal from a medical savings account other than for the designated purpose becomes a countable resource.

*"Mental health professional"* means the same as defined in Iowa Code section 228.1(7).

*"Modified adjusted gross income"* means the methodology prescribed in 42 U.S.C. Section 1396a(e)(14) and 42 CFR 435.603.

*"Non-liquid assets"* means assets that cannot be converted to cash in 20 days. Non-liquid assets include, but are not limited to, real estate, motor vehicles, motor vessels, livestock, tools, machinery, and personal property.

*"Population"* means the same as defined in Iowa Code section 225C.55.

*"Provider"* means an individual, firm, corporation, association, or institution that is providing or has been approved to provide medical assistance, is accredited under 441—Chapter 24, holds a professional license to provide the service, is accredited by a national insurance panel, or holds other national accreditation or certification.

*"Region incentive fund"* means the same as defined in Iowa Code section 225C.7A.

*"Regional administrator"* or *"regional administrative entity"* means the administrative office or organization formed by agreement of the counties participating in a mental health and disability services region to function on behalf of those counties.

*"Regional service growth factor"* means the same as defined in Iowa Code section 225C.7A.

*"Regional service fund"* means the mental health and disability regional service fund created in Iowa Code section 225C.7A.

*"Regional service system management plan"* means the regional service system plan developed pursuant to Iowa Code section 225C.60 for the funding and administration of non-Medicaid-funded mental health and disability services and includes an annual service and budget plan, a policies and procedures manual, and an annual report and how the region will coordinate with the department in the provision of mental health and disability services funded under the medical assistance program.

“*Resources*” means all liquid and non-liquid assets that are owned in part or in whole by the individual household, that could be converted to cash to use for support and maintenance, and that the individual household is not legally restricted from using for support and maintenance.

“*Retirement account*” means any retirement or pension fund or account listed in Iowa Code section 627.6(8)“f.”

“*Retirement account in the accumulation stage*” means a retirement account into which a deposit was made in the previous tax year. Any withdrawal from a retirement account becomes a countable resource.

“*Service system*” refers to the mental health and disability services and supports administered by the regional administrative entity and paid from the regional services fund.

“*State case status*” means the standing of an individual who has no county of residence.

“*State commission*” means the same as defined in Iowa Code section 225C.5.

“*System of care*” means the coordination of a system of services and supports to individuals and their families that ensures they optimally live, work, and recreate in integrated communities of their choice.

“*System principles*” means practices that include individual choice, community and empowerment.

**441—25.12(225C) Regional governance structure.** The counties comprising a mental health and disability services region shall enter into an agreement to form a regional administrator under the control of a governing board to function on behalf of those counties as defined in Iowa Code chapter 28E and sections 225C.55, 225C.57, 225C.59 and 225C.68.

**25.12(1) Governing board.** The governing board shall comply with the provisions of Iowa Code section 225C.57, Iowa Code chapter 69, and other applicable laws relating to boards and commissions, including but not limited to the following:

- a. The governing board shall include the following members:
  - (1) Board of supervisors members from counties comprising the region. Members representing boards of supervisors shall not exceed 49 percent of the total membership of the governing board.
  - (2) One adult person who utilizes mental health and disability services or is an actively involved relative of an adult who utilizes such services, designated by the regional adult mental health and disability services advisory committee.
  - (3) One member representing the education system in the region.
  - (4) One member who is a parent of a child who utilizes children’s behavioral health services or is an actively involved relative of a child who utilizes such services.
  - (5) One member representing an adult service provider in the region, designated by the regional adult mental health and disability services advisory committee.
  - (6) One member representing a children’s behavioral health service provider in the region, designated by the regional children’s behavioral health services advisory committee.
  - (7) One member representing law enforcement in the region.
  - (8) One member representing the judicial system in the region.
- b. Each member of the governing board shall have one vote.
- c. The governing board shall create a regional adult mental health and disability services advisory committee, which shall designate members to the governing board as defined in Iowa Code section 225C.57(2).
- d. The governing board shall create a regional children’s behavioral health services advisory committee, which shall designate members to the governing board as defined in Iowa Code section 225C.57(2).
- e. The governing board shall appoint and evaluate the performance of the chief executive officer of the regional administrative entity who will serve as the single point of accountability for the region.

**25.12(2) Regional administrator.** The formation of the regional administrator shall be as defined in Iowa Code sections 225C.55, 225C.57, and 225C.68.

- a. The regional administrative entity is under the control of the governing board.
- b. The regional administrative entity shall enter into and manage performance-based contracts in accordance with Iowa Code section 225C.4(1)“x.”

- c. The regional administrative entity structure shall have clear lines of accountability.
- d. The regional administrative entity functions as a lead agency.
- e. The regional administrative entity staff shall include one or more coordinators of mental health and disability services.
- f. The regional administrative entity staff shall include one or more coordinators of children's behavioral health services.

**25.12(3) *Regional service system management.*** The region may either directly implement a system of service management and contract with service providers, or contract with a private entity to manage the regional service system, provided all requirements of Iowa Code section 225C.60 are met by the private entity.

**441—25.13(225C) Regional finances.**

**25.13(1) *Regional service payments.*** The department will distribute funds from the mental health and disability services regional service fund to regions in accordance with Iowa Code section 225C.7A. Funds will be distributed in July, October, January, and April.

**25.13(2) *Funding.*** Funding for non-Medicaid mental health and disability services and children's behavioral health services is under the control of the governing board and shall:

- a. Be maintained to limit administrative burden and provide public transparency regarding financial processes.
- b. Be maintained in a combined account.
- c. Be used to fund services in accordance with the regional service system management plan and the performance-based contract.
- d. Be maintained in a county mental health and disability services fund for the deposit of regional service payments for those counties exempted under Iowa Code section 225C.56. Expenditures to be made from the county mental health and disability services fund will not be made from any other fund of the county. The exempted county mental health and disability services fund is considered to be the same as a region combined account and is subject to the same requirements as a region combined account.

**25.13(3) *Accounting system and financial reporting.*** The accounting system and financial reporting to the department shall conform to Iowa Code section 225C.58 and include all non-Medicaid mental health and disability expenditures. Information shall be separated and identified in a uniform chart of accounts, including but not limited to the following: expenses for administration; purchase of services; and enterprise costs for which the region is a service provider or is directly billing and collecting payments.

**25.13(4) *Ending fund balance.*** Each region shall certify to the department of human services on or before December 1 the region's cash flow amount in the combined account at the conclusion of the most recently completed fiscal year.

- a. A region must submit the ending fund balance on forms specified by the department.
- b. The certified ending fund balance shall exclude encumbered amounts for which resources already have been committed and been approved by the department in accordance with subrule 25.13(7).
- c. A certified submission must:
  - (1) Be approved by the region's governing board prior to submittal to the department.
  - (2) Be signed by the chairperson of the regional governing board and the regional chief executive officer.

**25.13(5) *Ending balance limitations.***

a. A region's certified ending fund balance as determined in subrule 25.13(4) will not exceed a percentage of the region's actual expenditures for the preceding fiscal year. The ending balance limitations are as follows:

- (1) For the fiscal year beginning July 1, 2021, the ending balance shall be no more than 40 percent of the actual expenditures of that year.
- (2) For the fiscal year beginning July 1, 2022, the ending balance shall be no more than 20 percent of the actual expenditures of that year.

(3) For the fiscal year beginning July 1, 2023, and each succeeding fiscal year thereafter, the ending balance shall be no more than 5 percent of the actual expenditures of that year.

b. If a region has an ending fund balance more than the limitation, the department will reduce the current fiscal year's remaining quarterly regional service payments equal to the excess ending fund balance amount.

c. If withholding a region's remaining quarterly payments does not sufficiently effectuate the required reduction, the region shall pay to the department any additional excess ending fund balance amount.

d. The amount of reductions to regional service payments and amounts paid to the department under paragraph 25.13(5) "c" shall be transferred and credited to the regional incentive fund.

**25.13(6) *Acceptable encumbrances.*** A region shall report to the department moneys for which a commitment is imposed and binding.

a. Financial obligations entered into by the region may be considered an acceptable encumbrance under the following circumstances:

(1) Existence of evidence as demonstrated by a contract or purchase order that details the services to be delivered and cost to the region.

(2) Entry of the region into executed contracts or binding commitments shall occur through formal action of the region's governing board.

b. Acceptable encumbrances shall be entered into and fulfilled according to the time frames outlined below:

(1) For the fiscal year beginning July 1, 2021, funds shall be obligated by the end of the fiscal year. Services shall be fully executed and moneys expended by June 30, 2023.

(2) For the fiscal year beginning July 1, 2022, funds shall be obligated by the end of the fiscal year. Services shall be fully executed and moneys expended by December 31, 2023.

(3) For the fiscal year beginning July 1, 2023, and each succeeding fiscal year thereafter, funds shall be obligated by the end of the current fiscal year. Services shall be fully executed and moneys expended by August 31 of the subsequent fiscal year.

c. Up to 10 percent of the direct and purchased administration expenditure total identified in the region's current approved annual service and budget plan may be claimed as an encumbrance.

d. Requests to encumber funds toward multiyear projects with the purpose to provide access to required core services shall be limited to actual needs for the current fiscal year.

**25.13(7) *Encumbrance reporting and approval.***

a. The region shall submit a detailed accounting of encumbered funds to the department on or before July 31 on forms specified by the department.

(1) The department may request additional information to determine whether the region's reported contracts and binding commitments qualify as acceptable encumbrances.

(2) A plan for expenditure, including a description of activities related to required core services, shall accompany documentation for multiyear projects.

b. By August 31, the department shall notify the region, in writing, of the decision and the accepted amount to be considered encumbered. The decision of the department is final.

c. Regional commitments that are denied as acceptable encumbrances shall be included in the calculation of the ending fund balance for the previous fiscal year.

d. Encumbrances that are not fulfilled within the time frames specified in subrule 25.13(6) shall be included in the ending fund balance amount.

**441—25.14(225C) Regional governance agreement.** The expectations for regional governance agreements entered into by the counties comprising a mental health and disability services region are defined in Iowa Code sections 28E.1, 225C.55, 225C.57 and 225C.59.

**25.14(1) *Organizational provisions.*** The organizational provisions of the regional governance agreement shall include the following:

a. A statement of purpose, goals, and objective of entering into the agreement.

- b.* Identification of the governing board membership and the terms, methods of appointment, and voting procedures, including whether or not voting will be weighted.
  - c.* The identification of the process for selecting the executive staff, including but not limited to the chief executive officer of the regional administrative entity.
  - d.* Identification of the counties participating in the agreement.
  - e.* The time period of the agreement and terms for termination or renewal of the agreement.
  - f.* Provisions for joining a region. Additional counties may join the region. The agreement shall not prohibit a county from being assigned by the department to a region according to Iowa Code section 225C.56(4) “c.”
  - g.* Methods for dispute resolution and mediation.
  - h.* Methods for termination of a county’s participation in the region.
  - i.* Provision for formation and assigned responsibilities for one or more regional advisory committees for adult mental health and disability services consisting of:
    - (1) Individuals who utilize services or the actively involved relatives of such individuals.
    - (2) Service providers of adult mental health and disability services.
    - (3) Governing board members.
    - (4) Other interests identified in the agreement.
  - j.* Provision for formation and assigned responsibilities for one or more regional advisory committees for children’s behavioral health services consisting of:
    - (1) A parent of a child who utilizes services or an actively involved relative of such child.
    - (2) A member of the education system.
    - (3) An early childhood advocate.
    - (4) A child welfare advocate.
    - (5) A children’s behavioral health service provider.
    - (6) A member of the juvenile court.
    - (7) A pediatrician.
    - (8) A child care provider.
    - (9) A local law enforcement representative.
    - (10) A regional governing board member.
  - k.* Methods for reimbursing member counties if county employees are conducting regional work.
- 25.14(2) *Administrative provisions.*** The administrative provisions of the regional governance agreement shall include all of the following:
- a.* Identification of whether the region will either directly implement a system of service management or contract with a private entity to manage the regional service system as defined in Iowa Code section 225C.60(7).
  - b.* Responsibility of the governing board in appointing and evaluating the performance of the chief executive officer of the regional administrative entity.
  - c.* A general list of the functions and responsibilities of the regional administrative entity’s chief executive officer and other staff including but not limited to coordinators of mental health and disability services and coordinators of children’s behavioral health services.
  - d.* Specification of the functions to be carried out by each party to the agreement and by any subcontractor of a party to the agreement.
- 25.14(3) *Financial provisions.*** The financial provisions of the regional governance agreement shall include all of the following:
- a.* Methods for pooling, managing and expending funds under control of the regional administrative entity.
  - b.* Methods for allocating administrative funding and resources.
  - c.* Methods for allocating a region’s cash flow amount in the event a county leaves the region. A region’s cash flow amount shall be divided by the percentage of each county’s population according to the region’s population indicated in the region’s annual service and budget plan and shall be allocated to the counties.
  - d.* Methods for contributing initial funds to the region.



- e. Methods for acquiring or disposing of real property.
- f. The process for how to use savings achieved for reinvestment.
- g. A process for performance of an annual independent audit of the regional administrator, and methods for submitting the audit to the department upon completion.

**441—25.15(225C) Eligibility, diagnosis, and functional assessment criteria.**

**25.15(1) Eligibility for mental health services.** An individual must comply with all of the following requirements to be eligible for mental health services under the regional service system:

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(225C).
- b. The individual is at least 18 years of age.
- c. The individual is a resident of this state.
- d. The individual has had at any time during the preceding 12-month period a mental health, behavioral, or emotional disorder or, in the opinion of a mental health professional, may now have such a diagnosable disorder. The diagnosis shall be made in accordance with the criteria provided in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and shall not include the manual's "V" codes identifying conditions other than a disease or injury. The diagnosis shall also not include substance-related disorders, dementia, antisocial personality, or developmental disabilities, unless co-occurring with another diagnosable mental illness.

e. The results of a standardized functional assessment support the need for mental health services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for mental health services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

**25.15(2) Eligibility for children's behavioral health services.** An individual must comply with all of the following requirements to be eligible for children's behavioral health services under the regional service system:

- a. The individual is a child under 18 years of age.
- b. The child's custodial parent is a resident of the state of Iowa, and the child is physically present in the state.
- c. The child's family meets the financial eligibility requirements in rule 441—25.16(225C).
- d. The child has been diagnosed with a serious emotional disturbance. A serious emotional disturbance diagnosis is not required to access comprehensive facility and community-based crisis services according to Iowa Code section 225C.66(4) "b."

**25.15(3) Eligibility for intellectual disability services.** An individual must comply with all of the following requirements to be eligible for intellectual disability services under the regional service system:

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(225C).
- b. The individual is at least 18 years of age.
- c. The individual is a resident of this state.
- d. The individual has a diagnosis of intellectual disability as defined by rule 441—83.60(249A).
- e. The results of a standardized functional assessment support the need for intellectual disability services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for intellectual services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

**25.15(4) Other conditions of eligibility for intellectual disability services.**

a. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

b. An individual less than 18 years of age and a resident of the state may be considered eligible for those intellectual disability services made available to all or a portion of the residents of the region of the same age and eligibility class under the county management plan of one or more counties of the

region applicable prior to formation of the region. Eligibility for services under this paragraph is limited to availability of regional service system funds without limiting or reducing core services, and if part of the approved regional service system management plan.

**25.15(5) Eligibility for brain injury services.** An individual must comply with all of the following requirements to be eligible for brain injury services under the regional service system, if such services were provided to the same class of individuals by a county in the region prior to regional formation.

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(225C).
- b. The individual is at least 18 years of age.
- c. The individual is a resident of this state.
- d. The individual has a diagnosis of brain injury as defined in rule 441—83.81(249A).
- e. The results of a standardized functional assessment support the need for brain injury services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology used is the methodology approved for brain injury services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

**25.15(6) Other conditions of eligibility for brain injury services.** An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

**25.15(7) Eligibility for developmental disability services.**

- a. Until funding is designated for other service populations, eligibility for the core service domains shall be as identified in Iowa Code section 225C.65(2) "b."
- b. If a county in a region was providing services to an eligibility class of individuals with a developmental disability other than intellectual disability prior to formation of the region, the class of individuals shall remain eligible for the services provided when the region is formed, providing that funds are available to continue such services without limiting or reducing core services. The individual must also meet the requirements in paragraphs 25.15(7) "c," "d," "e" and "f."
- c. The individual complies with the financial eligibility requirements in rule 441—25.16(225C).
- d. The individual is at least 18 years of age.
- e. The individual is a resident of this state.
- f. The individual has a diagnosis of a developmental disability other than an intellectual disability as defined in rule 441—24.1(225C).

**441—25.16(225C) Financial eligibility requirements.** The regional service system management plan shall identify basic financial eligibility standards for mental health and disability services as defined in Iowa Code sections 225C.62 and 225C.64.

**25.16(1) Income requirements.**

- a. Income requirements for adult mental health and disability services shall be as follows:
  - (1) The person must have an income equal to or less than 150 percent of the federal poverty level.
  - (2) A person who is eligible for federally funded services and other support must apply for such services and support.
- b. Income requirements for children's behavioral health services shall be as follows:
  - (1) The child's family has countable household income equal to or less than 500 percent of the federal poverty level. Countable household income and family size shall be determined using the modified adjusted gross income methodology.
  - (2) An eligible child whose family's countable household income is at least 150 percent and not more than 500 percent of the federal poverty level shall be subject to a cost share as described in subrule 25.16(3).
  - (3) Verification of income. Income shall be verified using the best information available.
    1. Pay stubs, tip records and employers' statements are acceptable forms of verification of earned income.

2. Self-employment income can be verified through business records from the previous year if they are representative of anticipated earnings. If business records from the previous year are not representative of anticipated earnings, an average of the business records from the previous two or three years may be used if that average is representative of anticipated earnings.

(4) Changes in income. Financial eligibility shall be reviewed on an annual basis and may be reviewed more often in response to increases or decreases in income.

(5) A child who is eligible for federally funded services and other support must apply for such services and support.

**25.16(2) Resource requirements.** There are no resource limits for the family of a child seeking children's behavioral health services. An adult seeking mental health and disability services must have resources that are equal to or less than \$2,000 in countable value for a single-person household or \$3,000 in countable value for a multiperson household or follow the most recent federal supplemental security income guidelines.

a. The countable value of all countable resources, both liquid and non-liquid, shall be included in the eligibility determination except as exempted in this subrule.

b. A transfer of property or other assets within five years of the time of application with the result of, or intent to, qualify for assistance may result in denial or discontinuation of funding.

c. The following resources shall be exempt:

(1) The homestead, including equity in a family home or farm that is used as the individual household's principal place of residence. The homestead shall include all land that is contiguous to the home and the buildings located on the land.

(2) One automobile used for transportation.

(3) Tools of an actively pursued trade.

(4) General household furnishings and personal items.

(5) Burial account or trust limited in value as to that allowed in the medical assistance program.

(6) Cash surrender value of life insurance with a face value of less than \$1,500 on any one person.

(7) Any resource determined excludable by the Social Security Administration as a result of an approved Social Security Administration work incentive.

d. If an individual does not qualify for federally funded or state-funded services or other support but meets all income, resource, and functional eligibility requirements of this chapter, the following types of resources shall additionally be considered exempt from consideration in eligibility determination:

(1) A retirement account that is in the accumulation stage.

(2) A medical savings account.

(3) An assistive technology account.

(4) A burial account or trust limited in value as to that allowed in the medical assistance program.

e. An individual who is eligible for federally funded services and other support must apply for and accept such funding and support.

**25.16(3) Cost-share standards.** A regional administrative entity must comply with cost-share standards as defined in Iowa Code sections 225C.62 and 225C.64.

a. Cost sharing is allowed for adults with income above 150 percent of the federal poverty level as defined by the most recently revised poverty guidelines published by the United States Department of Health and Human Services.

Cost-share amounts for regionally funded adult mental health and disability services in this rule are related to core services as defined in Iowa Code section 225C.65 and must be identified in the enrollment and eligibility section of the region's policy and procedures approved by the department.

b. Cost-share amounts for children's behavioral health services are applicable to core services as defined in Iowa Code section 225C.66. The family of a child receiving regional funding for behavioral health services shall be responsible for a cost-share amount based on the family's household income as follows:

Family Income as a % of FPL	Cost Share % Paid by Family
0 to 150%	0%
151 to 200%	10%
201 to 250%	15%
251 to 300%	20%
301 to 350%	35%
351 to 400%	50%
401 to 450%	65%
451 to 500%	80%
Over 500%	100%

**25.16(4)** *Cost-share standards required by any federal, state, regional, or municipal program.* Any cost sharing or other client participation required by any federal, state, regional or municipal program in which the individual participates shall be required by the regional administrative entity. Such cost sharing includes, but is not limited to:

- a. Client participation for maintenance in a residential care facility through the state supplementary assistance program.
- b. The financial liability for institutional services paid by counties as provided in Iowa Code section 230.15.
- c. The financial liability for attorney fees related to commitment as provided by Iowa Code section 229.8.

**441—25.17(225C) Exempted counties.** If a county has been exempted pursuant to Iowa Code section 225C.56 from the requirement to enter into a regional service system, the county and the county's board of supervisors shall fulfill all the requirements of this chapter for a regional service system management plan.

**441—25.18(225C) Annual service and budget plan.** The annual service and budget plan shall describe the services to be provided and the cost of those services for the ensuing year.

**25.18(1)** The annual service and budget plan is due on April 1 prior to the July 1 implementation of the annual plan and shall be approved by the region's governing board prior to submittal to the department.

**25.18(2)** The annual service and budget plan shall include but not be limited to the following:

- a. Access points. A list of the local access points for mental health and disability services and children's behavioral health services, including the names of the access points and the physical locations and contact information.
- b. Service coordination and targeted case management. A list of the service coordination and targeted case management agencies utilized in the region, whether funded by the region, the medical assistance program, or third-party payers, including the physical location and contact information for those agencies.
- c. Crisis planning. A list of accredited crisis services available in the region for crisis prevention, response and resolution, including contact information for the agencies responsible.
- d. Intensive mental health services. Identification of the intensive mental health services designated by the region according to rule 441—25.6(225C), including the provider name, contact information, and location of each of the following:
  - (1) Access center(s).
  - (2) ACT services.
  - (3) Intensive residential services.
  - (4) Subacute mental health services.
- e. Children's behavioral health services. Identification of children's behavioral health services as described in subrule 25.2(4), including contact information for the agencies responsible and eligibility

requirements or reference to where eligibility requirements can be found in the policies and procedures manual.

*f.* Scope of services. A description of the scope of services to be provided, a projection of need for the service, and the funding necessary to meet the need.

- (1) The scope shall include the regional core services as identified in rule 441—25.2(225C).
- (2) The scope shall also include services in addition to the required core services.

*g.* Budget and financing provisions for the next year. The provisions shall address how regional, state and other funding sources will be used to meet the service needs within the region.

*h.* Financial forecasting measures. A description of the financial forecasting measures used in the identification of service need and funding necessary for services and a financial statement of actual revenues and actual expenses by chart of account codes.

*i.* Provider reimbursement provisions. A description of the types of provider reimbursement methods that will be used, including fee for service, compensation for a “system of care” approach, and for use of nontraditional providers. A region also shall provide information on funding approaches that identify and incorporate all services and sources of funding used by the individuals receiving services, including the medical assistance program.

**441—25.19(225C) Annual service and budget plan approval.** The annual service and budget plan shall be submitted each year by April 1. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the regional annual service and budget plan in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for a fiscal year beginning July 1 shall remain in effect until June 30, subject to amendment.

**25.19(1) Criteria for acceptance.** The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.

**25.19(2) Notification.** Except as specified in subrule 25.19(3), the director shall notify the region in writing of the decision on the plan by June 1 of each year. The decision shall specify that either:

*a.* The annual service and budget plan is approved as it was submitted, either with or without supplemental information already requested and received.

*b.* The annual service and budget plan will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.

**25.19(3) Review of late submittals.** The director may review plans not submitted by April 1 after all plans submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

**25.19(4) Amendments.** An amendment to the annual service and budget plan shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the plan, the director must approve the amendment.

*a.* *Criteria for acceptance.* The director shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the annual service and budget plan and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

*b.* *Notification.* The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

(1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

(2) The amendment is not approved. The notification will include why the amendment is not approved.

**25.19(5) Reconsideration.** Regions dissatisfied with the director's decision on a plan or an amendment may file a letter with the director requesting reconsideration. The letter requesting reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

**441—25.20(225C) Annual report.** The annual report shall describe the services provided, the cost of those services, the number of individuals served, and the outcomes achieved for the previous fiscal year. The annual report is due on December 1 following a completed fiscal year of implementing the annual service and budget plan. The annual report shall include but not be limited to:

1. Services actually provided.
2. The status of service development.
3. Actual numbers of children and adults served.
4. Documentation that each regionally designated access center has met the service standards in subrule 25.6(1).
5. Documentation that each regionally designated ACT team has been evaluated for program fidelity, including a peer review as required by subrule 25.6(2), and documentation of each team's most recent fidelity score.
6. Documentation that each regionally designated subacute service has met the service standards in subrule 25.6(7).
7. Documentation that each regionally designated intensive residential service home or intensive residential service has met the service standards in subrule 25.6(8).
8. Financial statement of actual revenues and actual expenditures by chart of account codes, including levies by county.
9. Outcomes achieved.

**441—25.21(225C) Policies and procedures manual for the regional service system.** The policies and procedures manual shall describe the policies and process developed to direct the management and administration of the regional service system.

**25.21(1) Content.** The manual shall include but not be limited to:

*a.* Financing and delivery of services and supports. A description of the region's process used to develop and ensure the ongoing financial accountability and delivery of services outlined in the region's annual service and budget plan shall be included.

*b.* Enrollment. The application and enrollment process that is readily accessible to individuals and their families or authorized representatives shall be included. This procedure shall identify regional access points and where individuals can apply for services and how and when the applications will reach the regional administrative entity's designated staff for processing.

*c.* Eligibility. The process utilized to determine eligibility shall be included in the manual and shall include but not be limited to:

(1) The criteria used to authorize or deny funding for services and supports. This shall include guidelines for who is eligible to receive services and supports by eligibility group, and type of service or support.

(2) Financial eligibility and copayment criteria, which shall meet the requirements of rule 441—25.16(225C).

(3) The time frames for conducting eligibility determination that provide for timely access to services, including necessary and immediate services not to exceed ten days.

(4) The process for development of a written notice of decision. The time frame for sending a written notice of decision to the individual and guardian (if applicable) and the service providers identified in the notice shall be included. The notice of decision shall:

1. Explain the action taken on the application and the reasons for that action.
2. State what services are approved and name the service providers.

3. Outline the individual's right to appeal.
4. Describe the appeal process.
- d.* Utilization of and access to services. The process for managing utilization of and access to services and other assistance shall be included. The process shall describe how coordination between the services included in the annual service and budget plan and the disability services administered by the state and others will be managed.
- e.* Quality management and improvement process. The quality management and improvement process shall at a minimum meet the requirements of the department's outcome and performance measures process as outlined in Iowa Code sections 225C.4(1) "k" and 225C.6A.
- f.* Risk management and fiscal viability. If the region contracts with a private entity, the manual must include risk management provisions and fiscal viability of the annual services and budget plan.
- g.* Targeted case management.
  - (1) Designation of targeted case management providers. The process used to identify and designate targeted case management providers for the region shall be described. This process shall include the requirement for the implementation of evidence-based practice models of case management within the region. Requirements of this practice include:
    1. Providing the individual receiving the case management with a choice of providers.
    2. Allowing a service provider to be the case manager but prohibiting the provider from referring that individual only to services administered by the provider.
    3. Provisions to ensure compliance with, but not exceed, federal requirements for conflict-free case management.
  - (2) Qualifications of targeted case managers. A region's manual shall require that any targeted case managers or other persons providing service coordination while working for the designated provider meet the qualifications of qualified case managers and supervisors as defined in rule 441—24.1(225C).
  - (3) Targeted case management and service coordination services. Targeted case management and service coordination services utilized in a regional service system shall include but are not limited to the following as defined in Iowa Code section 225C.60(4) "g":
    1. Performance and outcome measures relating to the health, safety, school attendance and performance, work performance, and community residency of the individuals receiving the services.
    2. Standards for delivery of the services, including but not limited to the social history, assessment, service planning, incident reporting, crisis planning, coordination, and monitoring for individuals receiving the services.
    3. Methodologies for complying with the requirements of paragraph 25.21(1) "g." Methodologies may include the use of electronic record keeping and remote or Internet-based training.
- h.* System of care approach plan.
- i.* Decentralized service provision. Measures to provide services in a dispersed manner that meet the minimum access standards of core services and that utilize the strengths and assets of the service providers within and available to the region shall be included.
- j.* Provider network formation and management. The manual shall require that providers that are subject to license, accreditation or approval meet established standards. The manual shall detail the approval process, including criteria, developed to select providers that are not currently subject to license, accreditation or approval standards. The manual shall identify the process the regional administrative entity will use to contract with providers and manage the provider network to ensure it meets the needs of the individuals in the region. The provider network will include but is not limited to the following:
  - (1) A contract with a community mental health center that provides services in the individual's region or with a federally qualified health center that provides psychiatric and outpatient mental health services in the individual's region.
  - (2) Contracts with licensed and accredited providers to provide each service in the required core service domains.
  - (3) Adequate numbers of licensed and accredited providers to ensure availability of core services so that there is no waiting list for services due to lack of available providers.

(4) A contract with an inpatient psychiatric hospital unit or state mental health institute within reasonably close proximity.

*k.* Service provider payment provisions. A policy for payment of service providers that describes the method and process of paying for services and supports delivered to the region shall be included.

*l.* Grievance processes. The manual shall develop and implement processes for appealing the decisions of the regional administrative entity in the following circumstances:

(1) Nonexpedited appeal process. The appeal process shall be based on objective criteria, specify time frames, provide for notification in accessible formats of the decisions to all parties, and provide some assistance to individuals with disabilities using the process. Responsibility for the final step in the appeal process shall be a state administrative law judge in nonexpedited appeals.

(2) Expedited appeal process. This appeal process is to be used when the decision of the regional administrative entity concerning an individual varies from the type and amount of service identified to be necessary for the individual in a clinical determination made by a mental health professional and the mental health professional believes that the failure to provide the type and amount of service identified could cause an immediate danger to an individual's health or safety. This appeal process shall be performed by a mental health professional who is either the administrator of the division of mental health and disability services of the department of human services or the administrator's designee.

1. The appeal shall be filed within five days of receipt of the notice of decision by the regional administrative entity.

2. The expedited review by the division administrator or designee shall take place within two days of receipt of the request, unless more information is needed. There is an extension of two days from the time the new information is received.

3. The administrator shall issue an order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the order, to justify the decision made concerning the expedited review. If the decision concurs with the contention that there is an immediate danger to the individual's health or safety, the order shall identify the type and amount of service that shall be provided for the individual. The administrator or designee shall give such notice as is practicable to individuals who are required to comply with the order. The order is effective when issued.

4. The decision of the administrator or designee shall be considered a final agency action and is subject to judicial review in accordance with Iowa Code section 17A.19.

*m.* Implementation of interagency and multisystem collaboration and care coordination. The policies and procedures manual shall describe how the region will collaborate with other funders, other regional service systems, service providers, case management, individuals and their families or authorized representatives, and advocates to ensure that authorized services and supports are responsive to individuals' needs, consistent with system principles, and cost-efficient. The manual shall describe the process for collaboration with the court to ensure alternatives to commitment and to coordinate funding for services to individuals who are under court-ordered commitment services pursuant to Iowa Code chapter 229.

*n.* Addressing multioccurring needs. The policies and procedures manual shall include criteria and measures to be used to address the needs of individuals who have two or more co-occurring mental health, intellectual or other developmental disability, brain injury, or substance-related disorders. The manual shall also include criteria and measures to be used to address the needs of individuals with specialized needs.

*o.* Service management and functional assessment. The policies and procedures manual shall describe how functional assessments and service management will be incorporated in accordance with applicable requirements.

*p.* Service system management. The policies and procedures manual shall identify whether the region will be directly implementing a system of service management or will contract with a private entity to manage the regional service system. If the region contracts with a private entity, the region will ensure that all requirements of Iowa Code section 225C.60 and these administrative rules are fulfilled.



*q.* Assistance to other than core service populations. The policies and procedures manual shall specify the services populations, other than core service populations, to whom the region will provide assistance if funding is available.

*r.* Waiting list criteria. The policies and procedures manual shall specify whether the region will use waiting lists. If the policy and procedures manual specifies the use of waiting lists for funding services and supports, it shall specify criteria for the use and review of each waiting list, including the criteria to be used to determine how and when an individual will be placed on a waiting list. The criteria will include how core services and additional core services will be impacted the least by budgetary limitations. The manual shall specify how waiting list data will be used in future planning.

**25.21(2) Approval.** A region's policy and procedures manual shall be approved by the region's governing board and is subject to approval by the director of human services. The director shall review all regional policy and procedures manuals. Manuals approved by the director shall remain in effect subject to amendment.

**25.21(3) Amendments.** An amendment to the policy and procedures manual shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the manual, the director must approve the amendment.

*a. Criteria for acceptance.* The director, in consultation with the state commission, shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the policy and procedures manual and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

*b. Notification.* The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

(1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

(2) The amendment is not approved. The notification will explain why the amendment is not approved.

**25.21(4) Reconsideration.** Regions dissatisfied with the director's decision on a manual or an amendment may file a letter with the director requesting reconsideration. The letter of reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

These rules are intended to implement Iowa Code sections 225C.55 to 225C.67.

#### **441—25.22(225C) Incentive fund application, approval, and reporting.**

**25.22(1) Application for regional incentive funds.** A mental health and disability services region must submit an application on forms specified by the department with required supporting documentation. An application to receive regional incentive funds must meet the following requirements:

*a.* The region shall submit the application with supporting documentation electronically to the department by 4:30 p.m. on November 15 of the state fiscal year in which funding is requested.

*b.* The application shall be complete and signed by the chairperson of the regional governing board and regional chief executive officer.

*c.* Application supporting documentation shall include evidence to demonstrate compliance with subrule 25.22(2).

**25.22(2) Applicant conditions.** To receive funding, a region must submit to the department sufficient data to demonstrate that the region has met the standards in the region's performance-based contract outlined in rule 441—25.23(225C). Additionally, the region must meet the following conditions:

*a.* The region must be in compliance with the regional service system management plan as defined in Iowa Code section 225C.60.

*b.* The region's ending fund balance in the fiscal year that commenced two years prior to the year of application shall meet the ending balance threshold in accordance with Iowa Code section 225C.7A.

*c.* The region must need incentive funds for one or more of the following circumstances:

(1) If the region has an operating deficit, to reimburse the region for a reduction in available funding for core services as the result of the reduction and elimination of the levy.

(2) To incentivize quality core services that meet or exceed the defined outcomes in the performance-based contract.

(3) To support regional efforts to fund non-core services that support the defined outcomes of core services in the performance-based contract.

(4) For support of non-core services to maintain individuals in a community setting or reduce the risk that individuals needing services and supports would be placed in more restrictive, higher-cost settings.

**25.22(3) *Incentive fund application review and approval.*** The department shall make its final decisions for incentive funds on or before December 15 of the fiscal year of application.

*a.* A written notice regarding acceptance or rejection of an application and the total amount obligated shall be furnished to the mental health and disability services region.

*b.* The department shall distribute incentive funds payable to the mental health and disability services regions for the amounts due on or before January 1.

**25.22(4) *Incentive fund reporting.*** Mental health and disability services regions shall submit to the department a report on forms specified by the department twice each calendar year subsequent to an award distribution. Reports shall be submitted by February 15 and August 15.

**25.22(5) *Incentive fund review.*** The department shall analyze year-end financial records and annual independent audits of the mental health and disability services region for all years subsequent to an incentive fund award. If the department determines a mental health and disability services region's actual need for incentive funds was less than the amount of incentive funds granted, the mental health and disability services region shall refund the difference between the amount of assistance granted and the actual need.

*a.* A written notice outlining the department's findings and moneys identified for repayment shall be furnished to the regional administrative entity.

*b.* The mental health and disability services region shall submit the refund within 30 days of receiving notice from the department. Refunds shall be credited to the incentive fund.

This rule is intended to implement Iowa Code section 225C.7A.

**441—25.23(225C) Performance-based contract.** The mental health and disability services region shall enter into a performance-based contract with the department to administer the service system in accordance with Iowa Code section 225C.7A. The performance-based contract shall include but not be limited to the following requirements:

**25.23(1)** The department will approve, deny, or revise each region's annual service and budget plan in accordance with rule 441—25.19(225C).

**25.23(2)** The region will provide access to all core services under Iowa Code sections 225C.65 and 225C.66 and in accordance with this chapter.

**25.23(3)** The region will utilize all federal government funding, including Medicaid funding, third-party payment sources, and other nongovernmental funding, prior to using regional service payments.

**25.23(4)** The department will perform an annual review of the region's administrative costs.

**25.23(5)** The department will establish outcome improvement goals for populations served by the region, including but not limited to:

*a.* Decreases in emergency department visits.

*b.* Improved use of mobile crisis response and jail diversion programs.

*c.* Improved employment-based outcomes.

**25.23(6)** The department will take steps to address a region's noncompliance with the contract in accordance with Iowa Code section 225C.56.

This rule is intended to implement Iowa Code section 225C.7A.

**441—25.24 to 25.40** Reserved.

DIVISION III  
MINIMUM DATA SET

**441—25.41(225C) Minimum data set.** Each region shall maintain data on all clients served.

**25.41(1) *Submission of data.*** Each region shall submit to the department a copy of the data regarding each individual that the region serves.

*a.* The state supplementary assistance program, mental health institutes, state resource centers, Medicaid program, and Medicaid managed care contractors shall provide the equivalent data in a compatible format on the same schedule as the required submission from the regions.

*b.* The department shall maintain the data for research and analysis purposes only. Only summary data shall be reported to policymakers or the public.

**25.41(2) *Data required.*** The data to be submitted are as follows:

*a.* Basic individual information including a unique identifier, name, address, and county of residence.

*b.* The state I.D. number when applicable.

*c.* Demographic information including date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veterans' status, guardianship status, legal status in the system, source of referral, diagnosis code in the current version of the ICD, disability group (i.e., intellectual disability, developmental disability, mental illness, brain injury), and county of residence number.

*d.* Service information including the decision on services, date of decision, termination date and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, unit rate for service, expenditure data, and provider data.

*e.* Regions shall submit data according to the file layouts, format, and naming conventions prescribed by the department. Any changes to the data submission requirements will be made in consultation with the regional administrators.

*f.* Regions must submit their data for each fiscal year by December 1 of the following fiscal year.

(1) When a region's data is incomplete or is not compliant with the prescribed file layouts, format, or naming conventions the region will be notified by email.

(2) The region shall resubmit corrected files or provide an explanation for noncompliant data within 30 days of the date of the email notice.

(3) If the region remains noncompliant after the 30-day time period, the department may take action as allowable under the performance-based contracts established pursuant to rule 441—25.23(225C).

This rule is intended to implement Iowa Code chapter 225C, subchapter V.

**441—25.42 to 25.50** Reserved.

DIVISION IV  
MENTAL HEALTH ADVOCATES  
PREAMBLE

This division establishes definitions, appointment and qualifications, assignment, responsibilities of the advocate and the county, data collection requirements, and quality assurance for mental health advocate services under Iowa Code chapter 229.

**441—25.51(229) Definitions.**

*"Advocate"* means mental health advocate as defined in Iowa Code section 229.1.

“*Conflict of interest*” means any activity that interferes or gives the appearance of interference with the exercise of professional discretion and impartial judgment.

“*County of residence*” means the same as defined in Iowa Code section 225C.61.

“*County of venue*” means the county in which the Iowa Code chapter 229 commitment was filed pursuant to Iowa Code section 229.44.

“*County where the individual is located*” means the individual’s county of residence as defined in Iowa Code section 225C.61, or if the individual has been ordered to receive treatment services under an Iowa Code chapter 229 commitment and is placed in a residential or other treatment facility.

“*Individual*” means the respondent who is receiving mental health advocate services under Iowa Code chapter 229.

“*Judicial district*” means the same as defined in Iowa Code section 602.6107.

“*Mental health and disability services region*” means the same as defined in Iowa Code section 225C.56.

**441—25.52(229) Advocate appointment and qualifications.** The board of supervisors of each county shall appoint a person to act as an advocate representing the interests of individuals involuntarily hospitalized by the court under Iowa Code chapter 229. The advocate is hired by the board of supervisors and employed by the county.

**25.52(1)** A person may be appointed and employed or contracted with as the advocate by one county or by multiple counties. Advocates may be appointed for counties in more than one judicial district or more than one mental health and disability services region.

**25.52(2) Qualifications.**

*a.* The advocate shall meet the following qualifications:

(1) Possess a bachelor’s degree with 30 semester hours or equivalent quarter hours in a human services field (including, but not limited to, psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy) and at least one year of experience in the delivery of services to persons with mental illness; or

(2) Hold an Iowa license to practice as a registered nurse and have at least three years of experience in delivery of services to persons with mental illness.

*b.* A person employed as an advocate on or before July 1, 2015, who does not meet the requirements of subparagraph 25.52(2) “*a*” (1) or (2) shall be considered to meet those requirements so long as the person is continuously appointed as an advocate in the employing county.

*c.* A person employed as an advocate must pass criminal background, sex offender registry, and child and dependent adult abuse registry checks before hire.

**441—25.53(229) Advocate assignment.** The committing court shall assign the advocate from the county where the individual is located.

**25.53(1)** If the advocate assigned cannot serve the individual in an effective and efficient manner, the advocate may request another advocate to perform advocate duties on the individual’s behalf. In the event that another advocate can better represent the individual on a longer term basis, the advocate shall request that the court transfer the individual to another advocate.

**25.53(2)** When a conflict of interest is identified between an advocate and an individual, the court and the advocate’s county of employment shall be notified and an alternative advocate shall be assigned. The advocate’s direct supervisor is responsible to monitor and ensure that the advocate does not have a conflict of interest. In instances when dual or multiple relationships are unavoidable, advocates should take steps to protect individuals and are responsible for setting clear, appropriate, and culturally sensitive boundaries. Advocates who anticipate a conflict of interest among the individuals receiving services should clarify the advocate’s role with the parties involved and take appropriate action to minimize any conflict of interest.

**25.53(3)** When the advocate assigned is not the advocate from the individual’s county of residence, the advocate’s county of employment may seek reimbursement from the region in which the individual’s county of residence is located as outlined in Iowa Code section 229.19(1) “*b.*”

**25.53(4)** An advocate shall only be assigned to a child 17 years of age or under when the child is not represented by an attorney due to an existing child in need of assistance (CINA) or other juvenile court action pursuant to the Iowa Code.

**441—25.54(229) Advocate responsibilities.** The minimum duties of the advocate are outlined in Iowa Code section 229.19. The role of the advocate is to ensure that the rights of the individual are upheld.

**25.54(1)** The advocate shall be readily accessible to communication from the individual and shall initiate contact within 5 days of the individual's commitment. The advocate shall inform the individual regarding the role of the advocate.

**25.54(2)** The advocate shall meet the individual in person within 15 days of the individual's commitment. The advocate shall present the county grievance procedure process, in writing, to the individual. The presentation shall include the county grievance procedure and contact information and the contact information for the ombudsman. The advocate shall inform the individual about the mental health crisis services that are available.

**25.54(3)** The advocate shall review each report submitted to the court and communicate with the individual's medical and treatment team. Advocates shall abide by all federal, state, and local confidentiality laws.

**25.54(4)** The advocate shall file in a form prescribed by the court as the advocate feels necessary or as required for each individual assigned to the advocate.

**25.54(5)** The advocate shall maintain an organized confidential and secure file for each individual served. The file shall contain but not be limited to:

- a. Copies of quarterly reports submitted to the court.
- b. Copies of correspondence sent to and received from the individual, family members, providers and others.
- c. Releases of information.
- d. Case notes describing the date, time and type of contact with the individuals or others and a brief narrative summary of the content or outcome of the contact.
- e. Documents filed with the court electronically shall be considered as part of the individual's file.

**25.54(6)** The advocate shall register as provided in Iowa Ct. R. 16.305(1) to participate in the court's electronic document management system and shall submit all documents to be filed with the court electronically. The documents will be stored as electronic records that are retrievable and readable through the electronic document management system.

**25.54(7)** The advocate, as an employee of the county, shall comply with all county policies and procedures, including but not limited to hiring, supervision, grievance procedures, and training.

**25.54(8)** All advocate records are the property of the county, which is responsible for the provision of confidential storage, transfer, and destruction of client files, including those maintained on electronic and digital devices, with access limited according to the county's policy on confidentiality as described in subrule 25.55(6).

**25.54(9)** The advocate may attend the hospitalization hearing of an individual represented by an attorney; however, payment for the advocate's attendance is at the discretion of the county of employment.

**441—25.55(229) County responsibilities.** As the employer of the advocate, the county shall provide qualified staff to support and facilitate the provision of quality advocate services. The county shall:

**25.55(1)** Assign a single supervisor, a single contract manager, or the county board of supervisors as the supervising entity to carry out responsibilities in this chapter.

**25.55(2)** Have a job description in the personnel file of the advocate that clearly defines the advocate's responsibilities and qualifications as defined in Iowa Code section 229.19 and in rule 441—25.104(229).

**25.55(3)** Have a process to verify, within 90 days of the advocate's hire, qualification of the advocate, including degrees and certifications obtained from a primary source.

**25.55(4)** Provide to the advocate training and education relevant to the position, including but not limited to overview of mental health diagnosis and treatment, the mental health and disability services delivery system, confidentiality, individual rights, professional conduct, the role of advocacy and service coordination within an interdisciplinary team, Iowa Code and administrative rules, and court procedures.

**25.55(5)** Provide approved training on child and dependent adult abuse reporter requirements.

**25.55(6)** Provide to any employee with access to individuals' files training on state and federal laws regarding nondisclosure and confidentiality of client protected health information during and after employment and maintain in the personnel files a signed document indicating the employee's awareness of the county's policy on confidentiality.

**25.55(7)** Complete criminal background, sex offender registry and child and dependent adult abuse registry checks before employment of the advocate. Any person who does not pass these checks is prohibited from being hired, or continuing to serve, as an advocate.

**25.55(8)** Provide advocate staff to cover the county's caseload at all times, according to, but not limited to, each county's unique number of individuals assigned to the advocate, travel required, types of settings where the individuals reside, services available and extended staff absences.

**441—25.56(229) Data collection requirements.**

**25.56(1)** Beginning in 2016 and by December 1 each year, each county shall submit to the department of human services data regarding each individual who received advocate services during the previous state fiscal year.

**25.56(2)** As defined in rule 441—25.41(225C), the data to be submitted are as follows:

- a.* Basic information about the individual, including a unique identifier and county of residence.
- b.* Demographic information, including the individual's date of birth, sex, ethnicity, education, and diagnosis made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA).
- c.* Commitment information, including the date of the individual's initial commitment, type of commitment order, whether a juvenile or adult case, date of commitment and name of treatment facility the individual is committed to, any subsequent changes in treatment facility, and date commitment is terminated.

**441—25.57(229) Quality assurance system.** The county shall implement a quality assurance system that:

1. Annually measures and assesses advocates' activities and services.
2. Gathers feedback from stakeholders including individuals using advocate services, family members, court staff, service provider staff, and regional staff regarding advocate services.
3. Implements an internal review of individual records.
4. Identifies areas in need of improvement.
5. Develops a plan to address the areas in need of improvement.
6. Implements the plan and documents the results.

These rules are intended to implement Iowa Code chapter 229.

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 441—Chapter 202  
“Foster Care Placement and Services”

Iowa Code section(s) or chapter(s) authorizing rulemaking: Iowa Code chapter 17A and 2023 Iowa Acts, House File 584

State or federal law(s) implemented by the rulemaking: Iowa Code section 237.3

### Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 14, 2024  
11 to 11:30 a.m.

Via video/conference call:  
[meet.google.com/xmo-jfss-sjv](https://meet.google.com/xmo-jfss-sjv)

### Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Health and Human Services (HHS) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

### Purpose and Summary

This proposed chapter outlines foster care placement and services, including services to foster parents. 2023 Iowa Acts, House File 584, established a Foster Parent Bill of Rights that is designed to inform foster parents of their rights within the child welfare system. The contents of most of the sections and subsections outlined in House File 584 are already included in other current Iowa administrative rules, specifically Chapter 202.

Current language has been revised and new language has been added to the chapter to ensure that foster parent rights are clearly outlined and in one central location for foster parents to access.

### Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The HHS, Child Protection Services; Four Oaks Family Connections (the current contractor for the recruitment, retention, training and support (RRTS) contract with HHS); and taxpayers will bear the costs.

- Classes of persons that will benefit from the proposed rulemaking:

The HHS, Four Oaks Family Connections, licensed foster families, and families of origin will benefit. The goal of the rulemaking is for foster families to feel supported and satisfied in their role of caring for foster children. The HHS would benefit from children being maintained in a family-like setting and at the lowest level of care cost compared to a residential or shelter placement. Respected and satisfied foster families would be a benefit for the RRTS contractor because the contractor would have the capacity to match HHS- and Juvenile Court System (JCS)-referred children and therefore keep them in a family-like

setting. Licensed foster families will understand what their rights are and will feel like they have a voice in the child welfare process, and retention will improve. The parent/guardian of the child will be able to work with the foster family and support their child in the foster home.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The proposed rulemaking will maintain or add to the number of current foster homes statewide. As of June 30, 2023, there were 2,156 licensed foster parents in Iowa, and on June 30, 2022, there were 2,528, a decrease of 372 foster parents.

- Qualitative description of impact:

Providing foster parents with minimum standards of customer service and providing them with an outlet to express concerns or advocate for change will help them feel more valued and respected. This not only increases the likelihood of foster parent retention, but it also enhances recruitment efforts since active foster parents are more likely to report satisfactory experiences to their personal and professional networks.

It is more expensive to initially license a family than it is to renew their licensure; therefore, foster parent retention is a desired goal.

Additionally, experienced foster families are more likely to expand their skills and increase their capacity for the ages, genders, and needs of children they are willing to care for. They are also less likely to overreact to behavioral challenges, therefore increasing placement stability.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Costs to initially license a foster home (RRTS contractor approximate amounts):

Foster/Dual license without a waiver for preservice training: \$1,398 per family

Foster/Dual license with a waiver for preservice training: \$1,136 per family

Adopt Only license without a waiver for preservice training: \$1,194 per family

Adopt Only license with a waiver for preservice training: \$923 per family

(Administrative expenses are not included in the costs above.)

- Anticipated effect on state revenues:

When a child's family of origin cannot care for the child, and a relative/fictive kin placement is not available or appropriate, then foster care is the next least restrictive option. Foster families have been trained to understand the psychology and needs of the children and have access to resources to provide help and support. It is anticipated that the Foster Parent Bill of Rights will impact the recruitment and retention of resource homes and therefore reduce the number of children needing to be in an inappropriate level of care due to the lack of licensed resource homes available.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Foster families are an integral, indispensable, and vital role in the State's effort to care for children displaced from their homes. Foster families must be seen as an active and participating member of the child welfare system, which can be achieved by supporting them with a Bill of Rights. Foster families provide a place for children to develop healthy and secure relationships, safety, and academic and overall stability. The Family First Prevention Services Act supports placing a child in a foster home rather than institutionalized care.

Research has shown that foster parent involvement in case planning is linked to increased foster parent satisfaction and intent to continue fostering. Foster parents report wanting to be part of a professional team that is planning for the child's future and often cite the lack of involvement in decision-making as one reason for being dissatisfied and even quitting.

Estimates show that between 30 and 50 percent of families quit foster parenting within the first year. These families often say their reason for leaving is that they do not feel supported or respected as decision



makers in the child's life. The large number of families leaving foster care makes it more difficult to recruit and train the number of foster parents needed just to hold steady each year.

The addition of the Foster Parent Bill of Rights into Chapter 202 will benefit foster parents and the children who experience enhanced placement stability, and tertiary beneficiaries are employees and constituents of the child welfare system. For example, HHS case managers and/or Family-Centered Services contracted staff will have reduced travel time/cost if each area of the state has sufficient foster homes to allow a child to remain geographically close to the family of origin.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

2023 Iowa Acts, House File 584, directs the HHS to adopt rules pursuant to Iowa Code chapter 17A to implement the Foster Parent Bill of Rights. Governor Reynolds signed this into law with the expectation that rules be adopted and revised.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No alternative methods were considered. This action was required by law.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Not applicable.

#### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Not applicable.

#### *Text of Proposed Rulemaking*

ITEM 1. Rescind 441—Chapter 202 and adopt the following **new** chapter in lieu thereof:

### CHAPTER 202 FOSTER CARE PLACEMENT AND SERVICES

#### **441—202.1(234) Definitions.**

“Age- or developmentally appropriate activities” means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

“*Case permanency plan*” means the plan identifying goals, needs, strengths, problems, services, time frames for meeting goals and for delivery of the services to the child and parents, objectives, desired outcomes, and responsibilities of all parties involved and reviewing progress. This includes information describing efforts to retain existing medical and mental health care providers for a child entering or in foster care and activities to evaluate service needs to avoid inappropriate diagnoses of mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities.

“*Child*” means the same as defined in Iowa Code section 234.1.

“*Department*” means the Iowa department of human services and includes the local offices of the department.

“*Eligible child*” means a child for whom the court has given guardianship to the department or has transferred legal custody to the department or for whom the department has agreed to provide foster care services on the basis of a signed placement agreement or who has been placed in emergency care for a period of not more than 30 days upon the approval of the director or the director’s designee.

“*Facility*” means the personnel, program, plant and equipment of a person or agency providing child foster care.

“*Family safety, risk, and permanency service*” means a service provided under 441—Chapter 172 that uses strategies and interventions designed to achieve safety and permanency for a child with an open department child welfare case, regardless of the setting in which the child resides.

“*Foster care*” means the same as “child foster care” defined in Iowa Code section 237.1(3).

“*Kinship caregiver*” means, for this chapter only, a person to whom a child is related by blood, marriage, or adoption, or a person who has a significant, committed, positive relationship with the child, who is caring for a child in foster care, under court-ordered supervision pursuant to Iowa Code chapter 232.

“*Natural parent*” means a parent by blood, marriage, or adoption.

“*Person*” or “*agency*” means individuals, institutions, partnerships, voluntary associations, and corporations, other than institutions under the management or control of the department, who are licensed by the department as a foster family home, child caring agency or child placing agency, or approved as a shelter care facility.

“*Reasonable and prudent parent standard*” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encourage the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. For the purposes of this definition, “caregiver” means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution (including group homes, residential treatment, shelters, or other congregate care settings) in which a child in foster care has been placed.

“*Resource family*” means an individual person or married couple who is licensed to provide foster family care or approved for adoption.

“*Safety-related information*” means information that indicates whether the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse.

“*Service area manager*” means the department employee responsible for managing department offices and personnel within the service area and for implementing policies and procedures of the department.

“*Social history*” or “*child study*” means a written description of the child that includes strengths and needs; medical, mental, social, educational, placement and court history; and the child’s relationships with the birth family and significant others.

This rule is intended to implement Iowa Code section 234.6(6)“b.”

#### **441—202.2(234) Eligibility.**

**202.2(1)** Only an eligible child as defined in these rules shall be considered for foster care services supervised by the department.

**202.2(2)** The need for foster care placement and social and other related services, including but not limited to medical, psychiatric, psychological, and educational services, shall be determined by an assessment of the child and family to determine their needs and the appropriateness of services.

*a.* Assessments shall include:

(1) The educational, physical, psychological, social, family living, and recreational needs of the child,

(2) The family's ability to meet those needs, and

(3) A family genogram to determine relatives and other suitable support persons who have a kinship bond with the child.

*b.* The assessment is a continual process to identify needed changes in service or placement for the child.

**202.2(3)** With the exception of emergency care, a social history shall be completed on each child before a department recommendation for foster care placement, using the outline RC-0027, Social History Format.

*a.* For voluntary emergency placements, a social history shall be completed before a decision is made to extend the placement beyond 30 days.

*b.* For court-ordered emergency placements, a social history shall be completed before the disposition hearing.

**202.2(4)** Foster care placement shall be recommended by the department only after efforts have been made to prevent or eliminate the need for removal of the child from the family unless the child is in immediate danger at home.

**202.2(5)** The need for foster care and the efforts to prevent placement shall be evaluated by a review committee prior to placement or, for emergency placements only, within 30 days after the date of placement. For children who are mentally retarded or developmentally disabled and receive case management services, this requirement may be met by the interdisciplinary staffing described in 441—Chapter 90, as long as the service area manager approves, the department worker attends the staffing, and the staffing meets the requirements of paragraphs 202.2(5) "b" through "h."

The review shall meet the following requirements:

*a.* Department staff on the review committee shall be the child's service worker, a supervisor knowledgeable in child welfare, and one or more additional persons appointed by the service area manager.

*b.* The review shall be open to the participation of the parents or guardian of the child, local and area education staff, juvenile court staff, the guardian ad litem, current service providers and previous service providers who have maintained a license.

*c.* The present foster care provider, if any, shall be notified of the review and have the opportunity to participate.

*d.* Written notice of the review shall be sent to the child's parents or guardian at least five working days prior to the date of the review.

*e.* Other persons may be invited to the review with the consent of the parents or guardian.

*f.* A written summary of the review recommendations shall be sent to the child's parents or guardian following the review.

*g.* Review committee recommendations shall be advisory to the service worker and supervisor, who are responsible for development of the department case plan and for reports and recommendations to the juvenile court.

*h.* At least one of the persons on the review committee shall be someone without responsibility for the case management or the delivery of services to either the child or the parents or guardian who are the subject of the review.

**202.2(6)** The citizenship or alien status of a child who enters foster care must be verified.

*a.* When the child will remain in foster care for no more than 60 days, Form 470-4500, Statement of Citizenship Status: Foster Care, signed by the parent or guardian of the child is sufficient.

*b.* When the child will remain in foster care for more than 60 days, one of the documents listed in this paragraph is required. Any one of the following documents shall be accepted as satisfactory documentation of citizenship or nationality:

- (1) A certificate of birth in the United States.
- (2) Form FS-240 (Report of Birth Abroad of a Citizen of the United States) issued by the U.S. Citizenship and Immigration Services.
- (3) Form FS-545 or Form DS-1350 (Certification of Birth Abroad) issued by the U.S. Citizenship and Immigration Services.
- (4) A United States passport.
- (5) Form I-97 (United States Citizen Identification Card) issued by the U.S. Citizenship and Immigration Services.
- (6) Form N-560 or N-561 (Certificate of United States Citizenship) issued by the U.S. Citizenship and Immigration Services.
- (7) Form N-550 or N-570 (Certificate of Naturalization) issued by the U.S. Citizenship and Immigration Services.
- (8) A valid state-issued driver's license or other identity document described in Section 274A(b)(1)(D) of the United States Immigration and Nationality Act, but only if the state issuing the license or document either:
  1. Requires proof of United States citizenship before issuance of the license or document; or
  2. Obtains a social security number from the applicant and verifies before certification that the number is valid and is assigned to the applicant who is a citizen.
- (9) Another document that provides proof of United States citizenship or nationality as the Secretary of the U.S. Department of Health and Human Services may specify by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(B)(v) or 1396b(x)(3)(C)(v).

*c.* A child entering foster care is exempt from these requirements when the family has previously presented satisfactory documentary evidence of citizenship, as specified by the Secretary of the U.S. Department of Health and Human Services.

*d.* The parent or guardian of the child shall have a reasonable period to obtain and provide proof of citizenship. For the purposes of this requirement, the "reasonable period" begins on the date when the child is placed in foster care and continues to the date when the proof is provided or when the department establishes that the parent or guardian is no longer making a good-faith effort to obtain the proof.

This rule is intended to implement Iowa Code sections 234.6(1) and 234.6(6) "b."

#### **441—202.3(234) Voluntary placements.**

**202.3(1)** All voluntary placement agreements initiated after July 1, 2003, for children under the age of 18 shall terminate after 90 days.

**202.3(2)** When the voluntary placement is of a child who is under the age of 18, a Voluntary Foster Care Placement Agreement, Form 470-0715, shall be completed and signed by the parent(s) or guardian and the county office where the parent or guardian resides. Voluntary Foster Care Placement Agreements shall not be used to place children outside Iowa and shall not be signed with parents or guardians who reside outside Iowa. Voluntary Foster Care Placement Agreements shall terminate if the child's parent or guardian moves outside Iowa after the placement.

**202.3(3)** Voluntary placement of a child aged 18 or older may be granted for six months at a time.

- a.* The department shall enter into the agreement only when the child:
  - (1) Meets the definition of "child" in Iowa Code section 234.1,
  - (2) Was in foster care or a state institution immediately before reaching the age of 18,
  - (3) Has continued in foster care or a state institution since reaching the age of 18,
  - (4) Has demonstrated a willingness to participate in case planning and to fulfill responsibilities as defined in the case permanency plan, and
  - (5) Will be placed in foster family care or supervised apartment living in Iowa.
- b.* Payment shall be limited pursuant to 441—paragraph 156.20(1) "b."

*c.* When the voluntary placement is of a child who is aged 18 or older and who has a court-ordered guardian, the Voluntary Foster Care Placement Agreement, Form 470-0715, shall be completed and signed by the guardian and the local office where the guardian resides. Voluntary Foster Care Placement Agreements shall not be signed with guardians who reside outside Iowa. Voluntary Foster Care Placement Agreements shall terminate if the child's guardian moves outside Iowa after the placement.

*d.* When the voluntary placement is of a child who is aged 18 or older and who does not have a court-appointed guardian, the Voluntary Foster Care Placement Agreement, Form 470-0715, shall be completed and signed by the child and the local office where the child resides.

*e.* An exception to the requirement for continuous placement may be made for a youth who leaves foster care at age 18 and voluntarily returns to supervised apartment living foster care before the youth's twentieth birthday in order to complete high school or obtain a general equivalency diploma (GED).

**202.3(4)** All voluntary placements shall be approved by the service area manager or designee.

This rule is intended to implement Iowa Code sections 234.6(6) "b" and 234.35(1) "c."

#### **441—202.4(234) Selection of facility.**

**202.4(1)** Placement consistent with the best interests and special needs of the child shall be made in the least restrictive, most family-like facility available and in close proximity to the child's home. Race, color, or national origin may not be routinely considered in placement selections.

**202.4(2)** Efforts shall be made to place siblings together unless to do so would be detrimental to any of the children's physical, emotional or mental well-being. Efforts to prevent separating siblings, reasons for separating siblings, and plans to maintain sibling contact shall be documented in the child's case permanency plan.

**202.4(3)** The department shall first consider placing the child in a relative's home unless no relatives are available or willing to accept placement or such placement would be detrimental to the child's physical, emotional or mental well-being.

*a.* If a relative or a suitable person who has a kinship bond with the child will accept placement of the child:

(1) The person shall sign Form 595-1489, Non-Law Enforcement Record Check Request.

(2) The department shall complete record checks as listed in 441—subrule 113.13(1) to evaluate if the person's home is appropriate for the child before making the placement.

(3) The department worker shall make a referral to the recruitment and retention provider to initiate an informational contact with the kinship caregiver. The recruitment and retention provider will inform the kinship caregiver about the monthly kinship caregiver payment as outlined in rule 441—156.6(234) and explain the process of becoming a licensed foster parent.

*b.* Efforts to place the child in a relative's home and reasons for using a nonrelative placement shall be documented in the child's case permanency plan.

**202.4(4)** If the child cannot be placed with a relative or a suitable person who has a kinship bond with the child, foster family care shall be used for a child unless the child has problems that require specialized services that cannot be provided in a family setting. Reasons for using a more restrictive placement shall be documented in the child's case permanency plan.

**202.4(5)** A foster family shall be selected on the basis of compatibility with the child, taking into consideration:

*a.* The extent to which interests, strengths, abilities and needs of the foster family enable the foster family members to understand, accept and provide for the individual needs of the child.

*b.* The child's individual problems, medical needs, and plans for future care. The department shall not place a child with asthma or other respiratory health issues in a foster home where any member of the household smokes.

*c.* The capacity of the foster family to understand and accept the child's case permanency plan, the needs and attitudes of the child's parents, and the relationship of the child to the parents.

*d.* The characteristics of the foster family that offer a positive experience for the child who has specific problems as a consequence of past relationships.

*e.* An environment that will cause minimum disruption of the child including few changes in placement for the child.

**202.4(6)** A foster group care facility shall be selected on the basis of its ability to meet the needs of the child, promote the child's growth and development, and ensure physical, intellectual and emotional progress during the stay in the facility. The department shall place a child only in a licensed or approved facility that has a current contract with the department pursuant to 441—Chapter 152.

This rule is intended to implement Iowa Code section 234.6(6) "b."

#### **441—202.5(234) Preplacement.**

**202.5(1)** Except for placements made in less than 24 hours, a child placed in a facility shall have a preplacement visit involving:

- a.* The child,
- b.* The foster parents or agency staff, if the child is placed in a public or private agency,
- c.* The department service worker, and
- d.* The child's parents, unless their presence would be disruptive to the child's placement.

**202.5(2)** Before placement, the department shall provide the facility with general information regarding the child, including a description of the child's medical needs, behavioral patterns including safety-related information, educational plans, and permanency goal. The department or the department's agent may share otherwise confidential information as prescribed in Iowa Code section 237.10. Safety-related information shall be withheld only if:

- a.* Withholding the information is ordered by the court; or
- b.* The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living or pose a risk to the safety of the licensed resource parent(s).

**202.5(3)** The child shall have a physical examination by a physician, advanced registered nurse practitioner, or a physician assistant before the initial placement into foster care, or the physical examination shall be scheduled within 14 calendar days of placement. The physician, advanced registered nurse practitioner, or a physician assistant shall complete a preliminary screening for dental and mental health and refer the child to a dentist or mental health professional if appropriate. To address any immediate medical needs, the child shall be seen immediately at an emergency room, an urgent care center, or other community health resource.

This rule is intended to implement Iowa Code section 234.6(6) "b."

#### **441—202.6(234) Placement.**

**202.6(1)** At the time of placement, the department worker shall furnish to the foster care provider any available information regarding the child.

- a.* The information provided shall include:
  - (1) The child's full name and date of birth;
  - (2) The names, work addresses, and telephone numbers of the placement worker and the worker's supervisor, including a home telephone, cell phone, or on-call number;
  - (3) The names, addresses, and telephone numbers of the child's physician and dentist;
  - (4) The names, addresses, and telephone numbers of significant relatives of the child, including parents, grandparents, brothers and sisters, aunts and uncles, and any other significant persons (for an adopted child, the adoptive parents and adoptive relatives);
  - (5) The case permanency plan;
  - (6) The results of a physical examination, including immunization history;
  - (7) The child's medical needs including allergies, physical limitations, dental and medical recommendations, and special needs of HIV;
  - (8) Behavioral patterns including safety-related information;
  - (9) Educational arrangements including, but not limited to, the school the child attends, special education needs, and school contacts;
  - (10) The placement contract or agreement including the date of acceptance for care;

- (11) Medical authorizations, service authorizations, and other releases as needed; and
- (12) If the child is an Indian, the identification of the child's tribe and tribal social service agency including telephone number and contact person.

*b.* Before releasing specific information about HIV, the department shall use Form 470-3225, Authorization to Release HIV-Related Information, to obtain a release from the child or the child's parent or guardian, or a court order permitting the release of the information.

(1) The person receiving this information shall complete Form 470-3227, Receipt of HIV-Related Information, to document understanding of the confidentiality of this knowledge.

(2) Form 470-3226, HIV General Agreement, shall be completed by foster parents who have agreed to care for children who have AIDS, test HIV positive, or are at risk for HIV infection.

*c.* Safety-related information shall be withheld only if:

(1) Withholding the information is ordered by the court; or

(2) The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.

**202.6(2)** For each foster care placement in a foster family home supervised directly by department staff, Form 470-0716 or 470-0716(S), Foster Family Placement Contract, shall be completed by the foster family and the placement worker and supervisor. A new foster family placement contract shall be completed when the rate of payment or special provisions change.

**202.6(3)** A follow-up visit shall be made to the child at the foster family home within two weeks of the initial placement for placements supervised directly by the department.

**202.6(4)** The case permanency plan shall be reviewed at least every six months to ensure appropriateness of the child's placement. A copy of the subsequent case plan shall be submitted to the court every six months unless the court orders a different frequency for reports.

**202.6(5)** In conjunction with the case plan review, the case shall be presented every six months to a review committee that conforms to the requirements in subrule 202.2(5). The service area manager may also approve a review by a local foster care review board authorized in Iowa Code section 237.19 or the court as meeting this requirement as long as the review conforms to paragraphs 202.2(5) "b" through "h" and to paragraphs 202.6(5) "a" through "e." The review committee shall:

*a.* Evaluate the continuing necessity for foster care placement.

*b.* Evaluate the continuing appropriateness of the foster care placement.

*c.* Evaluate the extent of compliance with the case plan.

*d.* Evaluate the extent of progress made toward lessening the causes for foster care placement.

*e.* Project a likely date by which the child will leave foster care.

This rule is intended to implement Iowa Code sections 234.6(6) "b" and 237.19.

#### **441—202.7(234) Out-of-area placements.**

**202.7(1)** When the department makes a placement of a child in the foster care system out of the service area in which the child resides, this placement shall occur only when there is no appropriate placement within the service area, when the placement is necessary to facilitate reunification of the child with the parents, or when an out-of-area agency is closer to the community where the child resides than an in-area agency offering the same services.

**202.7(2)** The authority for approving out-of-area placements rests with both the placing and receiving service area managers.

**202.7(3)** Transfer of responsibility for supervision, planning, and visitation shall be approved by the placing and receiving service area managers and, when appropriate, by the court.

This rule is intended to implement Iowa Code section 234.6(6) "b."

#### **441—202.8(234) Out-of-state placements.**

**202.8(1)** The department shall make an out-of-state foster family care placement only with the approval of the service area manager or designee. Approval shall be granted only when the placement will not interfere with the goals of the child's case permanency plan and when one of the following conditions exists:

- a. The foster family with whom the child is placed is moving out of state.
- b. An out-of-state family having previous knowledge of the child desires to provide foster care to the child.
- c. An out-of-state family is approved to adopt the child under subsidy and is eligible to receive maintenance payments until the adoption is final.
- d. An out-of-state placement is necessary to facilitate reunification of the child with the parents.

**202.8(2)** Placements shall be made in an out-of-state group care facility only with the approval of the service area manager or designee.

**202.8(3)** All out-of-state placements shall be made pursuant to interstate compact procedures.

**202.8(4)** The reasons for selecting an out-of-state placement shall be documented in the child's case permanency plan.

This rule is intended to implement Iowa Code section 234.6(6) "b."

**441—202.9(234) Supervised apartment living.** A supervised apartment living arrangement shall provide a child with an environment in which the child can experience living in the community with supervision and prepare for self-sufficiency. The child must have the capacity to live in the community with less supervision than that provided by a foster family or in a group care setting and must be able to follow the provisions of the case plan and participate in activities and services to achieve self-sufficiency.

**202.9(1) Living arrangements.**

a. The two types of supervised apartment living arrangements are as follows:

(1) A cluster setting, which provides support in a structured setting. Up to six children reside in apartments or bedrooms in one building (such as an apartment building or residential housing), supervised by one agency. The supervising agency must have an adult staff member present and available on site in the living arrangement at any time when more than one child is present.

(2) A scattered-site setting, which is the less restrictive of the two types of living arrangements. Up to three children supervised by one agency may reside in individual housing arrangements, such as apartments or residential housing, located in one building. Children must be able to contact supervising agency staff 24 hours a day, seven days a week.

b. If an agency rents an apartment to the child, there shall be a signed lease between both parties that includes, but is not limited to:

- (1) Amount to be paid for the rental unit.
- (2) The term of the lease with both a beginning and an ending date.
- (3) Rights and responsibilities of the tenant.
- (4) Rights and responsibilities of the landlord.
- (5) Conditions under which the lease can be terminated.

**202.9(2) Eligibility.** To be eligible for supervised apartment living placement, a child shall meet all of the following conditions:

a. The child must be at least 16½ years old for placement in a cluster setting.

b. The child must be at least 17 years old, and it has been determined by the department or juvenile court services referral worker that the child has lived successfully in a SAL cluster setting until the child is able to live in a more independent placement in a scattered-site setting.

c. If the child is under the age of 18, the child must:

(1) Satisfactorily attend school, in accordance with the school's attendance policies, with the objective of obtaining a high school diploma; or

(2) Satisfactorily attend an instructional program, pursuant to the program's policies, necessary to obtain a high school equivalency diploma; or

(3) Attend school to obtain postsecondary education or training on a full-time basis (based upon the institution's definition of full-time) or attend on a part-time basis and be either working or participating in a work training program leading to employment; or

(4) Work at least an average of 80 hours per month if not enrolled in school; or

(5) Participate in a work training program leading to employment if not enrolled in school.



- d.* If the child is aged 18 or older, the child must:
- (1) Meet the definition of “child” in Iowa Code section 234.1; and
  - (2) Have been in foster care immediately before reaching the age of 18 and have continued in foster care since reaching the age of 18. The service area manager or designee may waive the requirement for continuous placement for a child who leaves foster care at age 18 and voluntarily returns before the child’s twentieth birthday in order to complete high school or obtain a high school equivalency diploma, consistent with Iowa Code sections 234.35(1) “*f*” and 234.35(3) “*c*”; and
  - (3) Attend school on a full-time basis leading to a high school diploma or attend an instructional program leading to a high school equivalency diploma.
- e.* The child must need foster care placement and services, based on an assessment completed according to rule 441—202.2(234) and subrule 202.6(5).
- f.* The child must participate in services and activities to achieve self-sufficiency.
- g.* The child must have the capacity to live in the community with less supervision than that provided by a foster family or in a group care setting, as determined by an assessment that reviews available information on the child to identify the needs, strengths, and resources of the child, especially as they pertain to the child’s ability to function in the community. To determine if a supervised apartment living foster care placement is suitable for the child, the department worker must complete Form 470-4063, Preplacement Screening for Supervised Apartment Living Foster Care.
- h.* The child must have an approved living situation that meets the following minimum standards:
- (1) Comply with applicable state and local zoning, fire, sanitary and safety regulations.
  - (2) Be located so as to provide reasonably convenient access to schools, places of employment, and services and supports required by the child.
  - (3) Be reasonably priced so as to fit within the child’s budget.
- i.* If supervised apartment living foster care is deemed suitable for the child, the worker shall complete Form 470-3186, Request for Approval of Supervised Apartment Living Foster Care Placement, to request that the service area manager or designee approve the placement. This form is also to be used to request that the service area manager or designee waive the requirement for continuous placement for a child who leaves foster care on or after the child’s eighteenth birthday and voluntarily returns before the child’s twentieth birthday in order to complete high school or obtain a GED.
- j.* The placement must have the approval of the juvenile court if the child is under court jurisdiction.

**202.9(3) Services to be provided.** To ensure that the supervised apartment living arrangement is meeting the child’s needs, required services shall be provided directly by the department or purchased from an agency that has a contract with the department to provide supervised apartment living foster care services. The following services are required:

- a.* Development of a case or service plan (by either the department worker or the service provider, if contracted out) in consultation with the child and the child’s family (unless a reason for noninvolvement is documented in the case record) and significant others whenever appropriate that documents the following:
- (1) Goals, intended to meet the specific needs of the child to achieve self-sufficiency, with projected dates of accomplishment.
  - (2) Objectives (action steps) to be taken by the child, the child’s support system, and staff, with projected dates of accomplishment.
  - (3) Services to be provided and activities to be undertaken, the frequency of such services, who will provide the services, the child’s progress with the goals and objectives, and the child’s compliance with the service plan.
  - (4) A budget, developed with the child, based upon the child’s monthly stipend payment, any start-up allowance, any earned or unearned incomes and financially related assistance (e.g., food assistance). Staff will work with the child to ensure payment of bills and receipt of necessary items as outlined in the budget.
- b.* Life skills training involving interpersonal and daily living skills training to prepare the child to maintain a safe, healthy, and stable lifestyle and achieve self-sufficiency. Life skills training

includes training of “hard” skills (e.g., money management, self-care and hygiene, physical and mental health care, skills related to educational and employment goals, housing and home management, time management, accessing community resources) and training of “soft” skills (e.g., decision making, problem solving, developing healthy relationships, self-advocacy). Life skills training should be individualized to the needs of the child toward achieving self-sufficiency. If a child needs a specific life skills training service or services (e.g., parenting skill development, counseling services to reduce stress and social, emotional, or behavioral problems that affect the child’s stability or ability to achieve self-sufficiency) in addition to basic life skills training services, and services are purchased, the department worker will specify the necessary services under special provisions on Form 470-5081, Placement Agreement and Service Authorization for Supervised Apartment Living (SAL).

- c.* Through visits with the child and to the living situation, determination and documentation that:
- (1) The living arrangement and mode of living are safe and suitable and provide an environment that allows for the child’s social and emotional needs to be met; and
  - (2) There is no reasonable cause to believe that the child’s living situation or mode of living presents any unacceptable risks to the child’s health or safety; and
  - (3) The child has access to a telephone; and
  - (4) There is an operating smoke alarm on each level of occupancy; and
  - (5) The child is receiving any necessary medical care; and
  - (6) The child is receiving appropriate and sufficient services and supports to achieve the child’s goals and facilitate objectives according to the child’s service plan.
- d.* Supervision to assist the child in developing the needed structure to live in the supervised apartment living setting and in locating and using other needed services. If the child is under the age of 18, supervision shall include a minimum of weekly face-to-face contacts. For a child aged 18 or older, supervision shall include a minimum of biweekly (every other week) face-to-face contacts. Supervision may include guidance, oversight, and behavior monitoring.
- e.* Ongoing assessment activities to monitor the child’s ability to achieve self-sufficiency.
- f.* If services are purchased, visits by the department to the child according to subrule 202.11(2).
- g.* If services are purchased, compliance by the provider with all reporting requirements as required by the provider’s contract with the department, including requirements for the individual service plan, quarterly reports, and a termination summary.
- h.* A review of the case and case plan every six months, in accordance with subrules 202.6(4) and 202.6(5).

**202.9(4) Method of service provision.** Supervised apartment living services may be provided directly by the department or purchased from an agency that has a contract with the department to provide supervised apartment living foster care services. If services are purchased:

- a.* Department staff shall be responsible to determine the specific service components to be provided and any special provisions of this care. The department case permanency plan shall specify the goals and objectives (action steps) of the services that are being purchased. If services are purchased, the worker shall complete Form 470-5081, Placement Agreement and Service Authorization for Supervised Apartment Living (SAL), to place the child with the contractor, to authorize the SAL service, and to identify any special provisions for the case.
- b.* Supervised apartment living billings shall follow the terms of the contract with the department.

**202.9(5) Termination of services.**

- a.* Mandatory termination. Supervised apartment living services shall be terminated when the child:
- (1) No longer meets eligibility criteria;
  - (2) No longer needs services or needs a more restrictive level of placement;
  - (3) Chooses to live in a nonapproved setting; or
  - (4) Refuses to follow the provisions of the case plan.
- b.* When services are purchased and the department plans to remove a child from the supervised apartment living placement, the department shall inform the provider in writing of the date of removal,

the reason for the removal, the recourse available, if any, and that the contested case (appeal) proceeding does not apply to the removal.

*c.* The provider shall be informed ten days in advance of the removal, except when the court orders removal of the child from the placement or there is evidence of neglect or physical or sexual abuse.

This rule is intended to implement Iowa Code section 234.6.

**441—202.10(234) Services to foster parents.** Foster parents shall be provided necessary supportive services for the purpose of aiding them in the care and supervision of the child. These services shall include, but not be limited to:

**202.10(1)** Availability of social service staff on a 24-hour basis in case of emergency.

**202.10(2)** Conferences to develop in-depth planning regarding family visits, expectations of the department, future objectives and time frames, use of resources, and termination of placements. The department or the department's agent will follow Iowa Code section 237.10 when scheduling visitation.

**202.10(3)** Visitation by the service worker at least monthly regardless of the duration of the placements.

**202.10(4)** Making available all known pertinent information needed for the care of the child including HIV status, safety-related information, and special confidentiality requirements.

*a.* Before releasing specific information about HIV, the department shall use Form 470-3225, Authorization to Release HIV-Related Information, to obtain a release from the child or the child's parent or guardian, or a court order permitting the release of the information. The person receiving this information shall complete Form 470-3227, Receipt of HIV-Related Information, to document understanding of the confidentiality of this knowledge.

*b.* Safety-related information shall be withheld only if:

(1) Withholding the information is ordered by the court; or

(2) The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.

*c.* When continued breastfeeding of the child is determined to be in the best interest of the child, the service worker and the foster parents shall make reasonable efforts to support the continued breastfeeding of the child by the mother.

This rule is intended to implement Iowa Code section 234.6(6) "b."

**441—202.11(234) Services to the child.** The department service worker shall maintain a continuous relationship with the child.

**202.11(1)** The department service worker shall:

*a.* Help the child plan for the future,

*b.* Evaluate the child's needs and progress,

*c.* Supervise the living arrangement,

*d.* Arrange for social and other related services including, but not limited to, medical, psychiatric, psychological, and educational services from other resources as needed, and

*e.* Counsel the child in adjusting to the placement.

**202.11(2)** The assigned department service worker shall personally visit each child in out-of-home care at least once every calendar month, with the frequency of the visits based upon the needs of the child.

*a.* The visit shall take place in the child's place of residence the majority of the time.

*b.* The visit shall be of sufficient length to focus on issues pertinent to case planning. During the visit, the worker shall address the safety, permanency, and well-being of the child, including the child's needs, services to the child, and achievement of the case permanency plan goals.

**202.11(3)** When placement of a breastfeeding child is made, the service worker shall:

*a.* Assess in consultation with the worker's supervisor whether continued breastfeeding by the mother is in the best interest of the child;

*b.* Make every reasonable effort to support the mother's continued breastfeeding for the child if determined appropriate; and

c. Document the assessment and efforts in the child's case plan and case notes.

**202.11(4)** When a child is in continuous foster care, a new physical examination shall not be required when the child transfers from one foster care placement to another unless there is some indication that an examination is necessary. The service worker shall obtain from the health practitioner or practitioners an annual medical review of treatment the child has received.

**202.11(5)** Throughout the provision of care, the foster care provider shall actively ensure that the child stays connected to the child's kin, culture, and community as documented in the child's case permanency plan.

**202.11(6)** Throughout the provision of care, the foster care provider is permitted to use the reasonable and prudent parent standard to create opportunities for participation of the child in age- or developmentally appropriate activities.

**202.11(7)** Transition planning program. The purpose of the transition planning program is to provide services, supports, activities and referrals to programs that assist children currently or formerly in foster care in acquiring skills and abilities necessary for transition to successful adulthood. The transition planning program offers a life skills assessment, transition plan development, and transition-related services, supports, activities and referrals to programs.

a. *Eligibility.* To be eligible for the transition planning program, a child must be or have been in foster care as defined by rule 441—202.1(234) or 45 Code of Federal Regulations 1355.20 as amended to October 1, 2008, and must meet at least one of the following eligibility requirements:

- (1) Is currently in foster care and is 14 years of age or older.
- (2) Is under the age of 21 and was adopted from foster care at 16 years of age or older.
- (3) Is under the age of 21 and was placed in a subsidized guardianship arrangement from foster care at 16 years of age or older.
- (4) Was formerly in foster care and is eligible for and participating in Iowa's aftercare services program as described at 441—Chapter 187.
- (5) Was formerly in foster care and is eligible for and participating in Iowa's postsecondary education and training voucher (ETV) program as described at 42 U.S.C. Section 677(a)(6-7).

b. *Assessment.* A life skills assessment shall be administered to all children in foster care who are aged 14 or older. An assessment shall be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph 202.11(7)“a.” The assessment is designed to evaluate the child's strengths and needs in areas including, but not limited to:

- (1) Education,
- (2) Physical and mental health,
- (3) Employment,
- (4) Housing and money management, and
- (5) Supportive relationships.

c. *Transition plan development.* A transition plan shall be completed for all children in foster care who are aged 14 or older, as provided in Iowa Code section 232.2(4)“f.” Transition plan development shall also be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph 202.11(7)“a,” but the transition plan will not be part of a case permanency plan. Transition plan requirements include the following:

(1) The transition plan shall be personalized at the direction of the child and shall be developed in consultation with the child and reviewed by the department in collaboration with a child-centered transition team, honoring the goals and concerns of the child.

(2) The transition plan shall document that the child received and signed a document that describes the rights of the child with respect to education, health, visitation, and court participation. The document must be signed by the child indicating that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(3) The transition plan shall document that the child received a copy of any credit report pertaining to the child as provided by the child's caseworker on an annual basis until the child is discharged from foster care. The child must receive assistance from the child's caseworker in interpreting and resolving any inaccuracies in the report.

(4) The transition plan shall document that any child leaving foster care at the age of 18 or older was provided with the following documents and information unless the child has been in foster care for less than 30 days or is not eligible to receive such document:

1. An official or certified copy of the child's birth certificate.
2. The child's social security card.
3. A driver's license or identification card issued by the state to the child.
4. Health insurance information.
5. A copy of the child's medical and education records.

(5) The transition plan shall document that the caseworker provided to the child, at the case permanency plan review in the 90 days before the child reached the age of 18, information and education about the importance of having a durable power of attorney for health care and a copy of the state's form used to identify such a proxy. The child has the option to complete the form at the age of 18 or older.

(6) The transition plan shall address the strengths and needs identified in the assessment and detail the services, supports, activities and referrals to programs needed to implement the plan to best assist the child in preparing for successful adulthood. The membership of the transition team and the meeting dates for the team shall be documented in the transition plan.

(7) The transition plan shall be reviewed and updated at each case review after the plan's initial development; within 90 days before the child's eighteenth birthday; and within 90 days before the child is expected to leave foster care if the child remains in care after reaching the age of 18.

*d. Transition services.* Children shall be offered services, supports, activities and referrals to programs within, but not limited to, the five areas described below according to the child's age and development, strengths and needs, permanency goal, and placement as documented in the case permanency plan.

(1) Education skills increase the child's chances of completing high school or obtaining high school equivalency and of entering a satisfying career. Services may include assistance in academic advising and guidance, secondary and postsecondary educational support, records transfer coordination, tutoring, financial aid planning, career exploration, mentoring, and career advising. Financial assistance for postsecondary education and training may be available to eligible children.

(2) Physical and mental health skills promote healthy physical, mental and emotional functioning. Health education services may include guidance on risk prevention, how to be healthy and fit, how to self-advocate for health care needs and access to health insurance, how to select medical professionals, and how to make informed decisions regarding treatment, lifestyle considerations, spirituality, and recreation. Provision must be made for the child's application for adult services if it is likely the child will need or be eligible for services or other support from the adult service system.

(3) Employment skills enable children to prepare for, seek, and maintain gainful career employment. Services may include employment programs or vocational training, employment search resources, career advising, résumé writing, interview skills, workplace etiquette, and on-the-job training.

(4) Housing and money management skills prepare a child to select, manage, and maintain safe and stable housing. Services may include lessons on the physical maintenance and cleaning of a house and guidance on managing personal finances, such as financial decisions, budgeting, bill paying, use of credit, and financing. Financial assistance for items, including room and board, may be available to children who meet the eligibility criteria of the aftercare services program pursuant to 441—Chapter 187.

(5) Supportive relationships skills promote the healthy development and maintenance of rewarding, lasting relationships. Services may include family support and healthy marriage education, mentoring opportunities, and guidance on how to recognize the needs of others, how to identify and understand personal motivations, how to ensure personal safety, and how to communicate effectively.

This rule is intended to implement Iowa Code section 234.6(6) "b."

#### **441—202.12(234) Services to parents.**

**202.12(1)** Child welfare services shall be made available to the parents throughout the period of placement for the purpose of reuniting the family in an agreed-upon time frame. Family safety, risk, and permanency services may be provided to:

- a. Promote identification and enhancement of family strengths and protective capacities;
- b. Address the factors that resulted in the child's being removed from the family home; and
- c. Strengthen family connections to community resources and informal supports.

**202.12(2)** Placement notification.

a. The parents shall be notified of the location and nature of the child's placement, unless the conditions of this subrule are met.

(1) The department evaluates the situation and determines that notifying the child's parents of the location of the placement would be detrimental to the child's safety and well-being and to the stability of the child's placement due to:

1. Evidence of a direct or indirect threat to harm the foster child or the foster family; or
2. Credible third-party information of a threat of harm to the foster child or the foster family.

(2) The department includes a statement in the child's case permanency plan explaining the decision not to disclose the location of the child to the parents.

b. The decision not to disclose the location of a child's placement shall be reviewed at least every six months when the child's case permanency plan is revised.

**202.12(3)** The case plan and treatment plan shall specify the services to be provided and the time frame for reuniting the family. These plans shall be developed in cooperation with the parents.

**202.12(4)** Personal contact shall be made regularly with the parents and the progress towards goal attainment reviewed and documented in the case record. The frequency of the personal contact shall be at least monthly and shall be specified in the child's case permanency plan.

**202.12(5)** When placement of a breastfeeding child is made, the service worker shall:

- a. Assess in consultation with the worker's supervisor whether continued breastfeeding by the mother is in the best interest of the child;
- b. Make every reasonable effort to support the mother's continued breastfeeding of the child if determined appropriate; and
- c. Document the assessment and efforts in the child's case plan and case notes.

This rule is intended to implement Iowa Code section 234.6(6) "b."

#### **441—202.13(234) Removal of the child.**

**202.13(1)** When the department plans to remove a child from a facility or foster home, the facility or foster home shall be informed in writing of the date of the removal, the reason for the removal, the recourse available to the facility or foster home, if any, and that the contested case proceeding pursuant to Iowa Code chapter 17A is not applicable to the removal. The department shall inform the facility or foster home ten days in advance of the removal, except that the facility or foster home may be informed less than ten days prior to the removal in the following instances:

- a. When the parent or guardian removes the child from voluntary placement.
- b. When the court orders removal of a child from placement.
- c. When there is evidence of neglect or physical or sexual abuse.

**202.13(2)** The department may remove a child from a facility or foster home when any of the following conditions exist:

- a. There is evidence of abuse, neglect, or exploitation of the child.
- b. The child needs a specialized service that the facility does not offer.
- c. The child is unable to benefit from the placement as evidenced by lack of progress of the child.
- d. There is evidence the facility is unable to provide the care needed by the child and fulfill its responsibilities under the case plan.
- e. There is lack of cooperation of the facility or foster home with the department.

**202.13(3)** If a foster family objects in writing within seven days from the date that the department furnishes notice of plans to remove the child, the service area manager or designee shall grant a conference to the foster family to determine whether the removal is in the child's best interest.

a. This conference shall not be construed to be a contested case under the Iowa administrative procedure Act, Iowa Code chapter 17A.

b. The conference shall be provided before the child is removed except in instances listed in paragraphs 202.13(1) “a” through “c.” The service area manager or designee shall review the propriety of the removal and explain the decision to the foster family.

c. The service area manager or designee, on finding that the removal is not in the child’s best interests, may overrule the removal decision unless a court order or parental decision prevents the department from doing so.

**202.13(4)** When the facility or foster home requests a child be removed from its care, it shall give a minimum of ten days’ notice to the department so planning may be made on behalf of the child. This does not apply to a situation where the health or safety of the child or another person in the foster home is threatened by the child’s presence in the child’s current placement home.

This rule is intended to implement Iowa Code section 234.6(6) “b.”

**441—202.14(234) Termination.** The foster care services shall be terminated when the child is no longer an eligible child, or when the attainment of goals in the case plan has been achieved, or when the goals for whatever reasons cannot be achieved, or when it is evident that the family or individual is unable to benefit from the service or unwilling to accept further services.

This rule is intended to implement Iowa Code section 234.6(6) “b.”

**441—202.15(234) Case permanency plan.**

**202.15(1)** The department worker shall ensure that a case permanency plan is developed for each child who is placed in foster care if the department has agreed to provide foster care through a voluntary placement agreement, if a court has transferred custody or guardianship to the department for the purpose of foster care, or if a court has placed the child in foster care and ordered the department to supervise the placement.

**202.15(2)** The department worker shall develop the case permanency plan with the child’s parents, unless the child’s parents are unwilling to participate in the plan’s development, and with the child, unless the child is unable or unwilling to participate. For a child 14 years of age or older in foster care, the case permanency plan must be developed in consultation with the child. The child may choose up to two members of the case planning team who are not the child’s foster parent or caseworker. The department may reject an individual selected by a child at any time if the department has good cause to believe the individual would not act in the best interests of the child. One individual selected by the child to be a member of a child’s case planning team may be designated to be the child’s advisor and, as necessary, advocate with respect to the use of the reasonable and prudent parent standard.

**202.15(3)** The department worker shall be responsible for ensuring the development of the case permanency plan within the time frames specified in rule 441—130.7(234). In all cases, the case permanency plan shall be completed within 60 days of the date the child entered foster care.

**202.15(4)** Copies of the initial and subsequent case permanency plans shall be provided to the child, the child’s parents, and the foster care provider. Copies shall also be provided to the following, if involved in services to the child: the juvenile court officer, the judge, the child’s attorney, the child’s guardian ad litem, the child’s guardian, the child’s custodian, the child’s court-appointed special advocate, the parents’ attorneys, the county attorney, the state foster care review board, and any other interested parties identified in the plan.

**202.15(5)** The initial and subsequent case permanency plans shall be completed on the forms specified in rule 441—130.7(234).

This rule is intended to implement Iowa Code section 135H.6.

**441—202.16(135H) Department approval of need for a psychiatric medical institution for children.**

**202.16(1)** Applicants for departmental approval of need shall submit the following to the division of child and family services:

- a.* A description of the population to be served, including age, sex, and types of disorders, and an estimate of the number of these youth in need of psychiatric care in the area of the state in which the applicant is located.
- b.* A statement of the number of beds requested and a description of the treatment program to be provided, the outcomes to be achieved and the techniques for measuring outcomes.
- c.* A proposed date of operation as a psychiatric medical institution for children.
- d.* A description of the applicant's experience with providing similar services to youth, especially the target population.
- e.* A description of the applicant's plan, including the timeline for achieving accreditation to provide psychiatric services from a federally recognized accrediting organization under the organization's standards for residential settings and licensure as a psychiatric medical institution for children, or a copy of the organization's report if already accredited.
- f.* References from the service area manager for the department service area in which the proposed psychiatric medical institution for children would be located, the chief juvenile court officer of the judicial district in which the proposed psychiatric medical institution for children would be located and the applicant's licensor from the department of inspections and appeals or department of public health.

**202.16(2)** The department shall evaluate proposals and issue a decision based on the following criteria:

- a.* The number of psychiatric medical institutions for children beds for the proposed population that are needed in the area of the state in which the facility would be located, based on the department's most recent needs assessment.
- b.* The steps the facility has taken towards achieving accreditation from a federally recognized accrediting organization and licensure as a psychiatric medical institution for children.
- c.* The applicant's ability to provide services and support consistent with the requirements under Iowa Code chapter 232 including, but not limited to, evidence that:
  - (1) Children will be served in a setting that is in close proximity to their parents' home.
  - (2) Each child will receive services consistent with the child's best interests and special psychiatric needs as identified in the child's case permanency plan.
  - (3) Children and their families will receive services to facilitate the children's return home or other permanent placement.
- d.* The applicant's ability to provide children with a non-hospital-type living environment if the applicant is not freestanding from a hospital or health care facility.
- e.* The limits on the number of beds found in Iowa Code section 135H.6(5).

**202.16(3)** If a facility has not been licensed as a psychiatric medical institution for children within one year after the date of the department's approval of need, the department's approval shall expire unless the department has approved an extension. An extension may be approved up to a maximum of six months if the agency has documented extenuating circumstances that prevented completion of the licensing process.

This rule is intended to implement Iowa Code section 135H.6.

**441—202.17(232) Area group care targets.**

**202.17(1)** *Area target.* A group care budget target shall be established for each departmental service area, which shall be based on the annual statewide group care appropriation established by the general assembly.

- a.* The department and the judicial branch shall jointly develop a formula for allocating the group care appropriation among the departmental service areas. The formula shall be based on:
  - (1) Proportional child population.
  - (2) Proportional group foster care usage in the previous five completed fiscal years.
  - (3) Other indicators of need.
- b.* Any portion of the group care appropriation allocated for 50 highly structured juvenile program beds and not used may be used for group care.



c. Upon written agreement of the affected service area managers and chief juvenile court officers, service areas may transfer part of their group care budget from one service area to another. A service area may exceed its budget target figure up to 5 percent during the fiscal year, providing that the overall funding allocation by the department for all child welfare services in the service area is not exceeded.

d. Notwithstanding the statewide appropriation established in this subrule, a budget established in a service area's group care plan pursuant to Iowa Code section 232.143 may be exceeded, a group care placement may be ordered, and state payment may be made if the review organization finds that the placement is necessary to meet the child's service needs and if the service area has additional funds transferred from another service area or if the service area is within 5 percent of its group care budget target figure pursuant to paragraph 202.17(1) "c."

The department and juvenile court services shall work together to ensure that a service area's group care expenditures shall not exceed the funds allocated to the service area for group care in the fiscal year.

e. If at any time after September 30, 1998, annualization of a service area's current expenditures indicates a service area is at risk of exceeding its group foster care expenditure target under Iowa Code section 232.143 by more than 5 percent, the department and juvenile court services shall examine all group foster care placements in that service area in order to identify those that might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified.

The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In the dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.

**202.17(2) Plan for achieving target.** For each of the departmental service areas, representatives appointed by the department and juvenile court services shall establish a plan for containing the expenditure for children placed in group care within the budget target allocated to that service area. The plan shall include monthly targets and strategies for developing alternatives to group care placements.

The plans shall also ensure potential group care referrals are reviewed by the review organization prior to submission of a recommendation for group care placement to the court.

Each area plan shall be established in advance of the fiscal year to which the plan applies. To the extent possible, the department and the juvenile court shall coordinate the planning required under this subrule with planning for services paid under Iowa Code section 232.141(4). The department's service area manager shall communicate regularly, as specified in the area plan, with the juvenile courts within the service area concerning the current status of the plan's implementation.

This rule is intended to implement Iowa Code section 232.143.

**441—202.18(235) Local transition committees.** Local transition committees shall be established in each of the department service areas. The service area manager or designee shall determine the number of local transition committees needed within the service area, set operating policies and procedures, and appoint committee membership.

**202.18(1) Purpose.** The purpose of local transition committees, as established by Iowa Code Supplement section 235.7, is to ensure that the transition needs of youth in foster care who are 16 years of age or older have been addressed in order to assist the youth in preparing for the transition from foster care to adulthood.

**202.18(2) Membership.** Each committee shall have a designated number of members.

a. The standing committee membership may include, but is not limited to:

- (1) Department staff involved with child welfare, adult services, or transition planning.
- (2) Juvenile court services staff.
- (3) Adult service system staff.
- (4) Education staff.
- (5) Service care provider representation.
- (6) Others knowledgeable about community resources.

*b.* Additionally, nonstanding membership may include those knowledgeable about the youth, including the child's court-appointed special advocate, guardian ad litem, and service or care providers.

*c.* In areas where teams or boards already in existence are involved in review and planning for youth needs, such as the foster care review board or child welfare funding decategorization boards, such teams or boards may serve as local transition committees.

**202.18(3) Duties.** Local transition committees shall address the transition needs of youth in foster care who are 16 years of age or older and who have a case permanency plan as defined in Iowa Code Supplement section 232.2. Each committee shall have operating policies and procedures to carry out the duties below.

*a.* Each committee shall establish a process for review and approval of written transition plans for youth for whom the committee has placement responsibility that meets a continuum of case needs and coordinates with local transition planning protocol. The process may include a paper review or an in-person review, or both, according to case need.

*b.* The committee may be involved when the youth is at least 16 years of age, but shall be involved in reviewing and approving a youth's transition plan before the youth reaches age 17½. When a youth enters foster care at age 17½ or older, the committee shall be involved in reviewing and approving the youth's transition plan within 30 days of completion.

*c.* In reviewing a youth's transition plan, the committee shall identify and act to address gaps existing in services or supports available that would assist the youth in the transition from foster care to adulthood.

*d.* For those youth expected to need services as adults, the committee shall ensure that the transition plan was developed with the participation of any person reasonably expected to be a service provider when the youth becomes an adult or to become responsible for the costs of services at that time.

*e.* The committee shall ensure that transition planning and review is coordinated with overall case planning and review. Committee review and approval shall be indicated in the youth's case permanency plan.

*f.* With respect to meetings involving a specific youth receiving foster care and the youth's family, the local transition committees are not subject to Iowa Code chapter 21.

*g.* The information and records of or provided to a local transition committee regarding a youth receiving foster care and the youth's family are not public records pursuant to Iowa Code chapter 22 when the records relate to the foster care placement and transition needs of the youth.

*h.* Members of the committees are subject to the standards of confidentiality set forth in Iowa Code sections 600.16, 217.30 and 235A.15.

**202.18(4) Report.** The service area manager or designee shall submit a report on transition planning committees to the department's division of child and family services. The report shall be submitted annually by October 1 for the immediately preceding fiscal year. The report shall include, but not be limited to, the following:

*a.* The geographical area covered for each committee within the service area.

*b.* Standing committee membership for each committee.

*c.* The number of cases reviewed by each committee.

*d.* Identification of barriers to successful transition and gaps in community services or supports.

*e.* Suggestions for ways to transition youth from foster care to adulthood more effectively.

This rule is intended to implement Iowa Code section 235.7.

**ARC 7384C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to definitions  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 1, “Definitions,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. This chapter includes definitions that will aid licensees, and the general public will have a better understanding of the remaining chapters of the Accountancy Examining Board.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department of Inspections, Appeals, and Licensing may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 1 and adopt the following new chapter in lieu thereof:

CHAPTER 1  
DEFINITIONS

**193A—1.1(542) Definitions.** The following definitions apply to the rules of the board of accountancy.

“Act” means the Accountancy Act of 2001 as amended by 2008 Iowa Acts, chapter 1106.

“AICPA” means the American Institute of Certified Public Accountants.

“AICPA Code of Professional Conduct” means the AICPA code of professional conduct as amended through January 1, 2024.

“Attest” or “attest service” means the same as defined in Iowa Code section 542.3(1).

“Attest engagement team” means the team of individuals participating in attest service, including those who perform concurring and second partner reviews. The “attest engagement team” includes all employees and contractors retained by the firm who participate in attest service, irrespective of their functional classification.

“Audit” means the procedures performed in accordance with applicable auditing standards for the purpose of expressing or disclaiming an opinion on the fairness with which the historical financial or other information is presented in conformity with generally accepted accounting principles, another comprehensive basis of accounting, or basis of accounting described in the report.

“Board” means the same as defined in Iowa Code section 542.3(2).

“Certificate” means the same as defined in Iowa Code section 542.3(3).

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

“*Client*” means the same as defined in Iowa Code section 542.3(6).

“*Commission*” means the same as defined in Iowa Code section 542.3(7) and includes any form of compensation in a fixed or variable amount or percentage received for selling, recommending or referring any product or service of another, including a referral fee.

“*Compensation*” means anything of value received by a CPA or LPA while practicing public accounting for selling, recommending or referring a product or service of another.

“*Compilation*” means the same as defined in Iowa Code section 542.3(8).

“*Contingent fee*” means the same as defined in Iowa Code section 542.3(9).

“*Certified public accountant*” or “*CPA*” means the same as defined in Iowa Code section 542.3(4).

“*Examination of prospective financial information*” means an evaluation by a CPA of a forecast or projection, the support underlying the assumptions in the forecast or projection, whether the presentation of the forecast or projection is in conformity with AICPA presentation guidelines, and whether the assumptions in the forecast or projection provide a reasonable basis for the projection or forecast.

“*FASB*” means the Financial Accounting Standards Board.

“*Financial statement*” means a presentation of financial data, including accompanying notes derived from accounting records and intended to communicate an entity’s economic resources or obligations at a point in time or the changes therein for a period of time in conformity with a comprehensive basis of accounting, but does not include incidental financial data included in management advisory services reports to support recommendations to a client, nor does it include tax returns and supporting documents.

“*Firm*” means a sole proprietorship, partnership, corporation, professional corporation, professional limited liability company, limited liability partnership or any other form of organization issued a permit to practice as a firm under Iowa Code section 542.7 or 542.8 or the office of the auditor of state, state of Iowa, when the auditor of state is a certified public accountant.

“*Forecast*” means prospective financial statements that present, to the best of the responsible party’s knowledge and belief, an entity’s expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party’s assumptions reflecting conditions it expects to exist and the course of action it expects to take.

“*GASB*” means the Governmental Accounting Standards Board.

“*Home office*” means the same as defined in Iowa Code section 542.3(10).

“*IASB*” means International Accounting Standards Board.

“*IFRS*” means International Financial Reporting Standards.

“*IRS*” means the Internal Revenue Service, United States Department of the Treasury.

“*License*” means the same as defined in Iowa Code section 542.3(11).

“*Licensed public accountant*” or “*LPA*” means the same as defined in Iowa Code section 542.3(12).

“*Licensed public accounting firm*” means the same as defined in Iowa Code section 542.3(13).

“*Licensee*” means the same as defined in Iowa Code section 542.3(14).

“*Managing partner,*” “*managing shareholder,*” or “*managing member*” means the designated individual with ultimate responsibility for the operation of a firm’s practice.

“*NASBA*” means the same as defined in Iowa Code section 542.3(17).

“*NSA*” means the National Society of Accountants.

“*Office*” means the same as defined in Iowa Code section 542.3(18).

“*Owner*” means any person who has equity ownership interest in a CPA or LPA firm.

“*PCAOB*” means the Public Company Accounting Oversight Board created by the Sarbanes-Oxley Act of 2002.

“*Peer review,*” as used in Chapters 11 and 12 of these rules, means the same as defined in Iowa Code section 542.3(19).

“*Person,*” unless the context indicates otherwise, means individuals, sole proprietorships, partnerships, corporations, limited liability companies, limited liability partnerships or other forms of entities.

“*Person associated with a CPA or LPA*” means any owner, partner, shareholder, member, employee, assistant, or independent contractor of a CPA or LPA firm.

“*Practice of public accounting*” means the same as defined in Iowa Code section 542.3(24).

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

“*Practice privilege*” means the same as defined in Iowa Code section 542.3(25).

“*Principal place of business*” means the same as defined in Iowa Code section 542.3(26).

“*Projection*” means prospective financial statements that present, to the best of the responsible party’s knowledge and belief given one or more hypothetical assumptions, an entity’s expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party’s assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions.

“*Report*” means the same as defined in Iowa Code section 542.3(27).

“*Respondent*” means any person against whom a formal statement of charges has been filed.

“*Review*” means the same as Iowa Code section 542.3(1) “a”(2).

“*SAS*” means statements on auditing standards.

“*SEC*” means the United States Securities and Exchange Commission.

“*SSARS*” means the statements on standards for accounting and review services.

“*State*” means the same as defined in Iowa Code section 542.3(28).

“*Substantial equivalency*” means the same as defined in Iowa Code section 542.3(29).

“*Year,*” when used in the context as a time measurement of experience in accounting work, means a period of 365 days.

This rule is intended to implement Iowa Code chapter 542.

**ARC 7385C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to organization and administration  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 2, “Organization and Administration,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. The purpose of this chapter is to inform Iowans of the structure and functionality of the Board, which benefits the public by providing helpful information on the basics on how the Board carries out its mission.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

ITEM 1. Rescind 193A—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2  
ORGANIZATION AND ADMINISTRATION

**193A—2.1(542) Description.**

**2.1(1)** The accountancy examining board administers and enforces the provisions of Iowa Code chapter 542 with regard to the practice of accountancy in the state.

**2.1(2)** The primary mission of the board is to protect the public interest.

**193A—2.2(542) Advisory committees.** The board chair may appoint advisory committees composed of board members to make recommendations on matters within the board's jurisdiction.

**193A—2.3(542) Annual meeting.** At the first board meeting scheduled after April 30 of each year (the annual meeting), the board will elect a chair and vice-chair to serve until their successors are elected.

**193A—2.4(542) Other meetings.** Other meetings throughout the year may be established by the chairperson, by board resolution, or by a request of a majority of board members.

**193A—2.5(542) Board administrator's duties.** The board administrator's duties include the following:

**2.5(1)** Ensuring that complete records are kept of all applications for examination and registration; all certificates, licenses and permits granted; and all necessary information in regard thereto. The board administrator is the lawful custodian of the board records.

**2.5(2)** Determining when the prerequisites for licensure have been satisfied with regard to issuance of certificates, licenses or registrations.

**2.5(3)** Submitting to the board any questionable application.

**2.5(4)** Keeping accurate minutes of board meetings.

**2.5(5)** Keeping a list of persons issued certificates as certified public accountants, persons issued licenses as licensed public accountants, and all firms issued permits to practice.

**2.5(6)** Performing such additional administrative duties as assigned.

**193A—2.6(542) Disclosure of confidential information.**

**2.6(1)** Persons who take the examination may consent to the publication of their names on a list of passing candidates.

**2.6(2)** Information relating to the examination results, including the specific grades by subject matter, may only be given to the person who took the examination, except that the board may:

*a.* Disclose the specific grades by subject matter to the regulatory authority of any other state or foreign country in connection with the candidate's application for a reciprocal certificate or license from the other state or foreign country, but only if requested by the applicant.

*b.* Disclose the specific grades by subject matter to educational institutions, professional organizations, or others, provided the names of the persons taking the examination are not provided in conjunction with the scores.

**193A—2.7(17A,21,22,272C,542) Uniform rules.** Administrative and procedural rules can be found in rules of the professional licensing and regulation bureau[193].

These rules are intended to implement Iowa Code chapters 17A, 21, 22, 272C and 542.



**ARC 7386C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to certification of CPAs  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 3, “Certification of CPAs,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. This chapter provides useful information to future licensees on the education, examination and experience requirements to acquire an Iowa Certified Public Accountant (CPA) license. It also serves to inform Iowans of the background of the individuals with whom they may be doing business.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
CERTIFICATION OF CPAs

**193A—3.1(542) Qualifications for a certificate as a certified public accountant.**

**3.1(1)** A person who meets the qualifications of Iowa Code section 542.5 and this chapter and applies pursuant to Iowa Code section 542.6 may be granted a certificate as a certified public accountant.

**3.1(2)** An application may be denied if the applicant is in violation of any of the requirements of Iowa Code chapter 542, prior enforcement proceedings under 193A—Chapter 17, or Iowa Code section 272C.15.

**193A—3.2(542) Colleges or universities recognized by the board.** Pursuant to Iowa Code section 542.5(7), the board recognizes educational institutions accredited by the Association to Advance Collegiate Schools of Business and the regional accrediting bodies listed by the Accredited Institutions of Postsecondary Education.

This rule is intended to implement Iowa Code section 542.5.

**193A—3.3(542) Accounting concentration.**

**3.3(1)** A candidate will be deemed to have met the educational requirement if, as part of the 150 semester hours of education as outlined in Iowa Code section 542.5, the candidate has met one of the following four conditions:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

*a.* Earned a graduate degree with a concentration in accounting from a program that is accredited in accounting by an accrediting agency recognized by the board.

*b.* Earned a graduate degree in business from a program that is accredited in business by an accrediting agency recognized by the board and completed at least 24 semester hours in accounting including courses covering the subjects of financial accounting, auditing, taxation, and management accounting. Such accounting hours exclude elementary accounting or principles of accounting, internships or life experience.

*c.* Earned a baccalaureate degree in business or accounting from a program that is accredited in business by an accrediting agency recognized by the board and completed at least 24 semester hours in accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting. Such accounting hours exclude elementary accounting or principles of accounting, internships or life experience.

*d.* Earned a baccalaureate or higher degree and completed the following hours from an accredited institution recognized by the board:

(1) At least 24 semester hours in accounting courses above elementary accounting or principles of accounting covering the subjects of financial accounting, auditing, taxation, and management accounting, not including internships or life experience; and

(2) At least 24 additional semester hours in business-related courses, not including internships or life experience. Elementary accounting hours that do not qualify under subparagraph 3.3(1)“d”(1) above may apply toward business-related courses.

Quarter hours will be accepted in lieu of semester hours at a 3:2 ratio; that is, three quarter hours is equivalent to two semester hours. Internships and life experience hours may apply toward the total 150 hours' requirement.

**3.3(2)** The board will consider correspondence study and study in other schools not meeting the above requirements on an individual basis if the candidate can provide evidence that such study would be acceptable for credit by a college or university recognized by the board; provided, however, that at least 18 of the required hours in accounting and at least 16 of the required hours in business-related subjects are obtained from a college or university recognized by the board.

**3.3(3)** The applicant needs an official transcript of credit issued by a recognized institution sent by the institution to the board's test administrator at the time of application to confirm the college or university credits claimed.

**3.3(4)** Graduates of foreign colleges or universities will have their education evaluated by a foreign credentials evaluation advisory service specified by the board.

**193A—3.4(542) Examination applications.**

**3.4(1)** An individual desiring to take the certified public accountant examination as an initial candidate should apply to the board's test administrator. Only a complete application will be considered. A complete application includes a completed application form, the designated fee, and all applicable college transcripts.

**3.4(2)** To be eligible to apply for the examination a candidate needs to fulfill the requirements of rule 193A—3.3(542). A candidate may apply for the examination before the educational requirements are met as per Iowa Code section 542.5(9).

**3.4(3)** A candidate whose application is denied under subrule 3.1(2) may be denied admittance to the examination by the board.

**3.4(4)** A candidate may be considered as a reexamination applicant regardless of whether or not the candidate sat for the examination once initially approved. Reexamination applicants may apply to the board's test administrator.

**3.4(5)** A nonrefundable proctoring fee will be collected from a candidate who wishes to be proctored in Iowa.

**193A—3.5(542) Content and grading of the examination.**

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**3.5(1)** The board may use the Uniform Certified Public Accountant Examination prepared by the American Institute of Certified Public Accountants or another nationally recognized organization under a plan of cooperation with the boards of all states and territories of the United States.

**3.5(2)** The board may also make use of the advisory grading service provided by the American Institute of Certified Public Accountants or another nationally recognized organization under a plan of cooperation with the boards of all states and territories of the United States.

**193A—3.6(542) Conditional requirements.**

**3.6(1)** Effective with the implementation of the computer-based examination, a candidate may take the test subjects individually and in any order. Except as provided in rule 193A—3.7(542), credit for any subjects passed will be valid for 30 months from the actual date initial credit is earned, without the candidate having to attain a minimum score on any failed subject(s) and without regard to whether the candidate sat for any other subjects. The candidate needs to pass all four subjects of the examination within a rolling 30-month period that begins on the date initial credit is earned, which is calculated on the date the examination administrator provides scores to the boards, the candidate, or both. If all four subjects are not passed within the 30-month period, credit for any subject taken outside the 30-month period will expire.

**3.6(2)** A candidate will be deemed to have passed the examination once the candidate holds, at the same time, valid credit for passing each of the four subjects of the examination. For purposes of this rule, credit for passing a subject of the examination is valid from the actual date of the testing event for that subject, regardless of the date the candidate actually received notice of the passing score.

This rule is intended to implement Iowa Code section 542.5.

**193A—3.7(542) Extension of conditional status.**

**3.7(1)** The time limit within which a candidate needs to pass all subjects under these rules will not include any period during which the candidate was serving in the armed forces of the United States. This exception does not apply if the candidate takes an examination while so serving. The board may extend the time limit in particular instances on a case-by-case basis.

**3.7(2)** The time limit within which a candidate needs to pass all subjects under these rules may be extended for hardship cases, such as when the applicant for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, or a death in the family, verified in writing.

**3.7(3)** The time limit within which a candidate needs to pass all subjects under these rules may be extended if circumstances occur that prevent the score from an examination from reaching the candidate in a reasonable period of time. Such circumstances would allow the candidate the opportunity to retake a failed subject.

**193A—3.8(542) Transfer of credit from another jurisdiction.** A candidate requesting transfer of grades from any other jurisdiction will be subject to the same provisions of these rules as an Iowa candidate, provided that the examination given by the licensing authority in the other state was an examination approved by the Iowa board.

**193A—3.9(542) Examination procedures.** At the examination, a candidate needs to provide evidence of identification and comply with the requirements of the examination administrator.

**193A—3.10(542) Conduct of the examination.**

**3.10(1)** Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of certification in Iowa, be barred from accountancy licensing and certification examinations in Iowa, or be subject to the imposition of other sanctions the board deems appropriate.

**3.10(2)** Individuals are subject to the conduct rules and regulations of the examination administrator.

**3.10(3)** Any examination candidate who wishes to appeal a decision of the board under this rule may request a contested case hearing. The request for hearing needs to be in writing, briefly describe the

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

basis for the appeal, and be filed in the board's office within 30 days of the date of the board decision being appealed. Any hearing requested under this subrule will be governed by the rules applicable to contested case hearings under 193—Chapter 7.

**193A—3.11(542) Refunding of examination fees.** Examination fees will not be refunded except in hardship cases, such as when the candidate for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, a death in the family, or a call to active military service, in which case 50 percent of the fee may be returned. Written documentation including evidence of the hardship will be provided to the board's test administrator.

**193A—3.12(542) Experience for certificate.**

**3.12(1)** One year of experience will consist of full- or part-time employment that extends over a period of no less than one year and no more than three years and includes no fewer than 2,000 hours of performance of services outlined in Iowa Code section 542.5(12). Experience may be gained in more than one employment situation, including an internship.

**3.12(2)** An applicant seeking qualification as an attest CPA will have at a minimum two years of experience as more fully described in 193A—subrule 6.3(1).

**3.12(3)** All experience will be verified by a licensee with direct supervisory control over the applicant or by a licensee who can attest that the experience gained by the applicant meets the requirements of Iowa Code section 542.5(12) if the applicant is not supervised by a licensee.

**3.12(4)** Teaching experience will be in the employment of an institution of higher education and will include teaching a minimum of 24 semester hours of accounting courses for which the course participants receive credit on an official transcript. Teaching of noncredit continuing education courses will not qualify under this rule.

**193A—3.13(542) Ethics course and examination.** A successful candidate will need to pass an examination covering the code of ethical conduct prior to issuance of the certificate.

**193A—3.14(542) Obtaining the certificate.**

**3.14(1)** A candidate who successfully passes the examination, completes the ethics course and examination and meets the obligations of rule 193A—3.1(542) needs to apply for the certificate on the board's website. An applicant for a certificate may be denied the certificate for reasons outlined in subrule 3.4(3) regardless of when the incident occurred.

**3.14(2)** If the candidate does not file an application for a certificate within three years of passing the examination, the candidate needs to comply with the basic continuing education obligations outlined in rule 193A—10.5(542) prior to filing an application. The continuing education hours need to include a minimum of eight hours of continuing education every three years devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates.

**193A—3.15(542) Use of title.**

**3.15(1)** Only a person who holds an active, unexpired certificate and who complies with the requirements of 193A—Chapters 5 and 10 or a person lawfully exercising a practice privilege under Iowa Code section 542.20 may use or assume the title "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

**3.15(2)** Rules regarding the use of the title "CPA" in a firm name are found in the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

These rules are intended to implement Iowa Code chapter 542 and section 546.10.

**ARC 7387C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to licensure of LPAs  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 4, “Licensure of LPAs,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. This chapter provides useful information to future licensees on the education, examination and experience requirements to acquire an Iowa Licensed Public Accountant (LPA) license. It also serves to inform Iowans of the background of the individuals with whom they may be doing business.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
LICENSURE OF LPAs

**193A—4.1(542) Qualifications for a license as a licensed public accountant.**

**4.1(1)** A person who meets the qualifications and applies subject to Iowa Code section 542.8 may be granted a license as a licensed public accountant.

**4.1(2)** An application may be denied if the applicant is in violation of any of the requirements of Iowa Code chapter 542, prior enforcement proceedings under 193A—Chapter 17, or Iowa Code section 272C.15.

**193A—4.2(542) Examination application.**

**4.2(1)** An individual desiring to take the examination to qualify for a license as a licensed public accountant should apply to the board's test administrator.

**4.2(2)** To be eligible to take the examination, the applicant needs to meet the conditions of Iowa Code section 542.8(1) "b" at the time of filing the application.

**4.2(3)** A candidate whose application is denied under subrule 4.1(2) may be denied admittance to the examination by the board.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**193A—4.3(542) Major in accounting.** In determining whether the conditions in Iowa Code section 542.8(1) “b”(2) as to a “major in accounting” have been met, the board will follow the rules associated with a “concentration in accounting” outlined in rule 193A—3.3(542).

**193A—4.4(542) Transcripts needed.** The applicant’s claim to college or university credits needs to have an official transcript of credit issued by a recognized institution sent by the institution to the board’s test administrator at the time of application to confirm the college or university credits claimed.

**193A—4.5** Reserved.

**193A—4.6(542) Content and grading of the examination.**

**4.6(1)** The board may use the examination prepared by the Accreditation Council for Accountancy and Taxation, without questions regarding auditing or attest functions.

**4.6(2)** The board may use the grading services provided by the Accreditation Council for Accountancy and Taxation.

**4.6(3)** Absent a showing of good cause, the board will accept the passing grade established by the Accreditation Council for Accountancy and Taxation.

**4.6(4)** Alternatively, an applicant may satisfy the examination obligations of this rule by passing the Financial Accounting and Reporting and Regulation sections of the CPA examination provided by the AICPA.

**193A—4.7(542) Conditional requirements.** Effective with the implementation of the computer-based examination, a candidate may take the required test subjects individually and in any order. Except as provided in rule 193A—3.7(542), credit for any subjects passed will be valid for 18 months from the actual date the candidate sat for the subject, without the candidate’s having to attain a minimum score on any failed subject(s) and without regard to whether the candidate sat for any other subjects. The candidate needs to pass both subjects of the examination within a rolling 18-month period that begins on the date that the first subject is passed. If both subjects are not passed within the 18-month period, credit for any subject taken outside the 18-month period will expire.

**193A—4.8(542) Examination procedures.** The examination procedures to be followed by a candidate for the certified public accountants’ examination as outlined in rule 193A—3.8(542) apply to a licensed public accountant examination candidate.

**193A—4.9(542) Refunding of examination fees.** Examination fees will not be refunded except as provided by the rules concerning the refunding of examination fees to an examination candidate for a certified public accountant certificate outlined in rule 193A—3.10(542).

**193A—4.10(542) Credit for an examination taken in another state.** A candidate who has partially passed an examination in another state will be given credit for the part or parts passed, provided the candidate meets the conditioning requirements of the board and further provided the examination given by the licensing authority in the other state was an examination that complies with rule 193A—4.7(542).

**193A—4.11(542) Experience for license.**

**4.11(1)** One year of experience will consist of full- or part-time employment that extends over a period of no less than one year and no more than three years and includes no fewer than 2,000 hours of performance of services outlined in Iowa Code section 542.8(8). Experience may be gained in more than one employment situation, including an internship.

**4.11(2)** All experience will be verified by a licensee with direct supervisory control over the applicant or by a licensee who can attest that the experience gained by the applicant meets the conditions of subrule 4.12(1) if the applicant is not supervised by a licensee.

**4.11(3)** Teaching experience needs to be in the employment of an institution of higher education and needs to include teaching a minimum of 24 semester hours of accounting courses for which the course



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

participants will receive credit on an official transcript. Teaching of noncredit continuing education courses will not qualify under this rule.

**193A—4.12(542) Ethics course and examination.** A successful candidate will need to pass an examination covering the code of ethical conduct prior to issuance of the license.

**193A—4.13(542) Statements on standards for accounting and review services (SSARS) education.** An LPA license applicant needs to complete a minimum of eight hours of continuing education devoted to statements on standards for accounting and review services (SSARS) prior to issuance of the license.

**193A—4.14(542) Obtaining the license.** A candidate who successfully passes the examination and completes conditions outlined in rules 193A—4.12(542), 193A—4.13(542) and 193A—4.14(542) may apply for licensure on the board's website. An applicant is obligated to list on the application all states in which the applicant has applied for or holds a certificate, license or permit and will also list any past denial, revocation, suspension, refusal to renew, or voluntary surrender to avoid disciplinary action of a certificate, license or permit. An applicant will notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension, refusal to renew, or voluntary surrender to avoid disciplinary action of a certificate, license or permit by another state. An applicant for licensure may be denied the license for reasons outlined in subrule 4.1(2) regardless of when the incident occurred.

**193A—4.15(542) Licensure by reciprocity.**

**4.15(1)** Iowa Code section 542.8 examination obligations will be waived for an applicant who has passed a comparable examination administered by another state if the examination was prepared and graded by the Board of Examiners of the American Institute of Certified Public Accountants or the Accreditation Council for Accountancy and Taxation.

**4.15(2)** A person desiring a license as a licensed public accountant in this state on the basis of a licensed public accountant license issued by another state needs to apply on the board's website. The burden is on the applicant to obtain information satisfactory to the board that the applicant's license in such other state is in full force and effect and that the conditions for obtaining such license were substantially equivalent to those of this state to obtain a license as a licensed public accountant.

**4.15(3)** An applicant needs to list on the application all states in which the applicant has applied for or holds a certificate, license or permit and needs to also list any past denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a certificate, license, or permit. An applicant needs to notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a certificate, license or permit by another state.

**4.15(4)** An applicant needs to affirm that all information provided on the form is accurate. Providing false information will be considered prima facie evidence of a violation of Iowa Code chapter 542. A nonrefundable application fee will be charged to each applicant.

**193A—4.16(542) Use of title.** Only a person holding a license as a licensed public accountant may use or assume the title "licensed public accountant" or the abbreviation "LPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a licensed public accountant.

These rules are intended to implement Iowa Code section 542.8.

**ARC 7388C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to licensure status and renewal of certificates and licenses and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 5, “Licensure Status and Renewal of Certificates and Licenses,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 5 provides useful information to current Iowa Certified Public Accountant (CPA)/Licensed Public Accountant (LPA) individual licensees on status options available for a license, and what, if any, services may be offered while in a specific status. The provisions for license renewal include necessary information on due dates and processes.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5

LICENSURE STATUS AND RENEWAL OF CERTIFICATES AND LICENSES

**193A—5.1(542) Licensure status and practice privilege.**

**5.1(1)** Licenses issued by the board pursuant to Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule, may be in active, inactive, or lapsed status, as follows:

*a.* An initial license is issued in active status with an expiration date. Maintaining active status is conditioned on periodic renewal as provided in rule 193A—5.3(542). Completion of sufficient continuing education as provided in 193A—Chapter 10 is a prerequisite to renewal in active status.

*b.* A license may be renewed in inactive status as provided in rule 193A—5.7(272C,542) if the licensee does not satisfy the continuing education obligations for renewal in active status. A renewal license issued in inactive status lapses if not timely renewed pursuant to rule 193A—5.3(542). An inactive license may be reinstated to active status at any time pursuant to subrule 5.7(7).

*c.* An active or inactive license that is not timely renewed lapses. A lapsed license may be reinstated to active or inactive status at any time pursuant to subrule 5.4(3).

**5.1(2)** Practicing public accounting in Iowa or for a client with a home office in Iowa while holding an inactive or lapsed license is a ground for discipline under Iowa Code section 542.10 and may also or alternatively provide grounds for the regulatory actions described in Iowa Code section 542.14.

**5.1(3)** Out-of-state individuals holding an inactive or lapsed Iowa CPA certificate and out-of-state individuals to whom an Iowa CPA certificate has never been issued under Iowa Code chapter 542 or

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

prior law may exercise a practice privilege under Iowa Code section 542.20 if they hold an active CPA certificate in the jurisdiction in which they maintain their principal place of business and otherwise satisfy all of the conditions described in Iowa Code section 542.20 and 193A—Chapter 20.

**5.1(4)** Exercising a practice privilege in Iowa or for a client with a home office in Iowa while holding an inactive or lapsed Iowa CPA certificate places a special burden on the individual to ensure that the public is informed about the individual's licensure status in Iowa and in the jurisdiction of active licensure, as provided in 193A—paragraphs 20.8(2)“b” and 20.8(3)“b.” As a practical matter, an individual's failure to clarify licensure status in Iowa and in the jurisdiction of the individual's principal place of business may confuse the public. However, the public may consult CPAVerify, a comprehensive national data bank, to verify an individual's licensure in another jurisdiction. CPAVerify may be accessed at [www.cpaverify.org](http://www.cpaverify.org). A client contacting the board or consulting the board's website will be informed of the individual's licensure status in Iowa.

**193A—5.2(542) Notices.**

**5.2(1)** The board typically sends, by electronic means, a notice to licensees in the May preceding license expiration, but neither the failure of the board to send nor a licensee's failure to receive a renewal notice excuses the obligation to timely renew a license.

**5.2(2)** A licensee needs to notify the board within 30 days of any change of address or firm affiliation.

**193A—5.3(542) Renewal procedures.**

**5.3(1)** Licenses expire on June 30 of each year. Licensees will submit electronic online renewal application by the deadline in the renewal year. An application is deemed filed on the date of electronic renewal. An annual renewal fee will be charged.

**5.3(2)** Applicants for renewal are obligated to disclose on the application all background and character information requested by the board including, but not limited to:

*a.* All states or foreign jurisdictions in which the applicant has applied for or holds a CPA certificate or license, an LPA license, or a substantially equivalent designation from a foreign country;

*b.* Any past denial, revocation, suspension, or refusal to renew a CPA certificate, license or permit to practice, or LPA license, or voluntary surrender of a CPA certificate, license or permit or LPA license to resolve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation;

*c.* Any other form of discipline or other penalty imposed against a CPA certificate, license or permit, LPA license, or a substantially equivalent foreign designation, or a practice privilege;

*d.* The conviction of any crime; and

*e.* The revocation of a professional license of any kind in this or any other jurisdiction.

**5.3(3)** A licensee who performs compilation services for the public other than through a certified public accounting or licensed public accounting firm needs to submit a certification of completion of a peer review conducted in accordance with 193A—Chapter 11 no less often than once every three years.

**5.3(4)** Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application needs to be:

*a.* Received by the board in electronic form on or before the date the license is set to expire or lapse;

*b.* Certified as accurate through the online renewal process;

*c.* Fully completed, including continuing education, if applicable; and

*d.* Accompanied with the proper fee. Attempted financial transactions that result in payment of anything less than the proper fee will result in application rejection.

**5.3(5)** The administrative processing of an application to renew an existing license does not prevent the board from subsequently commencing a contested case to challenge the licensee's qualifications for continued licensure if grounds exist to do so.

**5.3(6)** If grounds exist to deny a timely and sufficient application to renew, the board will send written notification to the applicant by certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the licensee failed to meet the continuing education obligations.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

If the basis for denial is pending disciplinary action or disciplinary investigation, which is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.39(1).

**5.3(7)** When a licensee appears to be in violation of mandatory continuing education under 193A—Chapter 10, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.39(546,272C), offer a licensee the opportunity to renew in inactive status or to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty, depending on the severity of the violation; establish deadlines for compliance; and may impose additional educational obligations on the licensee. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed license and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—subrule 7.39(1). A licensee who falsely reports continuing education to the board may be subject to additional sanctions including, when appropriate, suspension or revocation.

**5.3(8)** A certificate or license holder who continues to practice public accounting as a CPA or an LPA in Iowa after the certificate or license has expired may be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a licensee's application for reinstatement.

**193A—5.4(542) Failure to renew.**

**5.4(1)** A license or certificate holder who fails to renew the certificate or license by the expiration date, but does so within 30 days following its expiration date, will be assessed a penalty as provided in rule 193A—12.1(542).

**5.4(2)** If the holder fails to renew the certificate or license within the 30-day grace period, the certificate or license will lapse. The licensee is not authorized to practice during the period of time that the certificate or license is lapsed, including the 30-day grace period.

**5.4(3)** The board may reinstate a lapsed certificate or license upon the applicant's submission of an application to reinstate and completion of all of the following:

- a. Paying a penalty as provided in rule 193A—12.1(542);
- b. Paying the current renewal fee;
- c. Providing evidence of completed continuing education outlined in rule 193A—10.5(542), if the licensee wishes to reinstate to active status; and
- d. Providing a written statement outlining the professional activities of the applicant during the period in which the applicant's license was lapsed describing all services performed that constitute the practice of accounting including, but not limited to, those professional practice activities described in subrule 5.9(2). The applicant will also be obligated to state whether the applicant exercised a practice privilege in the period during which the license was lapsed and, if so, the jurisdiction of the applicant's principal place of business and status of out-of-state licensure.

**5.4(4)** A licensee holding a lapsed CPA certificate is not authorized to perform attest or compilation services or to otherwise practice public accounting using the title "CPA" in Iowa or for a client with a home office in Iowa. A licensee holding a lapsed LPA license is not authorized to perform compilation services or to otherwise practice public accounting in Iowa using the title "LPA." A licensee holding a lapsed CPA certificate or LPA license may not use the title "CPA" or "LPA" in any context unless the licensee discloses that the certificate or license has lapsed. Additionally, a person holding a lapsed Iowa CPA certificate and who is actively licensed as a CPA in another jurisdiction in which the person maintains the principal place of business may be eligible to exercise a practice privilege pursuant to Iowa Code section 542.20 and 193A—Chapter 20.

**5.4(5)** Practicing public accounting on a lapsed license is a ground for discipline. The board may find probable cause to file charges if the individual continues to offer services defined as the practice of public accounting while using the title "CPA" or "LPA" during the period of lapsed licensure. In addition to the disciplinary sanctions described in rule 193A—16.3(272C,542), individuals found to have practiced

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

public accounting on a lapsed license will be obligated to notify clients upon such terms as the board orders.

**193A—5.5(272C,542) Certificates and licenses—property of the board.** Every certificate or license granted by the board will, while it remains in the possession of the holder, be preserved by the holder but always remains the property of the board. In the event that the certificate or license is revoked or suspended, or is not renewed in the manner prescribed by Iowa Code chapter 542 or 272C, the licensee will, on demand, deliver the certificate or license by the holder to the board. However, a person is entitled to retain possession of a lapsed certificate or license that has not been revoked, suspended or voluntarily surrendered in a disciplinary action as long as the person complies with all provisions of Iowa Code sections 542.10 and 542.13. A lapsed certificate or license may be reinstated to active or inactive status at any time pursuant to subrule 5.4(3).

**193A—5.6(542) Licensee’s continuing duty to report.** An active or inactive licensee has a duty to notify the board in writing of the licensee’s conviction of a crime within 30 days of the date of conviction. “Conviction” is defined in Iowa Code section 542.5(2). Licensees also have a duty to notify the board in writing within 30 days of the date of any issuance, denial, revocation, or suspension of a certificate, license or permit by another state.

**193A—5.7(272C,542) Inactive status.**

**5.7(1) General purpose.** This rule establishes a procedure under which a person issued a certificate as a certified public accountant or a license as a licensed public accountant may apply to the board for licensure in inactive status. Inactive licensure under this rule is available to a certificate or license holder who is not engaged in Iowa or for a client with a home office in Iowa in any practice of public accounting. A person eligible for inactive status may, as an alternative, allow the person’s certificate or license to lapse.

**5.7(2) Eligibility.** A person holding a lapsed or active certificate or license that has not been revoked or suspended may apply to renew in inactive status through the online application process if the person is not engaged in the state of Iowa or for clients with a home office in Iowa in any practice regulated by the board, including:

- a. Supervising or performing any attest services, such as audits, reviews or agreed-upon procedures (which may only be performed by a CPA within a CPA firm that holds a permit to practice);
- b. Supervising or performing compilation services or otherwise issuing compilation reports (which may only be performed by a CPA or LPA); or
- c. Performing any accounting, tax, consulting, or financial or managerial advisory services for any client, business, employer, government body, or other entity while holding oneself out as a CPA or LPA, or otherwise using titles regulated by Iowa Code section 542.13.

**5.7(3) Affirmation.** The application form will contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa listed in subrule 5.7(2) without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to subrule 5.7(7).

**5.7(4) Renewal.** A person licensed in inactive status may renew the person’s certificate or license on the schedule described in rule 193A—5.1(542). Such person is exempt from the continuing education under 193A—Chapter 10 and will be charged a reduced renewal fee as provided in rule 193A—12.1(542). An inactive certificate or license lapses if not timely renewed.

**5.7(5) Permitted practices.** A person may, while registered as inactive, perform for a client, business, employer, government body, or other entity those accounting, tax, consulting, or financial or managerial advisory services that may lawfully be performed by a person to whom a certificate or license has never been issued as long as the person does not in connection with such services use the title “CPA” or “LPA,” or any other title regulated under Iowa law for use only by CPAs or LPAs in Iowa Code section 542.13 (with or without additional designations such as “inactive”). Regulated titles may only be used by active CPAs or LPAs who are subject to continuing education under 193A—Chapter 10 to ensure that the use of

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

such titles is consistently associated with the maintenance of competency through continuing education. Additionally, individuals who are actively licensed as CPAs in another jurisdiction in which they maintain their principal place of business may be eligible to exercise a practice privilege pursuant to Iowa Code section 542.20 and 193A—Chapter 20.

**5.7(6) *Unauthorized practices.*** A person who, while licensed in inactive status, engages in any of the practices described in subrule 5.7(2) or violates any provision of rule 193A—14.2(17A,272C,542) is subject to disciplinary action. A person in inactive status is not authorized to verify the experience of an applicant for a CPA certificate under Iowa Code section 542.5(12) or an applicant for an LPA license under Iowa Code section 542.8(8).

**5.7(7) *Reinstatement to active status.*** A person licensed in inactive status needs to, prior to engaging in any of the practices in Iowa listed in subrule 5.7(2) or for a client with a home office in Iowa, apply to the board to reinstate to active status. Such person will be obligated to pay the applicable renewal fee for active status, but is given credit for renewal fees previously paid for inactive status if the person applies for reinstatement at a date other than the person's regular renewal date. Such person will be obligated to demonstrate compliance with all applicable continuing education and peer review obligations. A person who has engaged in the practice of public accounting as an active licensee of another jurisdiction while licensed as inactive in Iowa will be deemed to have satisfied the continuing education obligations for reinstatement if the person demonstrates that the person has satisfied substantially equivalent continuing education in the other jurisdiction.

**5.7(8) *Retired status.*** A person holding an inactive license who does not reasonably expect to return to the workforce in the practice of public accounting due to bona fide retirement or disability may use the title "CPA, retired" or "LPA, retired," as applicable, in the context of non-income-producing personal activities. These designations may only be used during a period of bona fide retirement or disability.

These rules are intended to implement Iowa Code chapters 272C and 542 and section 546.10.

**ARC 7389C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Notice of Intended Action**

**Proposing rulemaking related to attest and compilation services  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 6, "Attest and Compilation Services," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Attest is an additional certification above the Certified Public Accountant (CPA) "standard" license. Chapter 6 covers the functionality of attest and the additional experience necessary to request the additional certification.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

ITEM 1. Rescind 193A—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6  
ATTEST AND COMPILATION SERVICES

**193A—6.1(542) Who may perform attest services.**

**6.1(1)** Only a CPA may perform audit, review, or other attest services, as defined in Iowa Code section 542.3(1).

**6.1(2)** Only an actively licensed attest-certified Iowa CPA or an out-of-state licensee exercising a practice privilege under Iowa Code section 542.20 may perform attest services in Iowa or for a client with a home office in Iowa. CPAs are cautioned, however, that a government body, or a client may obligate that an individual be licensed in Iowa as a condition of performing attest services in Iowa or for a client with a home office in Iowa, whether or not the individual may otherwise satisfy the conditions for a practice privilege. Iowa licensure as a certified public accountant is a precondition, for example, to perform certain audit services described in Iowa Code chapter 11.

**6.1(3)** CPAs performing attest services, whether the CPAs are certified in Iowa or exercising a practice privilege, may only do so in a CPA firm that holds a permit to practice pursuant to Iowa Code section 542.7 or in an out-of-state CPA firm exercising a practice privilege in compliance with Iowa Code section 542.20(5) and 542.20(6) and associated rules and the peer review and ownership provisions of Iowa Code section 542.7.

**6.1(4)** CPAs who are responsible for supervising attest services for a CPA firm or who sign or authorize someone to sign the accountant's report on behalf of a CPA firm are obligated to satisfy the experience or competency obligations established by nationally recognized professional standards that are applicable to the attest services performed.

**193A—6.2(542) Necessary attest experience.**

**6.2(1)** A CPA who is responsible for supervising attest services or who signs or authorizes someone to sign the accountant's report on behalf of a firm is obligated to have two years of full-time or part-time equivalent experience that extends over a period of no less than two years and includes no fewer than 4,000 hours, including at least 2,000 hours providing attest services under the supervision of one or more CPAs responsible for supervising attest services on behalf of a CPA firm that holds a permit to practice in Iowa or an equivalent form of CPA firm licensure in another jurisdiction.

**6.2(2)** Experience needs to include all of the following:

*a.* Experience in applying a variety of attest procedures and techniques to the usual and customary financial transactions recorded in accounting records.

*b.* Experience in the preparation of attest working papers covering the examination of the accounts usually found in accounting records.

*c.* Experience in the planning of the program of attest work, including the selection of the procedures to be followed.

*d.* Experience in the preparation of written explanations and comments on the findings of the examinations and on the content of the accounting records.

*e.* Experience in the preparation and analysis of reports and financial statements together with explanations and notes thereon.

**6.2(3)** Attest experience is verified by the applicant and by a CPA who supervised the applicant or, if a supervising CPA is unavailable, by a CPA or CPA firm with sufficient factual documentation to verify the applicant's attest qualification.

**6.2(4)** Any applicant or CPA who has been requested to submit to the board evidence of an applicant's attest experience and has refused to do so will, upon request by the board, explain in writing or in person the basis for the refusal. The board may obligate any applicant or CPA who furnished the evidence of an applicant's experience to substantiate the information provided. An applicant may be obligated to appear before the board to supplement or verify evidence of experience. The board may inspect documentation relating to an applicant's claimed experience.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**193A—6.3(542) Attest qualification.**

**6.3(1)** Attest qualification is necessary before a CPA may perform attest services in Iowa or for a client with a home office in Iowa. “Attest qualification” or “attest qualified” means that the CPA has satisfied the experience obligations of rule 193A—6.2(542).

**6.3(2)** All CPAs who held an individual permit to practice in Iowa at any point prior to July 1, 2002, are deemed to be attest qualified. Under Iowa law prior to July 1, 2002, CPAs were only issued an individual permit to practice if they verified qualification to perform attest services. Individual permits to practice were discontinued under Iowa law effective July 1, 2002.

**6.3(3)** CPAs who did not hold a permit to practice prior to July 1, 2002, may attain or establish attest qualification as follows:

*a.* Applicants may apply for attest qualification when initially applying for a certificate as an Iowa CPA under Iowa Code section 542.6 or when applying for reciprocal Iowa certification under Iowa Code section 542.19 or any other applicable law or rule.

*b.* Iowa CPA certificate holders may apply for attest qualification at any time at which they are qualified to do so.

*c.* Out-of-state CPAs performing attest services while exercising a practice privilege under Iowa Code section 542.20 do not have to individually apply to the board for attest qualification. However, if:

(1) CPAs perform attest services in an Iowa CPA firm, the Iowa CPA firm will affirm when applying for an initial or renewal firm permit to practice that the CPAs who supervise attest services for the firm or who sign or authorize someone to sign the accountant’s report on behalf of the firm, as such attest services are or will in the following year be performed in Iowa or for a client with a home office in Iowa, have been qualified to perform attest services in Iowa or another jurisdiction.

(2) CPAs perform attest services through an out-of-state CPA firm exercising a practice privilege, the out-of-state CPA firm will affirm upon request from the board that the CPAs who supervise attest services for the firm or who sign or authorize someone to sign the accountant’s report on behalf of the firm, as such attest services are or will in the following year be performed in Iowa or for a client with a home office in Iowa, have been qualified to perform attest services in Iowa or another jurisdiction.

**193A—6.4(542) Compilation services.**

**6.4(1)** Only a CPA licensed by the board under Iowa Code section 542.6 or 542.19, or any other applicable law or rule; an LPA licensed by the board under Iowa Code section 542.8 or any other applicable law or rule; or a person exercising a practice privilege under Iowa Code section 542.20 may issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa.

**6.4(2)** An individual described in subrule 6.4(1) may perform compilation services through a CPA firm that holds a permit to practice under Iowa Code section 542.7, an LPA firm that holds a permit to practice under Iowa Code section 542.8, a CPA firm exercising a practice privilege under Iowa Code section 542.20, or, if both the individual and business comply with Iowa Code section 542.13(13), through any other form of business.

**6.4(3)** All individuals described in subrule 6.4(1) who are responsible for supervising compilation services or who will sign or authorize someone to sign the accountant’s compilation report on financial statements, as such compilation services will be performed in Iowa or for a client with a home office in Iowa, are obligated to comply with the nationally recognized professional standards that are applicable to compilation services, including SSARS.

**6.4(4)** All individuals described in subrule 6.4(1) will satisfy peer review obligations, individually or through the peer review of a CPA or LPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or 542.8 or a CPA firm exercising a practice privilege under Iowa Code section 542.20.

These rules are intended to implement Iowa Code chapter 542.

**ARC 7390C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Notice of Intended Action**

**Proposing rulemaking related to certified public accounting firms  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 7, “Certified Public Accounting Firms,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 7 offers information to acquire and maintain a Certified Public Accountant (CPA) firm license in Iowa. It also offers helpful guidance on when a CPA firm license may or may not be necessary.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7  
CERTIFIED PUBLIC ACCOUNTING FIRMS

**193A—7.1(542) When licensure is needed.**

**7.1(1)** Except as provided in 193A—Chapter 21, a sole proprietorship, corporation, partnership, limited liability company, or any other form of organization is obligated to apply for a permit to practice as a firm of certified public accountants pursuant to Iowa Code section 542.7.

**7.1(2)** A firm that is not subject to subrule 7.1(1) may practice public accounting in Iowa in accordance with Iowa Code section 542.7(1)“b.”

**7.1(3)** Unless individual Iowa licensure is needed by a government body or a client, the public accounting services provided by a CPA firm holding an Iowa permit to practice may be performed in Iowa or for a client with a home office in Iowa by Iowa CPAs or wholly by persons exercising a practice privilege under Iowa Code section 542.20.

**7.1(4)** A CPA firm issued a permit to practice by the board is accountable to the board and subject to discipline by the board for the acts of its owners or other agents, pursuant to 193A—subrule 14.2(4), whether or not such persons are individually licensed by the board.

**193A—7.2(542) Application process.**

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**7.2(1)** All applications are submitted through the board's online application process. The board will only process fully completed applications accompanied by the proper fee. Each application fee is nonrefundable.

**7.2(2)** An initial or renewal application for a firm permit to practice may be denied:

- a. Pursuant to Iowa Code section 542.7(3) "f";
- b. Based on the firm's failure to comply with Iowa Code section 542.7 or a failure to sustain the simple majority of ownership obligations of Iowa Code section 542.7(3); or
- c. Based on a regulatory or disciplinary action or to the extent applicable, subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, criminal conviction described in subrules 7.3(14) and 7.3(15) against any of the firm's licensed or unlicensed owners.

**193A—7.3(542) Application contents.** Applicants for a firm permit to practice will provide information requested by the board, including:

**7.3(1)** The lawful name of the firm.

**7.3(2)** The legal form and jurisdiction of the firm's organization.

**7.3(3)** Contact information for the principal place of business of the firm and each Iowa office.

**7.3(4)** All jurisdictions in which the firm is licensed or has applied for licensure.

**7.3(5)** The names, licensure, and contact information for all persons responsible for supervising attest and compilation service, or responsible for the proper licensure of the firm.

**7.3(6)** The highest level of public accounting services offered by the firm, such as compilation or attest.

**7.3(7)** Evidence of satisfactory completion of the last firm peer review, when applicable.

**7.3(8)** Sufficient information from which the board can determine that a simple majority of owners hold a CPA certificate under Iowa Code section 542.6 or 542.19 or hold a CPA certificate in another state and are eligible to exercise a practice privilege under Iowa Code section 542.20. The board reserves the right to request at any time a full list of owners, or a targeted sublist, such as a list of those persons who perform services from an Iowa office or those who perform attest or compilation services in Iowa or for a client with a home office in Iowa.

**7.3(9)** The affirmation described in 193A—paragraph 6.3(3) "c."

**7.3(10)** Affirmation that all CPAs who are responsible for supervising attest services for the CPA firm or who sign or authorize someone to sign the accountant's report on behalf of the CPA firm satisfy the experience or competency standards established by nationally recognized professional standards.

**7.3(11)** Affirmation that all CPAs or LPAs who are responsible for supervising compilation services or who sign or authorize someone to sign the accountant's compilation report on behalf of the firm comply with nationally recognized professional standards that are applicable to the compilation services performed in Iowa or for a client with a home office in Iowa.

**7.3(12)** Affirmation that all nonlicensee owners are active participants in the firm or affiliated entity.

**7.3(13)** Affirmation that the firm and its licensed or unlicensed owners will comply with all applicable Iowa laws and rules, including rules of professional conduct, when practicing in Iowa or for a client with a home office in Iowa.

**7.3(14)** Details of any past denial, cancellation, revocation, suspension, refusal to renew, or voluntary surrender of a professional license of any kind, authority to practice, or practice privilege by the board or another state agency in any jurisdiction, a federal agency, or the PCAOB, regarding the firm and the firm's current owners (e.g., partners, shareholders, or members).

**7.3(15)** Details of any past felony conviction or the conviction of any crime, any element of which is dishonesty or fraud, as provided in Iowa Code section 542.5(2), under the laws of any state or the United States, regarding the firm and the firm's current owners (e.g., partners, shareholders, or members).

**193A—7.4(542) Renewal procedures.**

**7.4(1)** The permit holder will submit an electronic online renewal by the June 30 deadline each year. Applications are deemed filed on the date of electronic renewal.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**7.4(2)** The permit holder will list on the renewal application all states in which the applicant has applied for or holds a permit as a certified public accounting firm and list any past denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a permit to practice or practice privilege. Renewal applications include such additional information as the board needs, including all of the information described in rule 193A—7.3(542).

**7.4(3)** Within the meaning of Iowa Code chapters 17A, 272C and 542, a timely and sufficient renewal application will be:

- a. Received by the board in electronic form on or before June 30;
- b. Certified as accurate through the online renewal process;
- c. Fully completed and accompanied with the proper fee. The fee will be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or a closed account.

**193A—7.5(542) Failure to renew permit.**

**7.5(1)** A firm that fails to renew the permit by the expiration date, but does so within 30 days following the expiration date, will be assessed a penalty as provided in rule 193A—12.1(542).

**7.5(2)** If the firm fails to renew the permit within the 30-day grace period outlined in rule 193A—7.6(542), the permit will lapse and the firm will need to reinstate in accordance with rule 193A—7.7(542). The firm is not authorized to practice during the period of time that the permit is lapsed, including the 30-day grace period.

**7.5(3)** The board may reinstate the permit upon payment of the proper renewal fee and a penalty as provided in rule 193A—12.1(542). A written statement outlining the firm's professional activities during the period of lapsed licensure, including a list of Iowa clients and the services performed, is also needed.

**7.5(4)** The board may find probable cause to file charges for unlicensed practice if the firm engaged in any activity that obligates licensure pursuant to subrule 7.1(1) during the period of lapsed licensure. In addition to the disciplinary sanctions described in rule 193A—16.3(272C,542), firms found to have practiced public accounting in violation of subrule 7.1(1) on a lapsed license will notify clients upon such terms as the board orders.

**193A—7.6(542) Notice to the board.** A holder of or applicant for a permit shall notify the board in writing within 30 days pursuant to Iowa Code section 542.7(6).

**193A—7.7(542) Noncompliance.** The board may grant a reasonable period of time, usually 90 days, for a firm to take such corrective action pursuant to Iowa Code section 542.7(7).

These rules are intended to implement Iowa Code chapters 17A, 272C and 542 and section 546.10.

**ARC 7391C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Notice of Intended Action**

**Proposing rulemaking related to licensed public accounting firms  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 8, "Licensed Public Accounting Firms," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 8 offers information on how to acquire a Licensed Public Accounting (LPA) firm license in Iowa.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:tel.meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 8 and adopt the following new chapter in lieu thereof:

CHAPTER 8  
LICENSED PUBLIC ACCOUNTING FIRMS

**193A—8.1(542) Initial permit to practice.**

**8.1(1)** A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization may apply for a permit to practice under Iowa Code section 542.8.

**8.1(2)** The application may be completed and submitted through the online application process and provide sufficient information pursuant to Iowa Code section 542.8(12) or certificates issued by the board under Iowa Code section 542.6 or 542.19 or are eligible to practice under practice privilege pursuant to Iowa Code section 542.20, or otherwise hold a license or certificate to practice public accounting in another state. At least one owner has to be licensed under Iowa Code section 542.8.

**8.1(3)** The application will list the physical location and contact information for all offices within this state and the licensee in charge of each such office.

**8.1(4)** Fraud or deceit, by commission or omission, in obtaining a firm permit to practice is a ground for discipline, including permanent revocation of the firm's permit to practice, the individual certificate of an Iowa LPA or CPA, or an individual's practice privilege, as applicable to the entity or persons responsible.

**8.1(5)** An initial or renewal application for a firm permit to practice may be denied pursuant to Iowa Code section 542.8(12) "e."

**193A—8.2(542) Renewal procedures.** The permit holder will submit an online renewal with the board by the June 30 deadline each year. Applications are deemed filed on the date of renewal.

**193A—8.3(542) Failure to renew permit.**

**8.3(1)** A firm that fails to renew the permit by the expiration date, but does so within 30 days following the expiration date, will be assessed a penalty of 25 percent of the annual renewal fee.

**8.3(2)** If the firm fails to renew the permit within the 30-day grace period outlined in subrule 8.3(1), the permit will lapse and the firm may then reinstate in accordance with subrule 8.3(3). The firm is not authorized to practice as an LPA firm during the period of time that the permit is lapsed, including the 30-day grace period.

**8.3(3)** The board may reinstate the permit upon payment of the proper renewal fee and a penalty as provided in rule 193A—12.1(542). A written statement outlining the firm's professional activities during the period of lapsed licensure is needed in this context.

**8.3(4)** The board may find probable cause to file charges for unlicensed practice if the firm continues to offer services defined as the practice of accounting while using the title "LPAs" or "LPA firm" during the period of lapsed licensure.



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**193A—8.4(542) Notice to the board.** A holder of or an applicant for a permit will notify the board in writing within 30 days in compliance with Iowa Code section 542.8(15).

**193A—8.5(542) Noncompliance.** A firm which, after receiving or renewing a permit, is not in compliance with Iowa Code section 542.8 as a result of a change in firm ownership or personnel will take corrective action to bring the firm back into compliance as quickly as possible or apply to modify or amend the permit. The board may grant a reasonable period of time, usually 90 days, for a firm to take such corrective action. Failure to comply within a reasonable period as deemed by the board will result in the suspension or revocation of the firm permit.

**193A—8.6(542) Peer review obligations.** Firm peer review is necessary pursuant to Iowa Code section 542.7(8).

These rules are intended to implement Iowa Code chapters 17A, 272C and 542 and section 546.10.

**ARC 7392C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to reciprocity and substantial equivalency  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 9, “Reciprocity and Substantial Equivalency,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 9 provides useful information on substantial equivalency and license by reciprocity. These paths streamline the process for those seeking licensure in other jurisdictions.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 12:30 to 12:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a> Phone numbers: <a href="tel:meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>
January 31, 2024 12:30 to 12:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a> Phone numbers: <a href="tel:meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9  
RECIPROCITY AND SUBSTANTIAL EQUIVALENCY

**193A—9.1(542) Iowa CPA certificate necessary.** A person who holds a certificate or license to practice as a CPA in another state or a substantially equivalent designation from a foreign jurisdiction may apply

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

to the board for an Iowa CPA certificate and has to do so if the person plans to establish the person's principal place of business as a CPA in Iowa.

**193A—9.2(542) Application forms.** Application forms may only be completed and submitted through the online application process. An applicant will attest that all information provided on the form is true and accurate. An application may be denied based on a false statement of material fact. A nonrefundable fee will be charged to each applicant as provided in 193A—Chapter 12.

**193A—9.3(542) Background and character.**

**9.3(1)** An applicant for a CPA certificate under this chapter will disclose on the application all background and character information requested by the board including, but not limited to:

- a. All states or foreign jurisdictions in which the applicant has applied for or holds a CPA certificate or license, or a substantially equivalent designation from a foreign country;
- b. Any past denial, revocation, suspension, or refusal to renew a CPA certificate, license or permit to practice, or voluntary surrender of a CPA certificate, license or permit to resolve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation;
- c. Any other form of discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation;
- d. The conviction of any felony or any crime described in Iowa Code section 542.5(2);
- e. The revocation of a professional license of any kind in this or any other jurisdiction; and
- f. Such additional information as the board may request to determine if grounds exist to deny certification under 193A—subrule 3.1(2).

**9.3(2)** The board may deny an application based on prior discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation, or on any of the grounds listed in 193A—subrule 3.1(2).

**193A—9.4(542) Verification of state licensure.** An applicant holding a CPA certificate or license from another state or states will submit verification that the applicant's CPA certificate or license is valid and in good standing in the state in which the applicant's principal place of business is located. An applicant applying for a CPA certificate under the substantial equivalency provisions of Iowa Code section 542.19(1) "a" and paragraph 9.5(1) "a" may attach a letter of good standing to the application. Such letter of good standing will be prepared by the state in which the applicant's principal place of business is located and be dated within six months of the date of the application. To expedite the application process, the board will accept verification from another state's board by facsimile or email. The board reserves the right to request an original verification document directly from another state board.

**193A—9.5(542) Qualifications for a CPA certificate.**

**9.5(1)** A person who holds in good standing a valid CPA certificate or license from another state is deemed qualified for an Iowa CPA certificate if the person satisfies one of the following three conditions:

- a. *Substantially equivalent state.* The licensing standards on education, examination and experience of the state that issued the applicant's CPA certificate or license were, at the time of licensure, comparable or superior to the education, examination and experience obligations of Iowa Code chapter 542 in effect at the time the application is filed in Iowa. The board may accept the determination of substantial equivalency made by the National Association of State Boards of Accountancy or may make an independent determination of substantial equivalency.
- b. *Individual substantial equivalency.* The applicant's individual qualifications on education, examination and experience are comparable or superior to the education, examination and experience obligations of Iowa Code chapter 542 in effect at the time the application is filed in Iowa.
- c. *"Four-in-ten rule."* The applicant satisfies all of the following:
  - (1) The applicant passed the examination necessary for issuance of the applicant's certificate or license with grades that would have been passing grades at the time in this state.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

(2) The applicant has had at least four years of experience within the ten years immediately preceding the application that occurred after the applicant passed the examination upon which the CPA certificate or license was based and that in the board's opinion is substantially equivalent to the obligations set forth in Iowa Code section 542.5(12).

(3) If the applicant's CPA certificate or license was issued more than four years prior to the filing of the application in this state, the applicant has fulfilled the continuing professional education mandates as described in Iowa Code section 542.6(3) and 193A—Chapter 10.

**9.5(2)** A person who holds in good standing a certificate, license or designation from a foreign authority that is substantially equivalent to an Iowa CPA certificate is deemed qualified for an Iowa CPA certificate if the person satisfies all of the provisions of Iowa Code section 542.19(3). The burden is on the applicant to demonstrate that such certificate, license or foreign designation is in full force and effect and that the prerequisites for that certificate, license or foreign designation are comparable or superior to those needed for a CPA certificate in this state. Original verification from the foreign authority that issued the certificate, license or designation is needed to demonstrate that such certificate, license or designation is valid and in good standing. If the applicant cannot establish comparable or superior qualifications, the applicant will need to pass the uniform certified public accountant examination designed to test the applicant's knowledge of practice in this state and country. If the applicant is a Canadian Chartered Accountant, Australian Chartered Accountant, Ireland Chartered Accountant, Mexico Contador Público Certificado (CPC), New Zealand Chartered Accountant, Scottish Chartered Accountant, or South African Chartered Accountant, the applicant may be obligated to take the International Uniform CPA Qualification Examination (IQEX) in lieu of the uniform certified public accountant examination.

**9.5(3)** An applicant seeking an Iowa CPA certificate based on the provisions of 9.5(1) "b," 9.5(1) "c" or 9.5(2) will submit such supporting information on education, examination or experience as the board deems reasonable to determine whether the applicant qualifies for licensure in Iowa.

**193A—9.6(542) Continuing obligations.** A person issued a CPA certificate under this chapter is subject to all laws and rules governing persons holding CPA certificates issued in this state including, without limitation, those concerning continuing education, peer review, and notification of crimes and professional discipline. However, a person issued a CPA certificate under this chapter who maintains the principal place of business in a different state and who maintains in good standing a valid CPA certificate or license in that state is deemed to have satisfied the continuing education and peer review obligations described in 193A—Chapters 10 and 11 if the person satisfies similar obligations in the state in which the principal place of business is located.

**193A—9.7(542) Expedited application processing.** A person applying for a CPA certificate under the substantial equivalency provisions of Iowa Code section 542.19(1) "a" often desires expedited application processing to facilitate cross-border practice. Applications by such persons are especially suitable for rapid processing given the substantially equivalent standards previously enforced in another state. Unless such application reveals grounds to deny the application under subrule 9.3(2), the board is otherwise aware of such grounds, or the application is unaccompanied by the proper fee, the board's administrator will approve an application that qualifies under Iowa Code section 542.19(1) "a" as rapidly as feasible and deem the effective date of approval to practice in Iowa to be the date the board received the completed application with timely letter of good standing in a substantially equivalent state.

These rules are intended to implement Iowa Code section 542.19.

**ARC 7393C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 10, “Continuing Education,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 10 sets forth continuing education requirements for individual Certified Public Accountants (CPAs)/Licensed Public Accountants (LPAs). It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that CPAs and LPAs maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:tel.meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10  
CONTINUING EDUCATION

**193A—10.1(542) Scope.** The right to use the title “Certified Public Accountant” and “Licensed Public Accountant” is regulated in the public interest and imposes a duty on accounting professionals to maintain public confidence and current knowledge, skills, and abilities in all areas of services. CPAs and LPAs have to accept and fulfill their ethical responsibilities to the public and the profession regardless of their fields of employment.

**10.1(1)** The development of professional competence involves a continued commitment to learning and professional improvement. A CPA and an LPA performing professional services need to have a broad range of knowledge, skills and abilities. A program that promotes professional competence in the practice of accountancy is defined as one that refers to the process, methods, or principles of accounting or is directly related to the CPA's and LPA's employment and is above the level of the CPA's and LPA's current knowledge.

**10.1(2)** Acceptable subjects for continuing professional education include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including nontechnical professional skills, may be approved by the board if they maintain or improve CPAs' and LPAs' competence in their current employment.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**193A—10.2(542) Definitions.** The following definitions apply to the rules of this chapter.

“*Continuing professional education (CPE)*” means education that is acquired by a licensee in order to maintain, improve, or expand skills and knowledge present at initial licensure or to develop new and relevant skills and knowledge.

“*Firm meeting*” means a formally arranged gathering/assembly of staff or management groups or both to inform them of administrative matters.

“*Formal program*” means a structured learning activity based on clearly defined learning objectives and outcomes that articulate achievable knowledge, skills and abilities.

“*In-house or on-site training*” means a formally organized professional educational program sponsored by the employer.

“*Live instruction*” means an educational program delivered in a classroom setting or through videoconferencing whereby the instructor and student carry out essential tasks while together. Examples include distance learning and webcasts.

“*Nontechnical professional skills*” means formal programs of learning that contribute to the professional competence of a certificate holder or license holder in fields of study that indirectly relate to the holder’s field of business. “Nontechnical professional skills” includes, but is not limited to, the following programs or courses:

1. Communication;
2. Interpersonal management;
3. Leadership and personal development;
4. Client and public relations;
5. Practice development;
6. Marketing;
7. Motivational and behavioral; and
8. Speed reading and memory building.

“*Qualified instructor*” means an individual whose training and experience adequately prepares the individual to carry out specified training assignments.

“*Self-study*” means a computer-generated program or written materials or exercises intended for self-study that do not include simultaneous interaction with an instructor but do include tests transmitted to the provider for review and grading.

“*Technical professional skills*” means formal programs of learning that contribute to the professional competence of a certificate holder or license holder in fields of study that directly relate to the holder’s field of business. “Technical professional skills” includes, but is not limited to, the following programs or courses:

1. Auditing standards or procedures;
2. Compilation and review of financial statements;
3. Financial statement preparation and disclosures;
4. Attestation standards and procedures;
5. Projection and forecast standards or procedures;
6. Accounting and auditing;
7. Management advisory services;
8. Personal financial planning;
9. Taxation;
10. Management information systems;
11. Budgeting and cost analysis;
12. Asset management;
13. Professional ethics;
14. Specialized areas of industry;
15. Human resource management;
16. Economics;
17. Business law;
18. Mathematics, statistics and quantitative applications in business;

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

19. Business management and organization;
20. General computer skills, computer software training, information technology planning and management;
21. Operations management, inventory, and production; and
22. Negotiation or dispute resolution.

**193A—10.3(542) Applicability.** Completion of continuing professional education is a condition precedent to the renewal of the certificate or license.

**193A—10.4(542) Cost of continuing professional education.** All costs of completing continuing professional education are the responsibility of the certificate holder or license holder wishing to maintain registration in this state.

**193A—10.5(542) Basic continuing professional education.**

**10.5(1)** Except as provided in subrules 10.5(2) to 10.5(7), an applicant for renewal will have completed 120 hours of qualifying continuing professional education during the three-year period ending on the December 31 or June 30 preceding the July 1 renewal date of the certificate or license. The following conditions apply:

- a.* On each renewal, a CPA or LPA self-selects December 31 or June 30 as the date by which continuing education will be completed in order to be eligible to renew the certificate or license.
- b.* A CPA or LPA applying to renew a certificate or license may declare a continuing education deadline of December 31 in one renewal cycle and a continuing education deadline of June 30 in a subsequent renewal cycle, and vice versa.
- c.* Licensees need to maintain continuing education records in a manner that corresponds with the self-selected continuing education deadline of December 31 or June 30.
- d.* When declaring a June 30 continuing education deadline, licensees should be cautious to ensure that the continuing education is fully completed on or prior to the date the renewal application is submitted to the board.
- e.* Licensees who renew with penalty during the 30-day grace period following June 30 need to declare either December 31 or June 30 as the continuing education deadline. The deadline cannot be extended beyond June 30.

**10.5(2)** At the first annual renewal date of July 1 that is less than 12 months from the date of filing of the initial application for the certificate or license, the certificate holder or license holder is not required to report continuing professional education.

**10.5(3)** At the annual renewal date of July 1 that is 12 months or more than 12 months, but less than 24 months, from the date of filing of the initial application for the certificate or license, the certificate holder or license holder will report 40 hours of continuing professional education earned in the one-year period ending December 31 or June 30 prior to the July 1 renewal date.

**10.5(4)** At the annual renewal date of July 1 that is 24 months or more than 24 months, but less than 36 months, from the date of filing of the initial application for the certificate or license, the certificate holder or license holder will report 80 hours of continuing professional education earned in the two-year period ending December 31 or June 30 prior to the July 1 renewal date.

**10.5(5)** A licensee is deemed to have completed continuing education under this rule if, for the period that the licensee is a resident of another state or district having a continuing professional education obligation, the licensee met the resident state's mandatory continuing professional education.

**10.5(6)** The board may make exceptions for reasons of individual hardship including health, certified by a medical doctor, military service, foreign residency, retirement, or other good cause. No exceptions may be made solely because of age. Applicants entitled to a full or partial exception under the provisions of Iowa Code section 272C.2(4) for active military service or government service outside of the United States may request an exception by submitting acceptable documentation as applicable to the exception requested. Applicants seeking an exception on other grounds of undue hardship can submit an application for waiver as provided in 193—Chapter 5.



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**10.5(7)** Licensees who apply to reinstate a lapsed or inactive certificate or license to active status pursuant to 193A—subrule 5.6(3) or 5.9(7) need to satisfy 120 hours of continuing professional education earned in the preceding three-year period prior to the date of the application, including all mandatory education described in rule 193A—10.7(542). Once the certificate or license is reinstated, the continuing education obligations apply at each subsequent renewal. The 120-hour obligation described in this subrule is modified as needed to incorporate the phase-in schedule for initial licensees described in subrules 10.5(2) to 10.5(4).

**193A—10.6(542) Measurement standards.** The following standards will be used to measure the hours of credit to be given for qualifying continuing professional education programs completed by individual applicants:

**10.6(1)** Credit is measured with one 50-minute period equaling one contact hour of credit. Half-hour credits may be allowed (equal to not less than 25 minutes) after the first hour of credit has been earned.

**10.6(2)** Only class hours or the equivalent, and not student hours devoted to preparation, will be counted.

**10.6(3)** Credit expressed as continuing education units (CEUs) will be counted as ten contact hours for each continuing professional education unit. (.1 CEU = 1 CPE)

**10.6(4)** Service as lecturer or discussion leader of continuing professional education programs will be counted to the extent that this service contributes to the applicant's professional competence.

**193A—10.7(542) Mandatory education.**

**10.7(1)** Every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on behalf of a firm will complete, as a condition of certificate or license renewal, a minimum of eight hours of continuing professional education devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates. The financial statement presentation continuing education has to be completed within the three-year period ending on the December 31 or June 30 preceding the application for certificate or license renewal. For credit to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.6(1) has to be devoted to financial statement presentation. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to financial statement presentation, then only one hour may be claimed toward satisfaction of this subrule.

**10.7(2)** Every CPA certificate holder or LPA license holder needs to complete a minimum of four hours of continuing education devoted to ethics and rules of professional conduct during the three-year period ending December 31 or June 30, prior to the July 1 annual renewal date. For a course to qualify to satisfy this subrule, the course description will clearly outline the subject matter covered as professional or business ethics. If credit is to be claimed for a course covering multiple topics, a minimum of one hour as outlined in rule 193A—10.6(542), measurement standards, specifically in subrule 10.6(1), needs to be devoted to business or professional ethics. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to business or professional ethics, then only one hour may be claimed toward satisfaction of this subrule. Ethics courses, which are defined as courses dealing with regulatory and behavioral ethics, are limited to courses on the following:

- a. Professional standards;
- b. Licenses and renewals;
- c. SEC oversight;
- d. Competence;
- e. Acts discreditable;
- f. Advertising and other forms of solicitation;
- g. Independence;
- h. Integrity and objectivity;
- i. Confidential client information;
- j. Contingent fees;

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

- k.* Commissions;
- l.* Conflicts of interest;
- m.* Full disclosure;
- n.* Malpractice;
- o.* Record retention;
- p.* Professional conduct;
- q.* Ethical practice in business;
- r.* Personal ethics;
- s.* Ethical decision making; and
- t.* Corporate ethics and risk management as these topics relate to malpractice and relate solely to the practice of certified public accounting.

**193A—10.8(542) Programs that qualify and CPE limitations.**

**10.8(1)** The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning that contributes directly to the professional competence of an individual certified or licensed in this state. It will be left to each individual certificate holder or license holder to determine the technical or nontechnical professional skills courses of study to be pursued. Thus, the auditor may study accounting and auditing, the tax practitioner may study taxes, and the management advisory services practitioner may study subjects related to such practice. Job-related continuing professional education qualifies as acceptable provided the courses selected from nontechnical professional skills contribute to the professional competence of the certificate holder or license holder.

**10.8(2)** Program standards have to include the following:

- a.* Learning activities based on clearly defined, relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants.
- b.* Learning activities developed in a manner consistent with the prerequisite education, experience, and advanced preparation of the participants.
- c.* Activities, materials, and delivery systems that are current, technically accurate, and effectively designed. Providers, sponsors, or contractors that are competent in the subject matter. Competence may be demonstrated through practical experience or education.
- d.* Learning programs that are reviewed by qualified persons other than those who develop the program to ensure that the program is technically accurate and current and addresses the stated learning objectives. This standard is waived for single presentations such as lectures that are given once.

**10.8(3)** Continuing professional education programs will qualify only if:

- a.* An outline of the program is prepared in advance and preserved.
- b.* The program is at least one hour (50-minute period) in length.
- c.* The program is conducted by a qualified instructor, discussion leader or lecturer. A qualified instructor, discussion leader or lecturer is anyone whose background, training, education or experience makes it appropriate for that person to lead a discussion on the subject matter of the particular program.
- d.* A record of attendance or certification of completion or transcript is maintained.

**10.8(4)** The following programs are deemed to qualify provided all other criteria of this rule are met.

- a.* Professional development programs of recognized national and state accounting organizations.
- b.* Technical sessions at meetings of recognized national and state accounting organizations and their chapters.
- c.* Formally organized in-house or on-site educational programs provided by the certificate holder's or license holder's employer.
- d.* Distance learning programs or group study Webcast programs.
- e.* University or college courses meet the continuing professional education obligations of those attending.

Each semester hour is equal to 15 contact hours of credit. Each quarter hour is equal to 10 contact hours of credit.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

*f.* Technical or nontechnical sessions offered by employers in business and industry, as well as firms of certified public accountants.

**10.8(5)** Formal correspondence and formal self-study programs contributing directly to the professional competence of an individual that obligate the licensee to register and provide evidence of satisfactory completion will be considered for credit. The amount of credit to be allowed for correspondence and formal self-study programs (including tested study programs) will be recommended by the program sponsor and based upon appropriate “field tests” and will not exceed 50 percent of the renewal obligation. A licensee claiming credit for correspondence or formal self-study courses will obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the renewal period in which the course is completed.

**10.8(6)** Credit may be allowed for self-study programs on the basis of one hour of credit for each 50 minutes spent on the self-study program if the developer of such programs is approved by either the national continuing professional education registry or by the NASBA continuing education registry and the program sponsor has not designated the amount of credit to be claimed for completing the course of study. The licensee has to estimate the equivalent number of hours and justify the amount of hours claimed. The maximum credit will not exceed 50 percent of the renewal obligation. Credit will be allowed in the renewal period in which the course is completed.

**10.8(7)** The credit allowed an instructor, discussion leader, or speaker will be on the basis of two hours for subject preparation for each hour of teaching. Credit for teaching college or university coursework may be claimed for courses taught above the elementary accounting or principles of accounting level. Repetitious presentations will not be considered. The maximum credit for such preparation and teaching will not exceed 50 percent of the renewal period obligation.

**10.8(8)** Credit may be awarded for published articles and books. The amount of credit so awarded will be determined by the board. Credit may be allowed for published articles and books provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be given on a self-declaration basis up to 25 percent of the renewal period obligation. In exceptional circumstances, a licensee may request additional credit by submitting the article(s) or book(s) to the board with an explanation of the circumstances that the licensee believes justify additional credit.

**10.8(9)** Credit may be allowed for the successful completion of professional examinations as detailed below. Credit is calculated at the rate of five times the length of each examination, which is presumed to include all preparation time, claimed in the calendar year of the examination, and limited to 50 percent of the total renewal obligation.

- a.* Certified Management Accountant/CMA.
- b.* Certified Information Systems Auditor/CISA.
- c.* Certified Information Technology Professional/CITP.
- d.* Certified Financial Planner/CFP.
- e.* Enrolled Agent/EA.
- f.* Certified Governmental Financial Manager/CGFM.
- g.* Certified Government Auditing Professional/CGAP.
- h.* Certified Internal Auditor/CIA.
- i.* Accredited Business Valuation/ABV.
- j.* Certified Financial Forensics/CFF.
- k.* Certified Valuation Analyst/CVA.
- l.* Certified Insolvency & Restructuring Advisor/CIRA.
- m.* Forensic Certified Public Accountant/FCPA.
- n.* Certified Fraud Examiner/CFE.
- o.* Certified Business Analyst/CBA.
- p.* Certified Trust and Financial Advisor/CTFA.
- q.* Chartered Financial Analyst/CFA.
- r.* Registered Representative, Series 6 and 7 and other examinations.
- s.* Registered Investment Advisor/RIA.
- t.* Certified Forensic Accountant/CrFA.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

- u. Personal Financial Specialist/PFS.
- v. Chartered Life Underwriter/CLU.
- w. Fellow of the Society of Actuaries/FSA.
- x. Chartered Property & Casualty Underwriter/CPCU.
- y. Fellow Life Management Institute/FLMI.
- z. Other similar examinations approved by the board.

**10.8(10)** Firm meetings for staff or management groups for the purpose of administrative and firm matters do not meet the standards set forth in subrule 10.8(1).

**10.8(11)** Dinner, luncheon and breakfast meetings of recognized organizations may qualify if they meet the appropriate provisions and are limited to 25 percent of the total renewal criteria if the individual meeting is no more than two hours long.

**10.8(12)** Continuing professional education taken in nontechnical skills area as defined in rule 193A—10.2(542) is limited to 50 percent of the total renewal obligation.

**10.8(13)** The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

**10.8(14)** The right is specifically reserved to the board to approve or deny credit for continuing professional education claimed under these rules.

**193A—10.9(542) Controls and reporting.**

**10.9(1)** An applicant for renewal may be requested to provide, in such manner, including but not limited to the online renewal process, and at such time as set forth by the board, verification and documentation setting forth the continuing professional education in which the licensee has participated. The board may allow for attestation that the licensee has completed continuing education in lieu of providing a listing. If the applicant for renewal is requested to provide a listing of the continuing professional education completed, the documentation will include:

- a. School, firm or organization conducting the course and contact information.
- b. Location of course.
- c. Title of course or description of content.
- d. Principal instructor.
- e. Dates attended.
- f. Hours claimed.
- g. Certificate of completion.
- h. Name of participant.
- i. Course field of study.
- j. Type of instruction or delivery method.
- k. Amount of CPE recommended.
- l. Verification by CPE program sponsor representative.

Canceled checks and registration forms are NOT proof of attendance.

**10.9(2)** The board may request sponsors of courses to furnish an attendance record, a certification of completion or any other information the board deems essential for administration of these continuing professional education rules.

**10.9(3)** The board will verify, on a test basis, information submitted by licensees. If an application for renewal is not approved, the applicant will be so notified and may be granted a period of time by the board in which to correct the deficiencies noted.

**10.9(4)** Primary responsibilities for documenting the continuing education compliance is with the licensee, and such documentation has to be retained for a period of three years subsequent to submission of the report claiming the credit. (Refer to 193A—subrule 14.3(1) and Iowa Code section 542.10(1) “a,” which provides for permanent revocation based on fraud or deceit in procuring a license.) Satisfaction of the obligations, including retention of attendance records, certification of completion records, and written outlines, may be accomplished as follows:

a. For courses taken for scholastic credit in accredited universities and colleges (state, community, or private) or high school districts, evidence of satisfactory completion of the course will be sufficient;

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

for noncredit courses taken, a statement of the hours of attendance, signed by the instructor, will be obtained by the licensee.

b. For correspondence and formal independent self-study courses, written evidence or a certificate of completion from the sponsor or course provider will be obtained by the licensee.

c. In all other instances, the licensee will maintain a record of the information as listed in subrule 10.8(3).

**193A—10.10(542) Grounds for discipline.** A licensee or an applicant is subject to discipline, including permanent revocation, if the licensee or applicant provides false information to the board in connection with an application to renew or reinstate a certificate or license. A licensee or an applicant is also subject to discipline if the licensee or applicant is unable to document the continuing professional education hours reported to the board in connection with an audit or other request for documentation. False information of this nature will subject the licensee or applicant to discipline whether the false information was supplied intentionally or with reckless disregard for the truth or accuracy of the number of hours claimed. Licensees and applicants are accordingly cautioned to supply the board with accurate continuing professional education information.

**193A—10.11(272C,542) Alternative continuing education cycles authorized.**

**10.11(1) Purpose.** For a variety of reasons, some CPAs and LPAs may wish to complete their continuing education on a three-year cycle ending on a date other than December 31. By way of illustration, some licensees may prefer to take courses on particular substantive topics that are not always offered at the same time each year. Some licensees may wish to schedule continuing education to comply with the differing obligations of multiple jurisdictions. This rule is intended to authorize a more flexible time frame within which continuing education may be satisfied. This rule does not alter any other requirement of this chapter.

**10.11(2) Declaration may vary by renewal cycle.** A CPA or LPA applying to renew a certificate or license may declare a continuing education deadline of December 31 in one renewal cycle and a continuing education deadline of June 30 in a subsequent renewal cycle, and vice versa. Licensees are expected to maintain continuing education records in a manner that complies with the self-selected declaration in any particular renewal cycle.

These rules are intended to implement Iowa Code chapters 272C and 542.

**ARC 7394C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Notice of Intended Action**

**Proposing rulemaking related to peer review  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 11, “Peer Review,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

These proposed amendments implement changes recommended by Executive Order 10. Chapter 11 covers peer review, a function to occasionally review the work of licensees for quality assurance. This quality assurance helps provide the best possible services for Iowans.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 12:30 to 12:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a> Phone numbers: <a href="tel:5157259024">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>
January 31, 2024 12:30 to 12:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a> Phone numbers: <a href="tel:5157259024">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11  
PEER REVIEW

**193A—11.1(542) Peer review obligations.** As a condition of renewal for a CPA or LPA who issues compilation reports other than through a CPA or LPA firm that holds a permit to practice, and as a condition of permit renewal for LPA firms that issue compilation reports or CPA firms that provide attest services or issue compilation reports, the applicant shall submit certification of completion of a peer review issued pursuant to this chapter. Such review needs to be completed at the highest level of service provided by the firm or licensee. The performance of preparation services under SSARS 21 does not alone subject a firm or individual to peer review, although if a firm or individual is otherwise subject to peer review, the reviewer may include preparation services in the scope of practices reviewed.

**193A—11.2(542) Three-year cycle.** During the three-year period ending December 31 preceding the application for renewal of a certificate, license, or permit to practice, the individual licensee or firm shall have completed a peer review in accordance with this chapter. A peer review shall be completed no less often than once every three years.

**193A—11.3(542) System of internal quality control.** If the firm has not performed any attest or compilation services prior to the application for renewal, the firm will have in place a system of internal quality control prior to the commencement of an engagement including attest or compilation services and come into compliance with the peer review obligations within 18 months of completion of an engagement including attest or compilation services.

**193A—11.4(542) Peer review programs that qualify.** A firm's completion of a peer review program endorsed or supported by the AICPA, the National Society of Accountants or other substantially similar review programs in Iowa or other states approved by the board satisfies this chapter.

**193A—11.5(542) Waiver of peer review.** At the time of renewal, a licensee or firm may request a waiver from this chapter, as provided in Iowa Code sections 542.7(9) and 542.8(18).

**193A—11.6(542) Submission of peer review reports.** Unless the subject of a peer review timely objects in writing to the administering entity of the peer review program, the administering entity will make available to the board within 30 days of the issuance of the peer review acceptance letter the final peer review report or such peer review records as are designated by the peer review program in which the administering entity participates. The subject of a peer review may voluntarily submit the final peer review report directly to the board.

These rules are intended to implement Iowa Code chapter 542.

**ARC 7395C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Notice of Intended Action**

**Proposing rulemaking related to fees  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 12, “Fees,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. The purpose of Chapter 12 is to provide helpful information on the fees to acquire and maintain a Certified Public Accountant (CPA)/Licensed Public Accountant (LPA) license, plus information on reinstating a lapsed license.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12  
FEES

**193A—12.1(542) Fees.** The following is a schedule of the fees for examinations, certificates, licenses, permits and renewals adopted by the board:

Initial CPA examination application:	
Paid directly to CPA examination services	not to exceed \$1,500
Reexamination:	
Paid directly to CPA examination services	not to exceed \$1,500
Original issuance of CPA certificate or LPA license by examination (fee includes wall certificate)	\$100
Original issuance of CPA certificate by reciprocity or substantial equivalency	\$100
CPA wall certificate or LPA license issued by reciprocity or substantial equivalency	\$50
Replacement of lost or destroyed wall CPA certificate or LPA license	\$50
Original issuance of attest qualification	\$100
Annual renewal of CPA certificate or LPA license—active status	\$100

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—active status	\$25
Annual renewal of CPA certificate or LPA license—inactive status	\$50
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—inactive status	\$10
Original issuance of firm permit to practice	\$100
Annual renewal of firm permit to practice	\$100
Reinstatement of lapsed CPA certificate or LPA license	\$100 + renewal fee + \$25 per month of expired registration
Reinstatement of lapsed firm permit to practice	\$100 + renewal fee + \$25 per month of expired registration
Interstate Transfer Form	\$25
License predetermination fee	\$25

**193A—12.2(542) Reinstatement.**

**12.2(1)** *Reinstatement of a lapsed CPA certificate or LPA license.* The fee for the reinstatement of a lapsed CPA certificate or LPA license is \$100 plus the renewal fee plus \$25 per month of expired registration up to a maximum of \$1,000.

**12.2(2)** *Reinstatement of lapsed firm permit to practice.* The fee for the reinstatement of a lapsed CPA or LPA firm permit to practice for applications is \$100 plus the renewal fee plus \$25 per month of expired registration up to a maximum of \$1,000.

**12.2(3)** *Applicants for reinstatement.* All applicants for reinstatement will be assessed the \$100 reinstatement fee. The \$25 per month penalty fee described in subrules 12.2(1) and 12.2(2) will not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active CPA certificate, LPA license, or firm permit to practice as a CPA or LPA firm is necessary in Iowa. Falsely claiming an exemption from the monthly penalty fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice.

**193A—12.3(542) Prorating of certain fees.** Fees for the issuance of an original CPA certificate or LPA license, pursuant to rule 193A—5.3(542), or the issuance of an initial permit to practice to a CPA or LPA firm, pursuant to rule 193A—7.1(542), will not be prorated.

These rules are intended to implement Iowa Code chapter 542.

**ARC 7396C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to rules of professional ethics and conduct and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 13, “Rules of Professional Ethics and Conduct,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 13 provides information in the important area of ethical conduct for licensees. This is helpful to the licensees and members of the public who may be concerned about business associations with licensees.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:tel.meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 13 and adopt the following new chapter in lieu thereof:

CHAPTER 13  
RULES OF PROFESSIONAL ETHICS AND CONDUCT

**193A—13.1(542) Applicability.**

**13.1(1)** The AICPA Code of Professional Conduct is based upon the premise that the reliance of the public in general and of the business community in particular on sound financial reporting and on the implication of professional competence inherent in the authorized use of a board-regulated title relating to the practice of public accountancy imposes on persons engaged in such practice certain obligations both to their clients and to the public. These obligations, which the rules of professional ethics and conduct are intended to enforce where necessary, include the obligation to maintain independence of thought and action and a continued commitment to learning and professional improvement, to observe applicable generally accepted accounting principles and generally accepted auditing standards, to promote the public interest through sound and informative financial reporting, to hold the affairs of clients in confidence, and to maintain high standards of personal conduct in all professional activities in whatever capacity performed.

**13.1(2)** In addition to the rules specifically enumerated herein, and only to the extent applicable to certificate holders' and licensees' respective scope of practice, all certificate holders and licensees are obligated to comply with the AICPA Code of Professional Conduct. In the event of a conflict or inconsistency between the AICPA Code of Professional Conduct and rules specifically enumerated herein, the rules specifically enumerated herein prevail.

**13.1(3)** The rules of professional ethics and conduct apply to all professional services performed by all CPAs and LPAs whether or not they are engaged in the practice of public accountancy, except where the wording of a rule clearly indicates that the applicability is specifically limited to the practice of public accountancy.

**13.1(4)** A CPA or LPA engaged in the practice of public accountancy outside the United States will not be subject to discipline by the board for departing, with respect to such foreign practice, from any of the board's rules of professional ethics and conduct, so long as the CPA's or LPA's conduct is in accordance with the standards of professional conduct applicable to the practice of public accountancy in the country in which the CPA or LPA is practicing. However, even in such a case, if a CPA's or LPA's name is associated with financial statements in such manner as to imply that the CPA or LPA is acting as an independent public accountant and under circumstances that would entitle the reader of the financial statement to assume that United States practices are followed, the CPA or LPA will comply with applicable generally accepted engagement standards and applicable generally accepted accounting principles.

**13.1(5)** A CPA or LPA may be held responsible for compliance with the rules of professional ethics and conduct by all persons associated with the accountant in the practice of public accounting who are

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

either under the accountant's supervision or are licensees, partners or shareholders in the accountant's practice.

**13.1(6)** CPAs and CPA firms exercising a practice privilege in Iowa or for a client with a home office in Iowa are subject to the professional standards set forth in this chapter.

**13.1(7)** These rules complement the grounds for discipline set out in 193A—Chapter 14.

**193A—13.2(542) Rules applicable to all CPAs and LPAs.**

**13.2(1)** *Cooperation with board inquiry.* A CPA or LPA will, when requested, respond to communications from the board within 30 days.

**13.2(2)** *Reporting convictions, judgments, and disciplinary actions.* In addition to any other reporting obligations in Iowa Code chapter 542 or these rules, a CPA or LPA needs to notify the board within 30 days of:

*a.* Imposition upon the CPA or LPA of discipline including, but not limited to, censure, reprimand, sanction, probation, civil penalty, fine, consent decree or order, or suspension, revocation or modification of a license, certificate, permit or practice rights by:

(1) The SEC, PCAOB, or IRS (by the Director of Practice); or

(2) Another state board of accountancy for cause other than failure to pay a professional fee by the due date or failure to complete continuing education obligations by another state board of accountancy; or

(3) Any other federal or state agency regarding the CPA's or LPA's conduct while rendering professional services; or

(4) Any foreign authority or credentialing body that regulates the practice of accountancy;

*b.* Occurrence of any matter reportable by the CPA or LPA to the PCAOB pursuant to Sarbanes-Oxley Section 102(b)(2)(f) as amended to December 29, 2022, and PCAOB rules and forms adopted pursuant thereto;

*c.* Any judgment, award or settlement of a civil action or arbitration proceeding in which the CPA or LPA was a party if the matter included allegations of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice of accounting; provided, however, licensed firms will notify the board regarding civil judgments, settlements or arbitration awards directly involving the firm's practice of public accounting in this state; or

*d.* Criminal charges, deferred prosecution or conviction or plea of no contest to which the CPA or LPA is a defendant if the crime is:

(1) Any felony under the laws of the United States or any state of the United States or any foreign jurisdiction; or

(2) Any crime, including a misdemeanor, if an essential element of the offense is dishonesty, deceit or fraud, as more fully described in Iowa Code section 542.5(2).

**13.2(3)** *Firm's duty to report.* Each firm will designate a CPA or LPA as responsible for firm licensure or office registration and responsible for reporting any matter reportable under this rule.

**13.2(4)** *Solicitation or disclosure of CPA examination questions and answers.* A CPA or LPA who solicits or knowingly discloses a Uniform CPA Examination question(s) or answer(s) without the written authorization of the AICPA has committed an act discreditable to the profession.

**13.2(5)** *Falsely reporting continuing professional education (CPE).* A CPA or LPA has committed an act discreditable to the profession when the CPA or LPA falsely reports CPE credits to the board.

**193A—13.3(542) Rules applicable to CPAs and LPAs who use the titles in offering or rendering products or services to clients.**

**13.3(1)** *Use of title.*

*a.* *Certified public accountant.* Only a person who holds an active, unexpired certificate and who complies with 193A—Chapter 5, Licensure Status and Renewal of Certificates and Licenses, and 193A—Chapter 10, Continuing Education, or a person lawfully exercising a practice privilege under Iowa Code section 542.20 may use or assume the title "certified public accountant" or the abbreviation

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

“CPA” or any other title, designation, word(s), letter(s), abbreviation(s), sign, card, or device indicating that such person is a certified public accountant.

*b. Licensed public accountant.* Only a person holding a license as a licensed public accountant may use or assume the title “licensed public accountant” or the abbreviation “LPA” or any other title, designation, word(s), letter(s), abbreviation(s), sign, card, or device indicating that such person is a licensed public accountant.

**13.3(2) Forms of practice.**

*a. Certified public accountant firms.* A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization has to apply for a permit to practice under Iowa Code section 542.7 and these rules as a firm of certified public accountants in order to use the title “CPAs” or “CPA firm,” as more fully described in 193A—Chapter 7.

*b. Licensed public accounting firms.* A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization has to apply for a permit to practice under Iowa Code section 542.8 and these rules as a firm of licensed public accountants in order to use the title “LPAs” or “LPA firm,” as more fully described in 193A—Chapter 8.

**13.3(3) Acting through others.** A CPA or LPA is obligated to not allow others to carry out on the CPA’s or LPA’s behalf, either with or without compensation, acts which, if carried out by the CPA or LPA, would violate the rules of professional ethics and conduct.

**193A—13.4(542) Audit, review and other attest services.**

**13.4(1) Practice privilege.** All audit, review, and other attest services performed in Iowa or for a client with a home office in Iowa has to be performed through a CPA firm that holds an active Iowa firm permit to practice or through an out-of-state CPA firm exercising a practice privilege in compliance with Iowa Code section 542.20(5) and 542.20(6) and associated rules and the peer review and ownership provisions of Iowa Code section 542.7. Unless Iowa certification is specifically mandated by a governmental body or client, the individual CPAs performing such attest services may either hold an active Iowa CPA certificate or exercise a practice privilege as more fully described in Iowa Code section 542.20. LPAs and LPA firms are not authorized to perform attest services.

**193A—13.5(542) Compilation.**

**13.5(1) Who can perform.** Only a CPA licensed under Iowa Code section 542.6 or 542.19, or any other applicable law or rule; an LPA licensed under Iowa Code section 542.8, or any other applicable law or rule; or a CPA exercising a practice privilege under Iowa Code section 542.20 may issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa. (More information can be found in rule 193A—6.4(542).)

**13.5(2) Peer review.** All individuals described in 193A—subrule 6.4(1) will satisfy peer review obligations, individually or through a peer review of a CPA or LPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or 542.8 or a CPA firm exercising a practice privilege under Iowa Code section 542.20.

**193A—13.6(542) Rules applicable to tax practice.** CPAs, LPAs, and persons who are not CPAs or LPAs may perform tax services in Iowa. The rules of professional ethics and conduct in this chapter apply to any CPA or LPA who is licensed in Iowa and to any CPA exercising a practice privilege in Iowa whenever such person informs the client or prospective client that the person is a CPA or LPA. Clients may be so informed in a number of ways, including oral or written representations, the display of a CPA certificate or LPA license, or use of the CPA or LPA title in advertising, telephone or Internet directories, letterhead, business cards or email.

These rules are intended to implement Iowa Code chapters 272C and 542.

**ARC 7397C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to disciplinary authority and grounds for discipline  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 14, “Disciplinary Authority and Grounds for Discipline,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 14 provides protection to Iowans as it publicly defines the Board’s disciplinary authority and grounds for which disciplinary action can be taken. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, the licensee can be subject to discipline against the licensee’s license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14

DISCIPLINARY AUTHORITY AND GROUNDS FOR DISCIPLINE

**193A—14.1(17A,272C,542) Disciplinary authority.** The board exercises disciplinary authority for the protection and well-being of those persons who rely on licensed individuals and firms for the performance of public accounting services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of licensees, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline, as authorized under Iowa law.

**193A—14.2(17A,272C,542) Disciplinary policy.**

**14.2(1)** The board's disciplinary policy rests upon the premise that the reliance of the public in general and of the business community in particular on sound financial reporting, and on the implication of professional competence inherent in the authorized use of a licensee's regulated title relating to the practice of public accountancy, imposes on persons and firms engaged in such practice certain obligations both to their clients and to the public. These obligations include the obligation to maintain independence of thought and action; to strive continuously to improve one's professional skills; to observe, where



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

applicable, generally accepted accounting principles, generally accepted auditing standards, and similar principles and standards; to promote sound and informative financial reporting; to hold the affairs of clients in confidence; and to maintain high standards of personal conduct in all matters affecting one's fitness to practice public accountancy.

**14.2(2)** The public interest dictates that persons professing special competence in accountancy have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications not be permitted to represent themselves as having such special competence; that the conduct of persons licensed as having special competence in accountancy be regulated in all aspects of their professional work; and that the use of titles that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles not be permitted.

**14.2(3)** A CPA or LPA firm is subject to discipline for its own violations of Iowa Code chapter 542 and administrative rules and the violations of the firm's CPAs, LPAs, nonlicensee owners, persons acting or purporting to act under a practice privilege, and others performing professional services on the firm's behalf. Whether a CPA or LPA firm will be charged based on the acts of such individuals will depend on the circumstances. Among the factors the board will consider are whether the firm took reasonable steps to prevent the violation, whether the violation was or could have been discovered by the firm upon reasonable inquiry, what steps the firm took upon discovering the violation, whether the acts or omissions involved licensees of the board or were committed by persons who are not individually licensed by the board, the nature of the services at issue, and whether the violations are isolated matters or more systemic to the firm's performance.

**193A—14.3(17A,272C,542) Grounds for discipline.** The board may initiate disciplinary action against a CPA or LPA, or a firm of CPAs or LPAs that holds an active, inactive or lapsed certificate, license or permit to practice on any of the following grounds:

**14.3(1) *Fraud or deceit in procuring a license.*** Fraud or deceit in procuring or attempting to procure an initial, reciprocal, renewal, or reinstated certificate, license, or permit to practice includes any intentional perversion of the truth when submitting an application to the board, or when submitting information in support of another's application to the board, including:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed.
- b. Attempting to file or filing with the board any false or forged record or document, such as a college transcript, diploma or degree, examination report, verification of licensure, continuing education certificate, or verification of peer review.
- c. Failing or refusing to provide complete information in response to a question on an application.
- d. Reporting information, such as satisfaction of continuing education, peer review, or attest qualification, in a false manner through overt deceit or with reckless disregard for the truth or accuracy of the information asserted.
- e. Otherwise participating in any form of fraud or misrepresentation by act or omission.

**14.3(2) *Professional incompetence.*** Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the practice of public accounting.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimum standards of acceptable and prevailing practice of public accounting in this state.
- e. A willful, repeated, or material deviation from generally accepted engagement standards, generally accepted accounting standards, generally accepted auditing standards, or any other nationally recognized standard applicable to the public accounting services at issue.
- f. Any other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**14.3(3) Deceptive practices.** Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of public accounting.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public that is false, deceptive, misleading or promoted through fraud or misrepresentation.
- c. Acceptance of any fee by fraud or misrepresentation.
- d. Falsification of business or client records.
- e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule or 193A—Chapter 18.
- f. Knowingly presenting as one's own a certificate, license, or permit to practice, or a certificate, license, or permit number, or the signature of another or of a fictitious licensee, or otherwise falsely impersonating a person holding a CPA certificate or LPA license, or a permit to practice as a firm of CPAs or LPAs.
- g. Representing oneself as a CPA, LPA, CPA firm, or LPA firm when the certificate, license, or permit to practice has been suspended, revoked, surrendered, or placed on inactive status, or has lapsed, except as allowed under Iowa Code section 542.20.
- h. Fraud in representations as to skill or ability.

**14.3(4) Unethical, harmful or detrimental conduct.** Licensees engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct that are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

- a. Verbal or physical abuse, or improper sexual contact, if such behavior occurs within the practice of public accounting or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior within the practice of public accounting would place the public at risk.
- b. A violation of a rule of professional conduct relating to improper conflicts of interest, or lack of integrity, objectivity or independence, as provided in the AICPA Code of Professional Conduct.
- c. A violation of a provision of Iowa Code section 542.13, or aiding or abetting any unlawful activity for which a civil penalty can be imposed under Iowa Code sections 542.13 and 542.14.

**14.3(5) Lack of proper qualifications.** Lack of proper qualifications includes, but is not limited to:

- a. Continuing to practice as a CPA or LPA without satisfying the continuing education necessary for certificate or license renewal.
- b. Continuing to perform attest services or compilation services without timely completion of peer review.
- c. Performing attest services as an individual without proper certification or attest qualification, or without acting through a CPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or exercising a practice privilege pursuant to Iowa Code section 542.20.
- d. Performing attest services as a firm without holding a permit to practice pursuant to Iowa Code section 542.7 or exercising a practice privilege pursuant to Iowa Code section 542.20, or without ensuring that the individuals responsible for supervising attest services or signing or authorizing someone to sign the accountant's report are attest-qualified, hold the necessary certification or are eligible to exercise a practice privilege, or otherwise performing attest services in a manner inconsistent with Iowa Code chapter 542 or the rules of the board.
- e. Habitual intoxication or addiction to the use of drugs, or impairment that adversely affects the CPA's or LPA's ability to practice in a safe and competent manner.
- f. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications that are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b," or that impairs a practitioner's ability to safely and skillfully practice the profession.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**14.3(6) *Negligence in the practice of public accounting.*** Negligence in the practice of public accounting includes the following acts, practices, or omissions, whether or not injury results:

- a. Failure or refusal without good cause to exercise reasonable diligence in the practice of public accounting.
- b. A failure to exercise due care including negligent delegation of duties in the practice of public accounting.
- c. Neglect of contractual or other duties to a client.

**14.3(7) *Professional misconduct.*** Professional misconduct includes, but is not limited to, the following:

- a. Violation of a generally accepted engagement standard, generally accepted accounting standard, generally accepted auditing standard, or any other nationally recognized standard applicable to the public accounting services at issue, as provided in rule 193A—13.4(542), or any other violation of a provision of the AICPA Code of Professional Conduct.
- b. Violation of a regulation or law of this state, another state, the United States, or the PCAOB in the practice of public accounting.
- c. Engaging in any conduct that subverts or attempts to subvert a board investigation of a licensed or unlicensed firm, individual, or other entity, or failure to fully cooperate with a disciplinary investigation of a licensee or with an investigation of firms, individuals or other entities that are not licensed by the board, including, without limitation, failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 days.
- d. Revocation, suspension, or other disciplinary action taken against a licensee or person or firm exercising a practice privilege by a licensing authority of this state or another state, territory, or country. A stay by an appellate court does not negate the obligation to report such incidents to the board; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action will be vacated.
- e. Suspension or revocation of the right to practice before any state or federal agency, or the PCAOB.
- f. Violating Iowa Code section 542.17.
- g. Violating Iowa Code section 542.18.
- h. Violating or aiding and abetting another's violation of Iowa Code section 542.13 or 542.20.
- i. Violating the terms of an initial agreement with the Iowa professionals review committee or violation of the terms of an impaired practitioner recovery contract with the Iowa professionals review committee.
- j. Violating a practice privilege afforded to an Iowa licensee in another state.
- k. Engaging in the practice of public accounting on a lapsed or inactive certificate, license or permit when the acts or practices obligate active Iowa licensure and, in the case of a firm, allowing such acts or practices by firm CPAs or LPAs.

**14.3(8) *Willful or repeated violations.*** The willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 542 or any administrative rule adopted by the board in the administration or enforcement of such chapters.

**14.3(9) *Failure to report.***

- a. Failure by a CPA firm to timely report as provided in rule 193A—7.7(542).
- b. Failure of an LPA firm to timely report as provided in rule 193A—8.5(542).
- c. Failure to timely report judgments and settlements and reportable violations by others as provided in 193A—Chapter 18.
- d. Failure to report in writing to the board any issuance, denial, revocation, or suspension of a license by another state, or the voluntary surrender of a license to resolve a pending disciplinary investigation or action, within 30 calendar days of the licensing authority's final action.
- e. Failure to report the conviction of any felony, or a crime described in Iowa Code section 542.5(2), within 30 calendar days of the conviction.
- f. Failure to report to the board a change in the licensee's physical or mailing address within 30 calendar days of the change.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

g. Failure to report as provided in 193A—subrule 13.4(3) or as otherwise required in the AICPA Code of Professional Conduct.

**14.3(10) *Failure to comply with board order.*** Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision imposing discipline.

**14.3(11) *Conviction of a crime.*** Conviction of any crime described in Iowa Code section 542.5(2) and as limited by Iowa Code section 272C.10(5) is grounds for denial, revocation, or suspension of a license. “Conviction” includes any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, withheld, not entered, or suspended, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction is vacated.

**14.3(12) *Conduct discreditable to the accounting profession.*** Conduct discreditable to the accounting profession includes any act or practice that diminishes the public’s confidence in the profession, impairs the credibility of the profession, or otherwise compromises the public’s trust. While it is not possible to list all conduct that is discreditable to the accounting profession, the following list provides an illustrative range of acts or practices that are implicated:

- a. Dishonesty in business or financial affairs, or a pattern of fiscal irresponsibility.
- b. Placement on the sex offender registry.
- c. Securities fraud or violation of the Iowa consumer fraud Act.
- d. Willful or repeated failure to timely file tax returns or other tax documents.
- e. False testimony in a court or administrative proceeding, or affidavit, or otherwise under oath.
- f. Providing false or misleading information to a financial institution or governmental body or official.
- g. Stating or implying an ability to improperly influence a government agency or official, or attempting to do so through deception, bribery or other unlawful means.
- h. Violation of a breach of fiduciary duty when acting in the capacity of a trustee, conservator, or other fiduciary, or as the professional advisor to a fiduciary.
- i. Any violation of Iowa Code chapter 542 or administrative rules that involves dishonesty, bad faith, or unethical behavior.

These rules are intended to implement Iowa Code chapters 17A, 272C and 542 and section 546.10.

**ARC 7398C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Notice of Intended Action**

**Proposing rulemaking related to disciplinary investigations  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 15, “Disciplinary Investigations,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 15 covers disciplinary investigations, highlighting the Board’s process for resolving complaints against licensees.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15  
DISCIPLINARY INVESTIGATIONS

**193A—15.1(17A,272C,542) Initiation of disciplinary investigations.** The board may initiate a licensee disciplinary investigation upon the board's receipt of information suggesting that a licensee may have violated a law or rule enforced by the board which, if true, would constitute grounds for licensee discipline. The board may also review the publicly available work product of licensees on a general or random basis to determine whether reasonable grounds exist to initiate disciplinary proceedings or to conduct a more specific investigation.

**193A—15.2(17A,272C,542) Conflict of interest.** If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member will abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

**193A—15.3(272C,542) Complaints.** Written complaints may be submitted by any means and by anyone.

**15.3(1) Contents of a written complaint.** Written complaints may be submitted through the online complaint process. Written complaints, whether submitted on a board complaint form or in other written medium, will contain the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (licensee against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions that the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.
- d. If known, citations to the laws or rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.

**15.3(2) Immunity.** As provided by Iowa Code section 272C.8, a person is not civilly liable as a result of filing a report or complaint with the board unless such act is done with malice, nor may an employee be dismissed from employment or discriminated against by an employer for filing such a report or complaint.

**15.3(3) Role of complainant.** The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding that may be initiated by the board.

**15.3(4) Role of the board.** The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**15.3(5) *Initial complaint review.*** All written complaints received by the board are initially reviewed by the board's administrator to determine whether the complaint allegations fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for licensee disciplinary action. Complaints that are clearly outside the board's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous, will be referred by the board administrator to the board for closure at the next scheduled board meeting.

**193A—15.4(272C,542) Case numbers.** Complaint files are tracked by a case numbering system. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

**193A—15.5(272C,542) Confidentiality of complaint and investigative information.**

**15.5(1) *General provisions.*** All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code section 272C.6(4). Such information will not be released to any person except as provided in that section and this rule.

**15.5(2) *Confidentiality of PCAOB information and records.***

*a.* The PCAOB was created by the Sarbanes-Oxley Act of 2002 (the Act) as a nonprofit corporation under the laws of the District of Columbia. The duties of the PCAOB include the registration of public accounting firms that prepare audit reports for public companies; the promulgation of rules (as approved by the SEC) for auditing, quality control, ethics, independence and other standards relating to the preparation of audit reports; the inspection of registered public accounting firms; the investigation of alleged standards violations; and the imposition of appropriate sanctions following disciplinary proceedings.

*b.* Pursuant to Section 105(b)(5)(A) of the Act and PCAOB rules, PCAOB investigatory information and records are confidential and privileged, and exempt from disclosure under the federal Freedom of Information Act. PCAOB, in its discretion, may share such information and records, along with the nonpublic sections of inspection reports, with state regulatory authorities as necessary to accomplish the purposes of the Act or to protect investors. As provided in Section 105(b)(5)(B) of the Act, state regulatory authorities also maintain such information and records as confidential and privileged, and the board will maintain that information as confidential.

**15.5(3) *Disclosure to the subject of the investigation.***

*a. Legal authority.* Pursuant to Iowa Code section 546.10(9), the board may supply to a licensee who is the subject of a disciplinary complaint or investigation, prior to the initiation of a disciplinary proceeding, all or such parts of a disciplinary complaint, disciplinary or investigatory file, report, or other information, as the board in its sole discretion believes would aid the investigation or resolution of the matter.

*b. General rule.* As a matter of general policy, the board will not disclose confidential complaint and investigative information to a licensee except as permitted by Iowa Code section 272C.6(4). Disclosure of a complainant's identity in advance of the filing of formal disciplinary charges, for instance, may adversely affect a complainant's willingness to file a complaint with the board.

*c. Exceptions to general rule.* The board may exercise its discretion to release information to a licensee that would otherwise be confidential under Iowa Code section 272C.6(4) under narrow circumstances, including but not limited to the following:

(1) Following a board determination that probable cause exists to file disciplinary charges against a licensee and prior to the issuance of the notice of hearing, the board may provide the licensee with a peer review or investigative report or expert opinions, as reasonably needed for the licensee to assess the merits of a settlement proposal.

(2) The board may release to a licensee who is the subject of a board-initiated investigation, including investigations initiated following the board's receipt of an anonymous complaint, such records or information as may aid the investigation or resolution of the matter.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

(3) The board may release information from a peer review or consultant's report when the soliciting of the licensee's position will aid in making the probable cause determination, and such disclosure can be made to the licensee without revealing identifying information regarding the complainant, peer reviewer or consultant.

**193A—15.6(17A,272C,542) Subpoena authority.** Pursuant to Iowa Code sections 17A.13(1), 272C.6(3) and 542.11(1), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding. Board procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

**193A—15.7(17A,272C,542) Informal discussion.** If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

**15.7(1)** An informal discussion is intended to provide a licensee an opportunity to share the licensee's side of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A licensee may attend an informal discussion but is not compelled to do so. Because disciplinary investigations are confidential, a licensee is not permitted to bring persons other than legal counsel to an informal discussion. Where an allegation is made against a firm, the firm may be represented by a managing partner, member or other firm representative.

**15.7(2)** Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a licensee who desires to attend an informal discussion waives the right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A licensee would not be waiving the right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

**15.7(3)** Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

**15.7(4)** The board may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges is filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

**193A—15.8(17A,272C,542) Closing complaint files.**

**15.8(1) *Grounds for closing.*** The board may close a complaint file, with or without prior investigation. Given the broad scope of matters members of the public may complain about, it is not possible to catalog all possible reasons why the board may close a complaint file.

**15.8(2) *Closing orders.*** The board's administrator may enter an order stating the basis for the board's decision to close a complaint file. If entered, the order will not contain the identity of the complainant or the respondent and will not disclose confidential complaint or investigative information.

If entered, a closing order will be indexed by case number and is a public record pursuant to Iowa Code section 17.3(1)“d.” A copy of the order may be mailed to the complainant, if any, and to the



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

respondent. The board's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

**15.8(3) *Cautionary letters.*** The board may issue a confidential letter of caution to a licensee when a complaint file is closed that informally cautions or educates the licensee about matters that could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

**15.8(4) *Reopening closed complaint files.*** The board may reopen a closed complaint file if additional information arises after closure that provides a basis to reassess the merits of the initial complaint.

These rules are intended to implement Iowa Code chapters 17A, 272C and 542.

**ARC 7399C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to disciplinary proceedings  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 16, "Disciplinary Proceedings," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 16 provides protection to Iowans as it publicly outlines the Board's process for disciplinary proceedings.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Robert E. Lampe  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.725.9024  
 Fax: 515.725.9032  
 Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
 12:30 to 12:50 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5157259024)

January 31, 2024  
 12:30 to 12:50 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5157259024)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16  
 DISCIPLINARY PROCEEDINGS

**193A—16.1(17A,272C,542) Initiation of disciplinary proceedings.** Disciplinary proceedings may be initiated only by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified will be excluded in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board constitutes a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

any reason, the administrator may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11(5).

**193A—16.2(17A,272C,542) Disciplinary contested case procedures.** Unless in conflict with a provision of Iowa Code chapter 542 or board rules in this chapter, all of the procedures set forth in 193—Chapter 7 apply to disciplinary contested cases initiated by the board.

**193A—16.3(272C,542) Disciplinary sanctions.**

**16.3(1) *Type of sanctions.*** The board has authority to impose the following disciplinary sanctions:

*a.* Revoke a license issued by the board. In the event of a revocation, the licensee is not allowed to remain a member, partner or shareholder of a business entity if the law dictates that all members, partners or shareholders of such an entity be actively involved.

*b.* Suspend a license issued by the board. A CPA or LPA who is under suspension will refrain, during the period of the suspension, from all facets of the ordinary practice of public accounting.

*c.* Revoke or suspend the privilege to engage in one or more areas of the practice of public accounting.

*d.* Impose a period of probation. As a condition to a period of probation, the board may impose terms and conditions deemed appropriate by the board, which may include, but are not limited to, the following:

(1) The board may order the licensee to undergo a quality review or desk review under the board's supervision. The licensee will select, subject to approval by the board, a CPA, LPA, or a firm of CPAs or LPAs. The review cost will be paid by the licensee. The board will be furnished a copy of the report issued by the reviewing party and may order remedial actions or education as a result of the report findings.

(2) The board may order the licensee to enter into an agreement with a CPA, an LPA, or a firm of CPAs or LPAs to obtain a preissuance review of any audits, compilations, or reviews issued by the licensee or other public accounting services performed during the probationary period. The agreement will be preapproved by the board. The board may order the licensee to report regularly concerning the preissuance reviews conducted pursuant to the agreement. Any cost incurred in obtaining preissuance review will be paid by the licensee.

(3) A substance abuse evaluation and such care and treatment appropriate under the circumstances.

*e.* Specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely necessary for license renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a certificate, permit, license, or registration. The board may also specify that current reference materials be obtained and maintained.

*f.* Obligate the licensee to undergo reexamination, using one or more parts of the CPA or LPA examination given to candidates for the CPA certificate or the LPA license.

*g.* Impose civil penalties pursuant to Iowa Code section 542.14(2).

*h.* Issue a reprimand.

*i.* Order the licensee to alter a professional practice or refrain from engaging in a particular act or practice in the future, notify clients of unlicensed or unprofessional conduct, or take such other remedial measures that are appropriate under the public interest and circumstances of the infraction.

*j.* Order such alternative discipline as is allowed by law.

**16.3(2) *Imposing discipline.*** Discipline may be imposed against a licensee only by the affirmative vote of a majority of the members of the board who are not disqualified.

**16.3(3) *Voluntary surrender.*** The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board will not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such a voluntary surrender is

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

considered disciplinary action and will be published in the same manner as is applicable to any other form of disciplinary order.

**16.3(4) Client notification.** Whenever a license is revoked, suspended, under probation, or voluntarily surrendered under this chapter, the licensee will:

*a.* Within 30 days of receipt of the board's final order, notify in writing all clients of the fact that the license has been revoked, suspended or voluntarily surrendered or that the licensee is under probation and the subject of compliance terms imposed by the board; for example, the licensee may agree to discontinue governmental audits while the licensee's license is under probation. Such notice will advise the client to obtain alternative professional services, unless probationary compliance terms at issue would not impact the public accounting services provided for that client;

*b.* Within 30 days of receipt of the board's final order, file with the board copies of the notices sent pursuant to paragraph 16.3(4) "a." Compliance with this paragraph is a condition precedent for an application for reinstatement.

**193A—16.4(272C,542) Notification of decisions.** The board will notify NASBA of disciplinary action taken against an Iowa licensee.

**193A—16.5(272C,542) Reinstatement.**

**16.5(1)** The term "reinstatement" as used in this rule and in rule 193—7.38(17A,272C) includes the reinstatement of a suspended license, the modification or removal of a probationary limitation on a licensee's practice, the issuance of a license following the denial of an application to renew a license, and the issuance of a new license following the revocation or voluntary surrender of a license.

**16.5(2)** Any person whose license has been revoked, suspended or placed under probation by the board, or who has voluntarily surrendered a license to conclude a disciplinary investigation or proceeding, or whose application to renew a license has been denied may apply to the board to modify or terminate the suspension, issue or reissue the license, or modify or remove the probationary limitations of practice in accordance with Iowa Code section 542.12, rule 193—7.38(17A,272C), the provisions of this rule, and the terms of the order of revocation, suspension or probation, denial of license renewal, or acceptance of voluntary license surrender.

**16.5(3)** If the applicable order did not establish terms upon which the licensee may apply for reinstatement, an initial application for reinstatement may be made after at least one year has elapsed from the date of the order that revoked, suspended or placed under probation the license, denied license renewal, or accepted a voluntary surrender.

**16.5(4)** All proceedings for reinstatement are initiated by the respondent and subject to the procedures set forth in rule 193—7.38(17A,272C). In addition, the board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation the board members or staff before whom the applicant appears.

**16.5(5)** An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193A—16.3(272C,542).

**16.5(6)** The board will not grant an application for reinstatement when the initial order that revoked, suspended or placed under probation the license, denied license renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

- a.* All the terms of the sentencing or other criminal order have been fully satisfied;
- b.* The applicant has been released from confinement and any applicable probation or parole; and
- c.* Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A, 272C, and 542.

**ARC 7400C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Notice of Intended Action**

**Proposing rulemaking related to enforcement proceedings against nonlicensees  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 17, “Enforcement Proceedings Against Nonlicensees,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 17 provides useful information on the Board’s options regarding resolutions of complaints against nonlicensees practicing accountancy.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 17 and adopt the following **new** chapter in lieu thereof:

CHAPTER 17  
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

**193A—17.1(542) Civil penalties against nonlicensees.** The board may order compliance with Iowa Code chapter 542 and board rules, revoke a practice privilege, and impose civil penalties by order against a firm, other entity, or individual that is not licensed by the board pursuant to Iowa Code chapter 542, based on the unlawful practices specified in Iowa Code sections 542.13 and 542.20. In addition to the procedures set forth in Iowa Code section 542.14, this chapter applies.

**193A—17.2(17A,542) Investigations.** The board is authorized by Iowa Code section 17A.13(1) and Iowa Code section 542.11 to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Such investigations will conform to the procedures outlined in 193A—Chapter 15. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

**193A—17.3(17A,542) Notice of intent to impose civil penalties.** The notice of the board's intent to issue an order to enforce compliance with Iowa Code chapter 542 and board rules and to impose a civil penalty will be served upon the nonlicensee by certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice will include the following:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

1. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty, the nature of the intended order to enforce compliance with Iowa Code chapter 542 and board rules, and whether a practice privilege will be revoked.
5. Notice of the nonlicensee's right to a hearing and the time frame in which hearing can be requested.
6. The address to send a written request for hearing.

**193A—17.4(17A,542) Request for hearing.**

**17.4(1)** Nonlicensees have 30 days to request a hearing. The 30-day time frame begins on the date the notice is mailed if served through certified mail to the last-known address, or 30 days from the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing has to be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

**17.4(2)** If a request for hearing is not timely made, the board chairperson or the chairperson's designee may issue an order imposing the civil penalty, revoking the practice privilege, and requiring compliance with Iowa Code chapter 542 and board rules, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

**17.4(3)** If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees.

**17.4(4)** A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty, revoking the practice privilege, and requiring compliance with Iowa Code chapter 542 and board rules at any stage of the proceeding upon mutual consent of the board.

**17.4(5)** The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Hearings are open to the public.

**193A—17.5(542) "Safe harbor" language.** Persons who do not hold a CPA certificate or LPA license, firms that do not hold a CPA or LPA firm permit to practice, or individuals or firms that are ineligible to exercise a practice privilege cannot use in any statement relating to the financial affairs of a person or entity language that is conventionally used by CPAs or LPAs in reports on financial statements. Pursuant to Iowa Code section 542.13(8), such persons or firms may use the following "safe harbor" language:

"I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners). I (we) have not audited, reviewed or compiled the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them."

**193A—17.6(542) Enforcement options.** The board may also pursue other enforcement as provided in Iowa Code sections 542.14(8) through (9) and 542.15.

These rules are intended to implement Iowa Code chapters 17A and 542.

**ARC 7401C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Notice of Intended Action**

**Proposing rulemaking related to licensees' duty to report  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 18, "Licensees' Duty to Report," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Chapter 18 covers the licensees' duty to report.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

January 30, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:30 to 12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 18 and adopt the following **new** chapter in lieu thereof:

CHAPTER 18  
LICENSEES' DUTY TO REPORT

**193A—18.1(272C,542) Reporting acts or omissions committed by licensees.**

**18.1(1)** An individual or firm licensed by the board has a duty to report under Iowa Code section 272C.9(2). The failure to perform an engagement for a client in accordance with professional standards may demonstrate a lack of qualifications by a licensee or firm. These professional standards are set forth in 193A—Chapter 13.

**18.1(2)** When a licensee observes an act or omission referenced in subrule 18.1(1), the licensee is obligated to report the violation in writing to the board office, setting forth the name of the licensee alleged to have committed the violation and the rule(s) violated, together with a copy of all material that evidences the violation.

**193A—18.2(272C,542) Reporting judgments and settlements alleging malpractice.**

**18.2(1)** Licensees have a duty to report under Iowa Code section 272C.9(3). For the purposes of this rule, malpractice actions brought against a firm licensed by the board will be deemed to have been brought against both the firm and the firm's owners (e.g., partners, shareholders, or members) that performed the services that led to the malpractice action.

**18.2(2)** When a licensee is a party to an adverse judgment resulting from a professional malpractice action or is a party to a settlement of a claim resulting from an allegation of malpractice, the licensee

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

has an obligation to file a report in writing forwarded to the board office, setting forth the name and address of the client, the date the claim was originally made, a brief description of the circumstances precipitating the claim and a copy of the judgment or settlement agreement resulting from the claim.

**193A—18.3(272C,542) Timely reporting.** The reports under this chapter are to be forwarded to the board within 30 days from the initial receipt of the information giving rise to the reporting obligation.

**193A—18.4(272C,542) Failure to make reports.** The board may initiate a disciplinary proceeding against any licensee who fails to make a timely report under this chapter.

These rules are intended to implement Iowa Code chapters 272C and 542.

**ARC 7402C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to practice privilege for out-of-state certified public accountants and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 20, “Practice Privilege for Out-of-State Certified Public Accountants,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Iowa licensees and licensees from other jurisdictions enjoy a practice privilege outlined in Chapter 20, allowing licensees to practice in multiple states on one license.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Robert E. Lampe  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.725.9024  
 Fax: 515.725.9032  
 Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
 12:30 to 12:50 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5157259024)

January 31, 2024  
 12:30 to 12:50 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5157259024)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 20 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 20

## PRACTICE PRIVILEGE FOR OUT-OF-STATE CERTIFIED PUBLIC ACCOUNTANTS

**193A—20.1(542) Overview and timing.** Out-of-state certified public accountants who maintain their principal place of business in a jurisdiction other than Iowa may practice public accounting in Iowa or for clients with a home office in Iowa without Iowa licensure if all of the conditions of Iowa Code section 542.20 and this chapter are satisfied.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**193A—20.2(542) Out-of-state licensure status.** The practice privilege described in Iowa Code section 542.20 applies to individuals who are licensed to practice as certified public accountants in the jurisdiction in which their principal place of business is located for those periods of time in which all of the following conditions are satisfied:

**20.2(1)** The out-of-state license is valid, in good standing, and active. The practice privilege ceases if the out-of-state license expires in the jurisdiction of the individual's principal place of business.

**20.2(2)** The individual meets the criteria for substantial equivalency reciprocity, as provided in Iowa Code section 542.19(1) "a," "b," or "c" and rule 193A—9.5(542).

**20.2(3)** The license authorizes in the individual's principal place of business all of the public accounting services the individual performs or offers to perform in Iowa or for clients with a home office in Iowa.

**193A—20.3(542) When Iowa licensure may be necessary.**

**20.3(1)** The auditor of state, the department of agriculture and land stewardship, other governmental official or body, or a client may mandate that an individual be licensed in Iowa as a condition of performing public accounting services in Iowa or for a client with a home office in Iowa, whether or not the individual may otherwise satisfy the conditions for a practice privilege. Iowa licensure as a certified public accountant is necessary, for example, to perform certain audit services described in Iowa Code chapter 11.

**20.3(2)** Iowa licensure is necessary if an individual has an office in Iowa at which the individual uses the title "CPA," unless the individual satisfies the conditions for a practice privilege and one of the following is true:

*a.* The Iowa office is the office of an Iowa CPA or LPA firm that holds a permit to practice under Iowa Code section 542.7 or 542.8, and the individual provides public accounting services through that firm.

*b.* The Iowa office is the office of a business entity that is not obligated to hold a firm permit to practice under Iowa Code section 542.7 or 542.8, and the individual provides public accounting services through that business entity.

**20.3(3)** Iowa licensure is necessary if an individual moves the individual's principal place of business to Iowa and is otherwise obligated to be licensed under Iowa Code chapter 542. The board's streamlined application process for reciprocal licensure is described in Iowa Code section 542.19 and 193A—Chapter 9.

**193A—20.4(542) Individuals ineligible for a practice privilege.**

**20.4(1)** The practice privilege described in Iowa Code section 542.20 is not applicable if:

*a.* The individual has been convicted of a felony under the laws of any jurisdiction.

*b.* The individual has been convicted of any crime under the laws of any jurisdiction if an element of the crime involves dishonesty or fraud, such as forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or similar offense, as more fully described in Iowa Code section 542.5(2).

*c.* The individual's license to practice public accounting has been suspended, revoked, or otherwise disciplined by a licensing authority in this or another state, territory, or country, for any cause other than failure to pay appropriate fees. "Disciplined" includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding in Iowa or another jurisdiction.

*d.* The individual's right to practice public accounting before any state or federal agency, or the PCAOB, has been suspended or revoked.

*e.* The individual has applied for licensure as a certified public accountant in Iowa or another jurisdiction and the application has been denied.

*f.* Civil penalties have been imposed against the individual pursuant to Iowa Code section 542.14.

*g.* The individual's authority to exercise a practice privilege has been revoked in Iowa or another jurisdiction.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**20.4(2)** Individuals precluded from exercising a practice privilege under this rule may apply for licensure in Iowa if otherwise qualified. The board will determine when an application is submitted whether the criminal or disciplinary history or other regulatory action provides a ground to deny licensure.

**193A—20.5(542) Attest and compilation services.** Individuals providing compilation services in Iowa or for a client with a home office in Iowa need to comply with the peer review provisions of Iowa Code section 542.6(6) or provide such services through a CPA or LPA firm, or a substantially equivalent firm that holds a valid license in the firm's principal place of business and that complies with the peer review and ownership provisions of Iowa Code section 542.7 or 542.8.

**193A—20.6(542) Rights and duties.**

**20.6(1)** Individuals who satisfy the conditions for a practice privilege may practice public accounting in Iowa or for a client with a home office in Iowa in person, or by telephone, mail, or electronic means without licensure under Iowa Code chapter 542 or notice to the board.

**20.6(2)** Individuals lawfully practicing public accounting under a practice privilege may use the title "CPA" as long as they do not have an office in Iowa, except as provided in subrule 20.3(2).

**20.6(3)** Individuals practicing public accounting in Iowa or for a client with a home office in Iowa while exercising a practice privilege are subject to all of the following provisions:

*a.* Practice privilege practitioners are not allowed to make any representation tending to falsely indicate that the individuals are licensed under Iowa Code chapter 542. Such individuals may truthfully identify themselves as licensed in any jurisdiction in which they hold a valid, active, unexpired license to practice as a certified public accountant. For example, a practice privilege practitioner could not use the title "Iowa CPA" or otherwise state or imply licensure in Iowa, but, if true, the individual could use a title such as "CPA, licensed in Texas" or "Florida CPA." Such individuals could also truthfully state that they are CPAs practicing under a practice privilege.

*b.* Practice privilege practitioners will provide, upon a client's or prospective client's request, accurate information on the state or states of licensure, principal place of business, contact information, and manner in which licensure status can be verified.

*c.* Practice privilege practitioners will comply with all professional standards, laws, and rules that apply to licensees performing the same professional services.

**20.6(4)** As a condition of exercising the practice privilege provided in Iowa Code section 542.20, the individual:

*a.* Consents to the personal and subject matter jurisdiction and regulatory authority of the board including, but not limited to, the board's jurisdiction to revoke the practice privilege or otherwise take action under Iowa Code section 542.14 for any violation of Iowa Code chapter 542 or board rules;

*b.* Appoints the regulatory body of the state that issued the license in the individual's principal place of business as the agent upon whom process may be served in any action or proceeding by the board against the individual;

*c.* Agrees to supply the board, upon the board's request and without subpoena, such information or records licensees are similarly obligated to provide the board under Iowa Code chapter 542, including but not limited to the information described in Iowa Code section 542.20(7) "c"; and

*d.* Agrees to promptly cease offering or providing public accounting services in Iowa or for a client with a home office in Iowa if the license in the individual's principal place of business expires or is otherwise no longer in good standing, or if any of the conditions for exercising the practice privilege are no longer satisfied, or if the board revokes the practice privilege.

**193A—20.7(542) Penalties.**

**20.7(1)** Individuals purporting to practice public accounting under a practice privilege who are ineligible to exercise a practice privilege or who fail to satisfy the conditions for exercising a practice privilege are subject to all of the penalties that apply to unlicensed persons, including the criminal, administrative, and civil penalties described in Iowa Code sections 542.14 and 542.15.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**20.7(2)** If an individual acting or purporting to act under a practice privilege engages in any act or practice that does or may in the future violate Iowa Code chapter 542 or board rules, the board may take any or all of the following actions, as applicable:

- a.* Apply to the district court for an injunction, restraining order, or other order, pursuant to Iowa Code section 542.14(1);
- b.* Issue an order to require compliance with Iowa Code chapter 542 or board rules, impose a civil penalty pursuant to Iowa Code section 542.14;
- c.* Deny the subsequent license application of the violator or the violator's firm, pursuant to Iowa Code section 542.20(4) "a" and "b";
- d.* Refer the complaint or other relevant information to the jurisdiction that issued a license to the alleged violator; and
- e.* Take disciplinary action against the individual pursuant to Iowa Code section 542.10 if the individual holds an inactive or lapsed Iowa license.

**20.7(3)** Complaints filed with the board alleging violations by individuals who are not licensed by the board, including those acting or purporting to act under a practice privilege, are not confidential under Iowa Code section 272C.6(4) and will not be treated as confidential unless otherwise provided in Iowa Code chapter 22 or other applicable law.

**20.7(4)** Persons filing complaints with the board against individuals acting or purporting to act under a practice privilege should provide as much information as possible to assist the board in locating the individual and in determining whether the individual is licensed in any jurisdiction.

**193A—20.8(542) Relationship between Iowa licensure and the exercise of a practice privilege.**

**20.8(1)** *Active Iowa licensees.* An Iowa licensee holding an active CPA certificate is treated for all purposes as an Iowa licensee and is not subject to the provisions of Iowa Code section 542.20.

**20.8(2)** *Inactive Iowa licensees.* An Iowa licensee holding an inactive CPA certificate is precluded by Iowa Code section 542.6(3) and rule 193A—5.9(272C,542) from performing attest or compilation services or using the title "CPA" while performing public accounting services in Iowa or for a client with a home office in Iowa. The practice of an inactive CPA is restricted because the continuing education necessary to renew in active status does not apply to those renewing in inactive status. Some individuals holding an inactive Iowa CPA certificate may, however, hold an active CPA certificate in another jurisdiction in which they maintain their principal place of business and satisfy continuing education obligations. Such individuals may have maintained an inactive Iowa CPA certificate solely to facilitate reinstatement to active status when active Iowa licensure is necessary in their practice. The following provisions apply to inactive Iowa licensees who may wish to exercise a practice privilege:

- a.* In a disciplinary investigation or proceeding in which an inactive Iowa licensee is alleged to have improperly used the title "CPA" or otherwise practiced public accounting on an inactive license, the board will consider whether the inactive licensee, at the time of the events at issue, satisfied the conditions for a practice privilege under Iowa Code section 542.20 and complied with all rules applicable to the exercise of a practice privilege.
- b.* The individual will take care to avoid public confusion about licensure status as provided in 193A—subrule 5.1(6).
- c.* Violations of Iowa laws or rules by an individual holding an inactive Iowa CPA certificate will be prosecuted as disciplinary proceedings against a licensee under Iowa Code section 542.10 and, when appropriate under the factual circumstances, may also or alternatively be enforced under the provisions of Iowa Code sections 542.14 and 542.15.

**20.8(3)** *Lapsed Iowa licensees.* An Iowa licensee holding a lapsed Iowa CPA certificate is not authorized to perform attest or compilation services or to otherwise practice public accounting using the title "CPA" in Iowa or for a client with a home office in Iowa. A lapsed licensee is subject to discipline for practicing on a lapsed license or representing oneself as a "CPA" in any context unless the licensee truthfully discloses that the certificate has lapsed. Some individuals holding lapsed Iowa CPA certificates may, however, hold active CPA certificates in another jurisdiction in which the individuals maintain their principal place of business. Such individuals may have intentionally allowed their Iowa

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

CPA certificates to lapse because the individuals no longer need an active Iowa license in their practice. The following provisions apply to lapsed Iowa licensees who may wish to exercise a practice privilege:

*a.* In a disciplinary investigation or proceeding in which a lapsed Iowa licensee is alleged to have improperly used the title “CPA” or otherwise practiced public accounting on a lapsed license, the board will consider whether the lapsed licensee, at the time of the events at issue, satisfied the conditions for a practice privilege under Iowa Code section 542.20 and complied with all rules applicable to the exercise of a practice privilege.

*b.* The individual will take care to avoid public confusion about licensure status as provided in 193A—subrule 5.1(6).

*c.* Violations of Iowa laws or rules by an individual holding a lapsed Iowa CPA certificate will be prosecuted as disciplinary proceedings against a licensee under Iowa Code section 542.10 and, when appropriate under the factual circumstances, may also or alternatively be prosecuted under the provisions of Iowa Code sections 542.14 and 542.15.

**20.8(4) Former Iowa licensees.** An individual who held an Iowa CPA certificate at one time whose Iowa CPA certificate has been revoked or surrendered in connection with a disciplinary investigation or proceeding is barred from performing attest or compilation services or using the title “CPA” whether or not such individual may otherwise qualify for a practice privilege.

*a.* The former Iowa licensees described in this subrule are ineligible to exercise the practice privilege described in Iowa Code section 542.20.

*b.* Violations of Iowa Code chapter 542 or board rules by former Iowa licensees are subject to the criminal, civil and administrative remedies described in Iowa Code sections 542.14 and 542.15, and may also be prosecuted as disciplinary proceedings under Iowa Code section 542.10 if the license remains subject to reinstatement under Iowa Code section 542.12.

These rules are intended to implement Iowa Code section 542.20.

**ARC 7403C****ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rulemaking related to practice privilege for out-of-state certified public accounting firms and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to rescind Chapter 21, “Practice Privilege for Out-of-State Certified Public Accounting Firms,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542.2.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542 and Executive Order 10.

*Purpose and Summary*

These proposed amendments implement changes recommended by Executive Order 10. Actively licensed firms from other jurisdictions enjoy a practice privilege outlined in Chapter 21, allowing licensed firms to practice in multiple states on one license. The chapter informs on the provisions of the privilege for out-of-state firms practicing in Iowa.

*Fiscal Impact*

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 12:30 to 12:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a> More phone numbers: <a href="tel:meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>
January 31, 2024 12:30 to 12:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a> More phone numbers: <a href="tel:meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193A—Chapter 21 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 21

## PRACTICE PRIVILEGE FOR OUT-OF-STATE CERTIFIED PUBLIC ACCOUNTING FIRMS

**193A—21.1(542) Overview and timing.** Out-of-state certified public accounting firms that maintain their principal place of business in a jurisdiction other than Iowa may practice public accounting in Iowa or for clients with a home office in Iowa without Iowa licensure if all of the conditions of Iowa Code section 542.20 and this chapter are satisfied.

**193A—21.2(542) Out-of-state licensure status.** The practice privilege described in Iowa Code section 542.20 applies to certified public accounting firms that are licensed to practice as certified public accounting firms in the jurisdiction in which their principal place of business is located for those periods of time in which all of the following conditions are satisfied:

**21.2(1)** The out-of-state license is valid, in good standing, and active. The practice privilege ceases if the out-of-state license expires in the jurisdiction of the firm's principal place of business.

**21.2(2)** The out-of-state license is substantially equivalent to a permit to practice issued under Iowa Code section 542.7.

**21.2(3)** The license authorizes in the firm's principal place of business all of the public accounting services the firm performs or offers to perform in Iowa or for clients with a home office in Iowa.

**21.2(4)** The public accounting services offered in Iowa or for clients with a home office in Iowa that are obligated under Iowa law to be performed by a CPA are performed by a person holding a certificate issued under Iowa Code section 542.6 or 542.19, or by a person exercising a practice privilege pursuant to Iowa Code section 542.20 and 193A—Chapter 20.

**193A—21.3(542) When Iowa licensure may be necessary.**

**21.3(1)** The auditor of state, the department of agriculture and land stewardship, other governmental official or body, or a client may mandate that a firm be licensed in Iowa as a condition of performing public accounting services in Iowa or for a client with a home office in Iowa, whether or not the firm may otherwise satisfy the conditions for a practice privilege. Iowa licensure as a certified public accounting firm is necessary, for example, to perform certain audit services described in Iowa Code chapter 11.

**21.3(2)** Iowa licensure is necessary if the firm has one or more offices in Iowa at which the firm uses the title "CPAs," "CPA firm," "certified public accountants," or "certified public accounting firm."

**193A—21.4(542) CPA firms, revocation of practice privilege.**

**21.4(1)** The board may revoke the practice privilege in accordance with Iowa Code section 542.20.

**21.4(2)** Firms precluded from exercising a practice privilege under this rule may apply for licensure in Iowa if otherwise qualified. The board will determine when an application is submitted whether the criminal or disciplinary history or other regulatory action against the firm or against any of the firm's owners (e.g., partners, shareholders, or members) provides a ground to deny licensure.

**193A—21.5(542) Attest and compilation services.** Unless otherwise obligated by rule 193A—21.3(542), attest and compilation services may be performed by an out-of-state CPA firm exercising a practice privilege as long as the out-of-state firm is validly licensed in the state of its principal place of business, complies with Iowa Code section 542.20(5) and 542.20(6) and associated rules, and complies with the peer review and ownership provisions of Iowa Code section 542.7.

**193A—21.6(542) Rights and duties.**

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

**21.6(1)** CPA firms that satisfy the conditions for a practice privilege may practice public accounting in Iowa or for a client with a home office in Iowa in person, or by telephone, mail, or electronic means without licensure under Iowa Code chapter 542 or notice to the board.

**21.6(2)** CPA firms lawfully practicing public accounting under a practice privilege may use the title “CPAs,” “CPA firm,” “certified public accountants,” or “certified public accounting firm.”

**21.6(3)** CPA firms practicing public accounting in Iowa or for a client with a home office in Iowa while exercising a practice privilege are subject to all of the following provisions:

*a.* Practice privilege firms are not allowed to make any representation tending to falsely indicate that the firm is licensed under Iowa Code chapter 542. Such firms may truthfully identify themselves as licensed in any jurisdiction in which the firm holds a valid, active, unexpired license to practice as a certified public accounting firm. For example, a practice privilege firm could not use the title “Iowa CPAs” or “Iowa CPA firm” or otherwise state or imply licensure in Iowa, but, if true, the firm could use a title such as “CPA firm, licensed in Texas” or “Florida CPAs.” Such firm could also truthfully state that the firm is practicing in Iowa under a practice privilege.

*b.* Practice privilege firms will provide, upon a client’s or prospective client’s request, accurate information on the state or states of licensure, principal place of business, contact information, and manner in which licensure status can be verified.

*c.* Practice privilege firms will comply with all professional standards, laws, and rules that apply to licensed firms performing the same professional services.

**21.6(4)** As a condition of exercising the practice privilege provided in Iowa Code section 542.20, the firm:

*a.* Consents to the personal and subject matter jurisdiction and regulatory authority of the board including, but not limited to, the board’s jurisdiction to revoke the practice privilege or otherwise take action under Iowa Code section 542.14 for any violation of Iowa Code chapter 542 or board rules;

*b.* Appoints the regulatory body of the state that issued the license in the firm’s principal place of business as the agent upon whom process may be served in any action or proceeding by the board against the firm;

*c.* Agrees to supply the board, upon the board’s request and without subpoena, such information or records that licensed firms are similarly obligated to provide the board under Iowa Code chapter 542, including but not limited to the information described in Iowa Code section 542.20(7) “*c*,” and rule 193A—7.3(542); and

*d.* Agrees to promptly cease offering or providing public accounting services in Iowa or for a client with a home office in Iowa if the license in the firm’s principal place of business expires or is otherwise no longer in good standing, or if any of the conditions for exercising the practice privilege are no longer satisfied, or if the board revokes the practice privilege.

**193A—21.7(542) Penalties.**

**21.7(1)** Firms purporting to practice public accounting under a practice privilege that are ineligible to exercise a practice privilege or that fail to satisfy the conditions for exercising a practice privilege are subject to all of the penalties that apply to unlicensed firms, including the criminal, administrative, and civil penalties described in Iowa Code sections 542.14 and 542.15.

**21.7(2)** If a firm acting or purporting to act under a practice privilege engages in any act or practice that does or may in the future violate Iowa Code chapter 542 or board rules, the board may take any or all of the following actions, as applicable:

*a.* Apply to the district court for an injunction, restraining order, or other order, pursuant to Iowa Code section 542.14(1);

*b.* Issue an order mandating compliance with Iowa Code chapter 542 or board rules and impose a civil penalty pursuant to Iowa Code section 542.14;

*c.* Deny the subsequent license application of the violator or, to the extent responsible for the violation, any of the firm’s owners (e.g., partners, shareholders, or members), pursuant to Iowa Code section 542.20(4) “*a*” and “*b*”;

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

*d.* Refer the complaint or other relevant information to a jurisdiction that issued a license to the alleged violator; and

*e.* Take disciplinary action against the firm or, to the extent responsible for the violation, any of the firm's owners (e.g., partners, shareholders, or members), pursuant to Iowa Code section 542.10 if the firm or individual holds an inactive or lapsed Iowa license.

**21.7(3)** Complaints filed with the board alleging violations by firms that are not licensed by the board, including those acting or purporting to act under a practice privilege, are not confidential under Iowa Code section 272C.6(4) and will not be treated as confidential unless otherwise provided in Iowa Code chapter 22 or other applicable law.

**21.7(4)** Persons filing complaints with the board against firms acting or purporting to act under a practice privilege should provide as much information as possible to assist the board in locating the firm and the individuals allegedly responsible for the acts or omissions causing the complaint, and in determining whether the firm or any responsible individual is licensed in any jurisdiction.

**193A—21.8(542) Relationship between Iowa licensure and the exercise of a practice privilege.**

**21.8(1)** *Active Iowa licensees.* An Iowa CPA firm holding an active permit to practice under Iowa Code section 542.7 will be treated for all purposes as an Iowa licensee and is not subject to the provisions of Iowa Code section 542.20.

**21.8(2)** *Lapsed Iowa licensees.* An Iowa CPA firm holding a lapsed permit to practice under Iowa Code section 542.7 is not authorized to perform attest or compilation services or to otherwise practice public accounting using the title "CPAs," "CPA firm," "certified public accountants," or "certified public accounting firm" unless the firm is eligible to exercise a practice privilege under Iowa Code section 542.20. The following provisions apply to firms holding a lapsed Iowa permit to practice when exercising a practice privilege:

*a.* In a disciplinary investigation or proceeding alleging unlicensed practice or improper use of title, the board will consider whether the lapsed licensee, at the time of the events at issue, satisfied the conditions for a practice privilege under Iowa Code section 542.20 and complied with all rules applicable to the exercise of a practice privilege.

*b.* The firm will take reasonable steps to avoid public confusion over licensure status.

*c.* Violations of Iowa laws or rules by a firm holding a lapsed permit to practice will be prosecuted as disciplinary proceedings against a licensee under Iowa Code section 542.10 and, when appropriate under the factual circumstances, may also or alternatively be prosecuted under the provisions of Iowa Code sections 542.14 and 542.15.

**21.8(3)** *Former Iowa licensees.* A CPA firm that held an Iowa permit to practice at one time that has been revoked or surrendered in connection with a disciplinary investigation or proceeding is barred from performing any act or practice for which Iowa firm licensure is necessary and is further ineligible to exercise the practice privilege described in Iowa Code section 542.20. Violations of Iowa Code chapter 542 or board rules by such a firm are subject to the criminal, civil and administrative remedies described in Iowa Code sections 542.14 and 542.15, and may also be prosecuted as disciplinary proceedings under Iowa Code section 542.10 if the license remains subject to reinstatement under 193A—subrule 7.6(3).

These rules are intended to implement Iowa Code section 542.20.

**ARC 7435C**

**ARCHITECTURAL EXAMINING BOARD[193B]**

**Notice of Intended Action**

**Proposing rulemaking related to description of organization  
and providing an opportunity for public comment**

The Architectural Examining Board hereby proposes to rescind Chapter 1, "Description of Organization," Iowa Administrative Code, and to adopt a new chapter with the same title.

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

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 544A.29.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 544A.

*Purpose and Summary*

This proposed chapter provides basic information on the structure and function of the Board. Such information benefits the public and licensees in knowing about the organization and administration of the Board. The proposed chapter was approved by the Board on November 30, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@iowa.gov](mailto:lori.schraderbachar@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
11:50 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

January 31, 2024  
11:50 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

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

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193B—Chapter 1 and adopt the following new chapter in lieu thereof:

CHAPTER 1  
DESCRIPTION OF ORGANIZATION

**193B—1.1(544A,17A) Duties.**

**1.1(1)** The purpose of the architectural examining board is to administer and enforce the provisions of Iowa Code chapter 544A with regard to the practice of architecture in the state of Iowa, including the examining of candidates, issuing licenses to practice architecture, assuring continuing competency through continued education, investigating violations and infractions of the architecture law, disciplining licensees, and imposing civil penalties against nonlicensees. To this end, the board has promulgated these rules to clarify the board's intent and procedures.

**1.1(2)** The primary mission of the board is to protect the public interest. All board rules foster the guiding policies and principles described in Iowa Code section 544A.5. The board and its licensees strive at all times to protect the public interest by promoting the highest standards of architecture.

**1.1(3)** The board maintains a roster of all architects authorized to practice architecture in the state.

**1.1(4)** Chairperson. The chairperson presides at all meetings, appoints all committees, and otherwise performs all duties pertaining to the office of the chairperson.

**1.1(5)** Vice chairperson. The vice chairperson, in the absence or incapacity of the chairperson, exercises the duties and possesses the powers of the chairperson.

**1.1(6)** Board administrator. The department of inspections, appeals, and licensing may employ a board administrator who will maintain all necessary records of the board and perform all duties in connection with the operation of the board office. The board administrator determines when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations, and the board administrator submits to the board any questionable application.

**193B—1.2(544A,17A) Meetings.** Calls for meetings are issued in accordance with Iowa Code section 21.4. The first meeting scheduled after April 30 is the annual meeting. The chairperson and vice chairperson are elected to serve until their successors are elected. The newly elected officers assume the duties of their respective offices at the conclusion of the meeting at which they are elected. Officers may serve no more than three consecutive one-year terms in each office to which they are elected. Special meetings may be called by the chairperson or board administrator, who will set the time and place of the meeting.

**193B—1.3(544A,17A) Certificates.** Certificates issued to successful applicants contain the licensee's name and state license number. All licenses are renewable biennially on July 1, with licensees whose last names begin with the letters A through K renewing in even-numbered years and licensees whose last names begin with the letters L through Z renewing in odd-numbered years as provided in rule 193B—2.5(544A).

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

The board will maintain an electronic roster of those holders of certificates of licensure who have failed to renew.

These rules are intended to implement Iowa Code sections 544A.5, 544A.8 through 544A.10, and 272C.4.

**ARC 7436C****ARCHITECTURAL EXAMINING BOARD[193B]****Notice of Intended Action****Proposing rulemaking related to licensure  
and providing an opportunity for public comment**

The Architectural Examining Board hereby proposes to rescind Chapter 2, “Licensure,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 544A.29.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 544A.

*Purpose and Summary*

This proposed chapter establishes the minimum standards for architecture licensure. The public, licensees, and applicants benefit from the chapter since it articulates the processes by which individuals apply for licensure as directed in statute. The processes include those for initial licensure, renewal, and reinstatement. The requirements for licensure ensure public safety by ensuring that any individual who holds a license has minimum competency. These provisions include the application process, minimum educational and training qualifications, and examination requirements. The proposed chapter was approved by the Board on November 30, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

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

Lori SchraderBachar  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.725.9030  
 Email: [lori.schraderbachar@iowa.gov](mailto:lori.schraderbachar@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11:50 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>
January 31, 2024 11:50 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193B—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2  
 LICENSURE

**193B—2.1(544A,17A) Definitions.** The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Applicant*” means an individual who has submitted an application for licensure to the board.

“*Architectural intern*” or “*intern architect*” means an individual who holds a professional degree from a NAAB-accredited program or the equivalent as deemed by the board, has completed or is currently enrolled in the National Council of Architectural Registration Boards (NCARB) Architectural Experience Program (AXP), and intends to actively pursue licensure by completing the Architect Registration Examination.

“*ARE*” means the current Architect Registration Examination, as prepared and graded by the NCARB.

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

“*AXP applicant*” means an individual who has completed the AXP training requirements set forth in the NCARB Architectural Experience Program Guidelines and has submitted an application for licensure to the board.

“*Examination*” means the current Architect Registration Examination (ARE) accepted by the board.

“*Inactive*” means that an architect is not engaged in Iowa in any practice for which a certificate of licensure is required, including architects who have retired from active practice.

“*Issuance*” means the date of mailing of a decision or order or the date of delivery if service is by other means unless another date is specified in the order.

“*NAAB*” means the National Architectural Accrediting Board.

“*NCARB*” means the National Council of Architectural Registration Boards. The NCARB Architect Registration Examination Guidelines, NCARB Architectural Experience Program Guidelines, and NCARB Certification Guidelines are available through the National Council of Architectural Registration Boards, 1401 H Street NW, Suite 500, Washington, DC 20005; NCARB’s website, [www.ncarb.org](http://www.ncarb.org); or the board.

“*NCARB Architect Registration Examination (ARE) Guidelines*” means the edition of a document by the same title published by the National Council of Architectural Registration Boards on September 2022. The document outlines the requirements for examination.

“*NCARB Architectural Experience Program Guidelines*” means the edition of a document by the same title published by the National Council of Architectural Registration Boards in May 2020. The document outlines the requirements for training.

“*NCARB Certification Guidelines*” means the edition of a document by the same title published by the National Council of Architectural Registration Boards in July 2022. The document outlines the requirements for licensure as an architect.

“*NCARB Education Guidelines*” or “*NCARB Education Standards*” means the edition of a document by the same title published by the National Council of Architectural Registration Boards in December 2023. The document outlines the requirements for licensure as an architect.

**193B—2.2(544A,17A) Licensure.** All applicants for licensure will complete an online application form.

**2.2(1) Examination.** To be eligible for licensure by examination, all applicants will have obtained an accredited professional architectural degree from the National Architectural Accrediting Board (NAAB), have passed all divisions of the ARE prepared and provided by the National Council of Architectural Registration Boards (NCARB), have completed the NCARB Architectural Experience Program, and have attained an NCARB council record. A completed NCARB council record shall be transmitted to and filed in the board office. Upon receipt of the council record from NCARB, the board will provide the applicant with an application for licensure form, which must be completed and returned to the board within three months of receipt of the council record. The board shall issue a license number to the applicant upon receipt of the completed application form and appropriate fee.

*a.* Examinations for licensure as an architect shall be conducted by the board or its authorized representative.

(1) The board shall make use of the ARE prepared and graded by NCARB under a plan of cooperation with the architectural examining boards of all states and territories of the United States.

(2) The board may make use of a testing service selected by NCARB to administer the examination, provided the examination is held in at least one location within the boundaries of this state.

*b.* Examination admittance requirements.

(1) Have completed the eligibility requirements of the education standards for NCARB certification, which include a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB) or other NCARB-approved education program, or be a student actively participating in an NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within an NCARB-approved education program.

(2) Be enrolled in or have completed the NCARB Architectural Experience Program (AXP).

NCARB shall notify the testing service of the applicant’s eligibility prior to the applicant’s scheduling of an examination.



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

*c.* AXP eligibility requirements will be verified and satisfied in accordance with the NCARB Architectural Experience Program Guidelines. Documentation of AXP training units will be submitted on AXP report forms published by NCARB and will be verified by signatures of the licensed architects serving as the intern architect's supervisors in accordance with the requirements outlined in the NCARB Architectural Experience Program Guidelines. The completed AXP report form shall demonstrate attainment of an aggregate of the minimum number of value units in each training area and shall be submitted to NCARB for evaluation.

**2.2(2) *Reciprocity.*** The board or the board administrator may waive examination requirements for applicants who, at the time of application, are licensed as architects in a different jurisdiction and hold an active NCARB certificate. All such applicants who hold an active NCARB certificate are deemed to possess qualifications that are substantially equivalent to those required of applicants for initial licensure in this state. An active NCARB council certificate shall be transmitted to and filed in the board office. Upon receipt of the certificate from NCARB, the board will provide the applicant with an application for licensure form, which must be completed and returned to the board within three months of receipt of the council certificate.

**2.2(3) *Verification.*** The board may grant registration via verification as provided for in 193—Chapter 14.

**2.2(4) *Military service and veteran reciprocity.*** The board may grant registration for military service applicants, spouses, and veterans as provided for in 481—Chapter 7.

**2.2(5) *Applicants seeking architectural commission in Iowa.*** A person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being licensed in this state if:

- a.* The person holds an NCARB certificate; and
- b.* The person holds a current and valid license issued by a licensing authority recognized by this state; and
- c.* The person notifies the board in writing on a form provided by the board that the person:
  - (1) Holds an NCARB certificate and a current and valid license issued by a licensing authority recognized by this state,
  - (2) Is not currently licensed in this state but will be present in this state for the purpose of offering to provide architectural services on a temporary basis, and
  - (3) Has no previous or pending disciplinary action by any licensing authority; and
- d.* The person delivers a copy of the notice referred to in paragraph “*c*” to every potential client to whom the person offers to provide architectural services; and
- e.* The person provides the board with a sworn statement of intent to apply immediately to the board for licensure if selected as the architect for a project in this state.

The person is prohibited from actually providing architectural services until the person has been issued a valid license in this state.

**2.2(6) *Board refusal to issue license.*** The board may refuse to issue a certificate of licensure to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended or may otherwise discipline a licensee based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, “disciplinary action” includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

**193B—2.3(17A,272C,544A) Renewal of certificates of licensure.**

**2.3(1) *Active status.*** Certificates of licensure expire biennially on June 30. In order to maintain authorization to practice in Iowa, a licensee is required to renew the certificate of licensure prior to July 1 of the year of expiration. A licensee who fails to renew by the expiration date is not authorized to practice architecture in Iowa until the certificate is reinstated as provided in rule 193B—2.4(544A,17A).

*a.* A licensee whose last name begins with the letter A through K will renew in even-numbered years, and a licensee whose last name begins with the letter L through Z will renew in odd-numbered

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

years. However, a license issued on or after May 1 but before June 30 will not expire until June 30 of the next renewal. For example, a license issued on May 17, 2020, would not expire until June 30, 2022.

*b.* It is the policy of the board to send to each licensee a notice of the pending expiration date at the licensee's last-known address approximately one month prior to the date the certificate of licensure is scheduled to expire. The notice, when provided, may be by email communication. Failure to receive this notice does not relieve the licensee of the responsibility to timely renew the certificate and pay the renewal fee. A licensee should contact the board office if the licensee does not receive a renewal notice prior to the date of expiration.

*c.* Upon the board's receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board's administrator will issue a new certificate of licensure reflecting the next expiration date, unless grounds exist for denial of the application.

*d.* If grounds exist to deny a timely and sufficient application to renew, the board will send notification to the applicant. Grounds may exist to deny an application to renew if, for instance, the licensee failed to satisfy the continuing education as required as a condition for licensure. If the basis for denial is pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board will proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

*e.* When a licensee appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), and after or in lieu of giving the licensee an opportunity to come into compliance under 193B—subrule 3.3(3), offer a licensee the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the licensee complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the licensee. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of licensure and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—subrule 7.40(1).

*f.* The board may notify a licensee whose certificate of licensure has expired. The failure of the board to provide this courtesy notification or the failure of the licensee to receive the notification will not extend the date of expiration.

*g.* A licensee who continues to practice architecture in Iowa after the license has expired may be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a licensee's application for reinstatement.

**2.3(2) Inactive status.** This subrule establishes a procedure under which a person issued a certificate of licensure as an architect may apply to the board to be licensed as inactive. Licensure under this subrule is available to a license holder who is not engaged in Iowa in any practice for which licensure as an architect is required. A person eligible to be licensed as inactive may, as an alternative to such licensure, allow the certificate of licensure to lapse. During any period of inactive status, a person may use the title "inactive architect" or "retired architect," but may not use the sole title of "architect" or any other title that might imply that the person is offering services as an architect by such an action in violation of Iowa Code section 544A.15. The board will continue to maintain a database of persons licensed as inactive, including information that is not routinely maintained after a certificate has lapsed through the person's failure to renew. A person who is licensed as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board.

*a. Affirmation.* The renewal application form will contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code

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

section 544A.16 without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193B—2.5(544A).

*b. Renewal.* A person licensed as inactive may renew the person's certificate of licensure on the biennial schedule described in this rule. This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in rule 193B—2.9(544A,17A). An inactive certificate of licensure will lapse if not timely renewed.

*c. Permitted practices.* A person may, while licensed as inactive, perform for a client, business, employer, government body, or other entity those services that may lawfully be provided by a person to whom a certificate of licensure has never been issued. Such services may be performed as long as the person does not in connection with such services use the title "architect" or any other title restricted for use only by architects pursuant to Iowa Code section 544A.15 (without additional designations such as "inactive" or "retired"). Restricted titles may be used only by active architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education.

*d. Prohibited practices.* A person who, while licensed as inactive, engages in any of the practices described in Iowa Code sections 544A.15 and 544A.16 is subject to disciplinary action.

*e. Exemption.* A person whose license as an architect has been placed on probation, suspended, revoked, or voluntarily surrendered in connection with a disciplinary investigation or proceeding shall not be eligible for inactive status unless, upon appropriate application, the board first reinstates the license to good standing.

**193B—2.4(544A,17A) Reinstatement of lapsed certificate of licensure to active status.** An individual may reinstate a lapsed certificate of licensure to active licensure as follows:

**2.4(1)** Pay the current renewal fee.

**2.4(2)** Pay the reinstatement fee of \$100 plus \$25 per month or partial month of expired licensure up to a maximum of \$750. All applicants for reinstatement shall be assessed the \$100 reinstatement fee. The \$25 per month shall not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active architect license is required in Iowa. Falsely claiming an exemption from the monthly fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice.

**2.4(3)** Provide a written statement outlining the applicant's professional activities performed in Iowa during the period in which the individual was unlicensed. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

**2.4(4)** Submit documented evidence of completion of 24 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities and be in compliance with requirements in 193B—Chapter 3. The hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status. The continuing education hours used for reinstatement may not be used again at the next renewal.

**193B—2.5(544A) Reinstatement from inactive status to active status.** An individual may reinstate an inactive license to an active license as follows:

**2.5(1)** Pay one-half of the current active license fee.

**2.5(2)** Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status. The hours used to reinstate to active status cannot again be used to renew.

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

*a.* At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of licensure to active status, the person shall not be required to report continuing education hours.

*b.* At the first biennial renewal date of July 1 that is 12 months or more, but less than 24 months, from the date of the filing of the application to restore the certificate of licensure to active status, the person shall report 12 hours of previously unreported continuing education hours.

**2.5(3)** Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of inactive licensure.

**193B—2.6(544A,17A) Finding of probable cause for unlicensed practice.** The board may find probable cause to file charges for unlicensed practice if the individual continues to offer services defined as the practice of architecture outlined in Iowa Code section 544A.16 while using the title “architect,” “architectural designer,” or similar designation during the period of lapsed licensure.

**193B—2.7(544A,272C) Responsibility for accuracy of applications.** The architect is responsible for verifying the accuracy of the information submitted on an application regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of an architect’s firm submits an application for renewal on behalf of the architect and that information is incorrect, the architect will be held responsible for the information and may be subject to disciplinary action.

**193B—2.8(544A,272C) Application denial.** An application may be denied on the grounds provided in Iowa Code chapter 544A and in rule 193—7.39(546,272C). The administrative processing of an application shall not prevent the later initiation of a contested case to challenge a licensee’s qualifications for licensure. The board may also deny a license on the grounds of submitting a false statement or submission of material fact on an application for licensure.

**193B—2.9(544A,17A) Fee schedule.** Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB.

Initial license fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and license fee	\$200
Verification application and license fee	\$200
Biennial renewal fee	\$200
Biennial renewal fee (inactive)	\$100
Reinstatement of lapsed individual license	\$100 + renewal fee + \$25 per month or partial month of expired license
Reinstatement of inactive individual license	\$100
Duplicate wall certificate fee	\$ 50
License predetermination fee	\$ 25
Fee for return of payment	\$ 30

All fees are nonrefundable.

These rules are intended to implement Iowa Code chapters 544A and 17A.

**ARC 7437C**

**ARCHITECTURAL EXAMINING BOARD[193B]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education  
and providing an opportunity for public comment**

The Architectural Examining Board hereby proposes to rescind Chapter 3, “Continuing Education,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 544A.29 and chapter 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 544A, 272C, and 17A.

*Purpose and Summary*

This proposed chapter sets forth continuing education requirements for licensed architects to ensure continuing competency. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that architects maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The proposed chapter was approved by the Board on November 30, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@iowa.gov](mailto:lori.schraderbachar@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

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

January 30, 2024  
11:50 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

January 31, 2024  
11:50 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193B—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
CONTINUING EDUCATION

**193B—3.1(544A,272C) Continuing education.** The following rules adopted by the architectural examining board are in compliance with Iowa Code chapter 544A and section 272C.2 requiring professional and occupational licensees to participate in a continuing education program as a condition of license renewal.

**193B—3.2(544A,272C) Definitions.** The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Continuing education*” or “*CE*” means postlicensure learning that enables a licensed architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public's health, safety, and welfare.

“*Continuing education hour*” or “*CEH*” means one continuous instructional hour (50 to 60 minutes of contact) spent in structured educational activities intended to increase or update the architect's knowledge and competence in health, safety, and welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity and if the prescribed time is not deemed unreasonable by the board, then such prescribed time will be accepted for CEH purposes as the architect's time irrespective of actual time spent on the activity.

“*Distance learning*” means any education process based on the geographical separation of student and instructor. “Distance learning” includes computer-generated programs, webinars, and home-study/correspondence programs.

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

*“Health, safety, and welfare subjects”* means technical and professional subjects that the board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

1. Building systems: structural, mechanical, electrical, plumbing, communications, security, and fire protection.
2. Construction contract administration: contracts, bidding, and contract negotiations.
3. Construction documents: drawings, specifications, and delivery methods.
4. Design: urban planning, master planning, building design, site design, interiors, safety and security measures.
5. Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation.
6. Legal: laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, and insurance to protect owners and the public.
7. Materials and methods: construction systems, products, finishes, furnishings, and equipment.
8. Occupant comfort: air quality, lighting, acoustics, and ergonomics.
9. Predesign: land use analysis, programming, site selection, site and soils analysis, and surveying.
10. Preservation: historic, reuse, and adaptation.

*“Not engaged in active practice”* means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

*“Retired from active practice”* has the same meaning as “not engaged in active practice.”

*“Structured educational activities”* means educational activities in which at least 75 percent of an activity’s content and instructional time is to be devoted to health, safety, and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety, and welfare subjects and provided by qualified individuals or organizations, whether the courses of study or other activities are delivered by direct contact or distance learning methods.

**193B—3.3(544A,272C) Basic requirements.**

**3.3(1)** To renew licensure, an architect must, in addition to meeting all other requirements, complete a minimum of 24 CEHs for each 24-month period since the architect’s last renewal of initial licensure or be exempt from these continuing education requirements as provided in rule 193B—3.5(544A,272C). Failure to comply with these requirements may result in nonrenewal of the architect’s license.

**3.3(2)** All 24 CEHs must be completed in health, safety, and welfare subjects acquired in structured educational activities. CEHs may be acquired at any location. Excess CEHs cannot be credited to the next renewal.

**3.3(3)** An architect will complete and submit forms as required by the board certifying that the architect has completed the required CEHs. Forms may be audited by the board for verification of compliance with these requirements. Documentation of reported CEHs will be maintained by the architect for two years after the period for which the form was submitted. Any discrepancy between the number of CEHs reported and the number of CEHs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any CEHs, or the licensee has failed to complete the required CEHs, the architect will have 60 days from notification of the board to either provide further evidence of having completed the CEHs disallowed or remedy the disallowance by completing the required number of CEHs (provided that such CEHs are not used for the next renewal). An extension of time may be granted on an individual basis and must be requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action. If the board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required CEHs, the architect may be subject to disciplinary action.

**3.3(4)** An architect who holds licensure in Iowa for less than 12 months from the date of initial licensure or who is reinstating to active status is not required to report CEHs at the first license renewal. An architect who holds licensure in Iowa for 12 months or more, but less than 23 months from the date

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

of initial licensure or who is reinstating to active status, is required to report 12 CEHs earned in the preceding 12 months at the first license renewal.

**193B—3.4(544A,272C) Authorized structured educational activities.** The following list may be used by all licensees in determining the types of activities which may fulfill CE requirements if the activities are conducted as structured educational activities on health, safety, and welfare subjects:

1. Short courses or seminars sponsored by colleges or universities.
2. Technical presentations held in conjunction with conventions or at seminars sponsored or accredited by the American Institute of Architects (AIA), Construction Specifications Institute, Construction Products Manufacturers Council, National Council of Architecture Registration Boards (NCARB), or similar organizations devoted to architectural education.
3. Distance learning sponsored by the AIA, NCARB, or similar organizations.
4. College or university credit courses. Each semester hour equals 12 CEHs. A quarter hour equals 8 CEHs.

**193B—3.5(544A,272C) Exemptions.**

**3.5(1)** As provided in Iowa Code section 272C.2(4), a licensed architect will be deemed to have complied with the continuing education requirements set forth in this chapter if the architect attests in the required affidavit that for not less than 21 months of the preceding two-year period of licensure, the architect:

- a.* Has served honorably on active duty in the military service; or
- b.* Is a resident of another state or district having a continuing education requirement for licensure as an architect and has complied with all requirements of that state or district for practice therein; or
- c.* Is a government employee working as an architect and assigned to duty outside the United States.

**3.5(2)** Architects who so attest on their affidavits that they are retired from active practice or are not engaged in active practice may maintain their licenses in retired or inactive status without satisfying CE requirements. Such architects may, however, reenter practice only after satisfying the board of their proficiency. Proficiency may be established by any one of the following:

- a.* Submitting verifiable evidence of compliance with the aggregate continuing education requirements for the reporting periods attested as retired from active practice or not engaged in active practice up to a maximum of 48 CEHs.
- b.* Retaking the architectural registration examination.
- c.* Fulfilling alternative reentry requirements determined by the board which serve to assure the board of the current competency of the architect to engage in the practice of architecture.

**3.5(3)** The board may make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. More information is contained in 193—Chapter 5.

These rules are intended to implement Iowa Code section 272C.2.

**ARC 7438C**

**ARCHITECTURAL EXAMINING BOARD[193B]**

**Notice of Intended Action**

**Proposing rulemaking related to rules of conduct  
and providing an opportunity for public comment**

The Architectural Examining Board hereby proposes to rescind Chapter 4, “Rules of Conduct,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*



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

This rulemaking is proposed under the authority provided in Iowa Code section 544A.29 and chapters 272C and 17A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 544A, 272C, and 17A.

*Purpose and Summary*

This proposed chapter provides licensees and citizens with the rules of conduct for architects who are practicing architecture, in order to protect the public health, safety, and welfare by ensuring safe structures. The proposed chapter was approved by the Board on November 30, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@iowa.gov](mailto:lori.schraderbachar@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11:50 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>
January 31, 2024 11:50 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

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

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193B—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
RULES OF CONDUCT

**193B—4.1(544A,17A) Rules of conduct.** Failure by a licensee to adhere to the provisions of Iowa Code sections 272C.10 and 544A.13 and the following rules of conduct is grounds for disciplinary action.

**4.1(1) Definition.** The following definition applies as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Responsible charge*” means the amount of control over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by a licensed architect applying the necessary professional standard of care, including but not limited to an architect's integration of information from manufacturers, suppliers, installers; the architect's consultants, owners, contractors; or other sources the architect reasonably trusts that is incidental to and intended to be incorporated into the architect's technical submissions if the architect has coordinated and reviewed such information. Other review, or review and correction, of technical submissions after they have been prepared by others does not constitute the exercise of responsible charge because the reviewer has neither control over nor detailed professional knowledge of the content of such submissions throughout their preparation.

**4.1(2) Competence.**

*a.* In practicing architecture, an architect will act with reasonable care and competence and will apply the technical knowledge and skill which is ordinarily applied by architects of good standing practicing in the same locality.

*b.* While an architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of all applicable state and municipal building laws and regulations, once having obtained such advice, an architect will not knowingly design a project in violation of these laws and regulations.

*c.* An architect may perform professional services only when the architect, together with those whom the architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.

*d.* No person is permitted to practice architecture if, in the board's judgment upon receipt of medical testimony or evidence, the person's professional competence is substantially impaired by physical or mental disabilities.

**4.1(3) Conflict of interest.**

*a.* An architect may accept compensation for services from more than one party on a project if the circumstances are fully disclosed to and agreed to in writing by all interested parties.

*b.* If an architect has any business association or direct or indirect financial interest which is substantial enough to influence the architect's judgment in connection with the architect's performance of professional services, the architect will fully disclose, in writing, to the client or employer the nature of the business association or financial interest, and if the client or employer objects to the association

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

or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

*c.* An architect may not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing the products.

*d.* When acting as the interpreter of building contract documents and the judge of contract performance, an architect will render decisions impartially, favoring neither party to the contract.

**4.1(4) Full disclosure.**

*a.* When making public statements on architectural questions, an architect will disclose when compensation is being received for making the statements.

*b.* An architect will accurately represent to a prospective or existing client or employer the architect's qualifications, capabilities, and experience and the scope of the architect's responsibility in connection with work for which the architect is claiming credit.

*c.* If, in the course of work on a project, an architect becomes aware of a decision taken by the employer or client against the architect's advice which violates applicable state or municipal building laws and regulations and which may, in the architect's judgment, adversely affect the safety to the public of the finished project, the architect will:

(1) Report the decision to the local building inspector or other public official charged with enforcement of the applicable state or municipal building laws and regulations,

(2) Refuse to consent to the decisions, and

(3) In circumstances where the architect reasonably believes that other decisions will be taken, notwithstanding the architect's objection, terminate the architect's services with reference to the project.

*d.* An architect will not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with application for licensure or renewal of license.

*e.* An architect will not assist the application for licensure of a person known by the architect to be unqualified in respect to education, training, experience or character.

*f.* An architect possessing knowledge of a violation of these rules by another architect will report the knowledge to the board.

**4.1(5) Compliance with laws.**

*a.* An architect will not, in the conduct of architectural practice, knowingly violate any state or federal criminal law. A "conviction" for purposes of this paragraph and Iowa Code section 544A.13 means a conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice the profession of architecture and includes the court's acceptance of a guilty plea, a deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction. A copy of the record of conviction, guilty plea, deferred judgment, or other finding of guilt is conclusive evidence. A licensed architect will notify the board of a conviction within 30 days of the conviction.

*b.* An architect will neither make nor offer to make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

*c.* An architect will comply with the licensing laws and regulations governing the architect's professional practice in any United States jurisdiction.

*d.* An Iowa-licensed architect will report to the board in writing any revocation, suspension, license denial, or other disciplinary action taken by a licensing authority in any other state or jurisdiction within 30 days of the final action.

**4.1(6) Professional conduct.**

*a.* Each office engaged in the practice of architecture will have an architect resident regularly employed in that office having responsible charge of such work or, in the situation of work performed remotely, immediately available to furnish assistance or direction throughout the performance of the work.

*b.* An architect may only sign or seal drawings, specifications, reports or other professional work for which the architect has direct professional knowledge and direct supervisory control; provided,

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

however, that in the case of the portions of professional work prepared by the architect's consultants, licensed under this or another professional licensing law of this jurisdiction, the architect may sign or seal that portion of the professional work if the architect has reviewed that portion, has coordinated its preparation and intends to be responsible for its adequacy.

c. An architect will neither offer nor make any gifts to any public official with the intent of influencing the official's judgment in connection with a project in which the architect is interested. Nothing in this rule will bar an architect from providing architectural services as a charitable contribution.

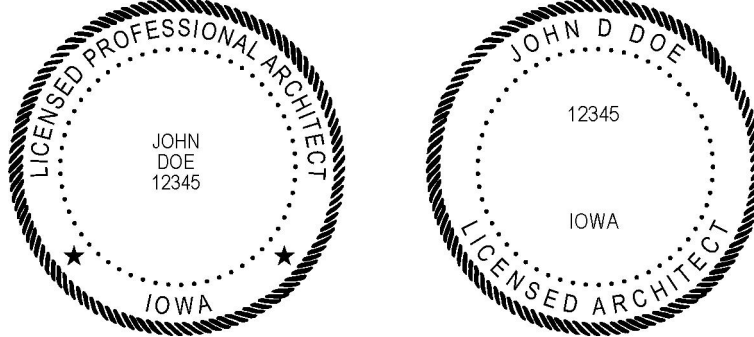
d. An architect will not engage in conduct involving fraud or wanton disregard of the rights of others.

e. Architects will adhere to the appropriate standards of conduct as outlined in the NCARB Model Rules of Conduct, dated July 2018, incorporated herein by reference.

**4.1(7) Seal and certificate of responsibility.**

a. The seal under Iowa Code section 544A.28 includes:

- (1) An outside circle with a diameter of approximately 1¾ inches.
- (2) The name of the licensed architect and the words "Licensed Architect".
- (3) The Iowa license number and the word "Iowa".
- (4) The seal will substantially conform to the samples shown below:



b. A legible rubber stamp, electronic image or other facsimile of the seal may be used.

c. Each technical submission submitted to a client or any public agency, hereinafter referred to as the official copy, will contain an information block on its first page or on an attached cover sheet with application of a seal by the architect in responsible charge and an information block with application of a seal by each professional consultant contributing to the technical submission. The seal and original signature will be applied only to a final technical submission. Each official copy of a technical submission will be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the technical submission. Each information block will display the seal of the individual responsible for that portion of the technical submission. The area of responsibility for each sealing professional will be designated in the area provided in the information block, so that responsibility for the entire technical submission is clearly established by the combination of the stated seal responsibilities. The information block will substantially conform to the sample shown below:

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

S E A L	<p>I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly licensed architect under the laws of the state of Iowa.</p> <hr/> <p style="text-align: center;">Signature <span style="float: right;">Date</span></p> <p>Printed or typed name _____</p> <p>License number _____</p> <p>My license renewal date is June 30, _____.</p> <p>Pages or sheets covered by this seal: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>
---------	---

d. The information requested in each information block must be typed or legibly printed in permanent ink or a secure electronic signature. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee’s responsibility to ensure, prior to affixing an electronic signature to a technical submission, that security procedures are adequate to (1) verify that the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed. The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.

e. The architect who signed the original submission is responsible for forwarding copies of all changes and amendments to the technical submission, which becomes a part of the official copy of the technical submission, to the public official charged with the enforcement of the state, county, or municipal building code.

f. An architect is responsible for the custody and proper use of the seal. Improper use of the seal is grounds for disciplinary action.

g. The seal appearing on any technical submission establishes prima facie evidence that said technical submission was prepared by or under the responsible charge of the individual named on that seal.

**4.1(8) Communications.** An architect will, when requested, respond to communications from the board within 30 days of the mailing of such communication by certified mail. Failure to respond to such communication may be grounds for disciplinary action against the architect.

**4.1(9) Architectural Experience Program supervisor.** The Architectural Experience Program supervisor, formerly known as the Intern Development Program supervisor, will timely respond to a request to verify experience hours reported to the National Council of Architectural Registration Boards’ Architectural Experience Program when requested by NCARB, the board, or a subordinate, associate, or intern who is, or has been, supervised by the Architectural Experience Program supervisor.

This rule is intended to implement Iowa Code chapters 17A and 544A.

**ARC 7439C**

**ARCHITECTURAL EXAMINING BOARD[193B]**

**Notice of Intended Action**

**Proposing rulemaking related to exceptions  
and providing an opportunity for public comment**

The Architectural Examining Board hereby proposes to rescind Chapter 5, “Exceptions,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 544A.29 and chapters 272C and 17A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 544A, 272C, and 17A.

*Purpose and Summary*

Iowa residents, the public, building code officials, licensees and employers benefit from this proposed chapter because it clarifies when an architect is needed to design or make alterations to a building. The chapter establishes guidelines for the types of projects where architectural services are needed to provide for the health and safety of those who occupy buildings and interact in the built environment. Architects ensure safety by adhering to federal and state laws, building codes, and zoning laws. The proposed chapter was approved by the Board on November 30, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@iowa.gov](mailto:lori.schraderbachar@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

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

January 30, 2024  
11:50 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

January 31, 2024  
11:50 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193B—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5  
EXCEPTIONS

**193B—5.1(544A) Definitions.** The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules.

“*Accessory buildings*” means a building or structure of an accessory character and miscellaneous structures not classified in any specific occupancy or use. “Accessory buildings” are constructed, equipped and maintained to conform to the requirements corresponding to the fire and life hazard incidental to the buildings’ occupancy. “Accessory buildings” is intended to encompass the uses listed in Group U of the 2015 International Building Code®.

“*Agricultural building*” means a structure designed to house farm implements, hay, grain, poultry, livestock or other agricultural products. For the purpose of this definition, this structure does not contain habitable space or a place of employment where agricultural products are processed or treated or packaged; nor will it be a place used by the public.

“*Alter*” or “*alteration*” means any change, addition or modification to an existing building in its construction or occupancy.

“*Church*” means a building or portion thereof intended for the performance of religious services.

“*Commercial*” or “*commercial use*” means the following:

1. The use of a building or structure, or a portion thereof, for office, professional, or service-type transactions, including storage of records and accounts,
2. The use of a building or structure, or a portion thereof, for the display and sale of merchandise, and involves stocks of goods, including wares or merchandise incidental to such purposes and accessible to the public.

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

“Commercial use” is intended to encompass the uses listed in Group B and Group M of the 2015 International Building Code®.

“*Detached*” means a structure separated by distance and not connected to another structure.

“*Dwelling unit*” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“*Educational use*” means the use of a building or structure, or a portion thereof used (1) by six or more persons at any one time for education purposes through twelfth grade; or (2) by six or more children for day care purposes. Rooms and spaces within places of religious worship providing such day care during religious functions and day cares serving five or fewer children are classified as part of the primary occupancy. “Educational use” is intended to encompass the uses listed in Group E of the 2015 International Building Code®.

“*Factory-built buildings*” means any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. “Factory-built buildings” includes the terms “mobile home,” “manufactured home,” and “modular home.”

“*Family dwelling unit*” means the same as “dwelling unit.”

“*Gross floor area*” means the area included within the surrounding exterior walls of a building. Areas of the building not provided with surrounding walls are included in the building area if such areas are included within the horizontal projection of the supporting structure of the roof or floor above.

“*Habitable space (room)*” means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered “habitable space.”

“*Hazardous use*” means the use of a building or structure, or a portion thereof, which involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard. “Hazardous use” is intended to encompass the uses listed in Group H of the 2015 International Building Code®.

“*Industrial use*” means the use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair, or processing operations that are not classified as hazardous use. “Industrial use” is intended to encompass the uses listed in Group F of the 2015 International Building Code®.

“*Institutional use*” means the use of a building or structure, or a portion thereof, in which persons are receiving custodial or medical care, in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Day care facilities as defined in educational use are not considered institutional uses. “Institutional use” is intended to encompass the uses listed in Group I of the 2015 International Building Code®. Facilities with five or fewer persons receiving custodial care may be considered a residential use or be considered part of the primary occupancy as listed in Group I of the 2015 International Building Code®.

“*International Building Code*” is a model building code developed by the International Code Council. The 2015 International Building Code® is available from the state library of Iowa or the board or online at [codes.iccsafe.org](http://codes.iccsafe.org).

“*Light industrial*” means buildings not more than one story in height and not exceeding 10,000 square feet in gross floor area that involve fabrication or manufacturing of noncombustible materials which, during finishing, packing, or processing, are not classified as hazardous use.

“*Mixed building use*” means a building containing more than one use classification.

“*Nonstructural alterations*” means modifications to an existing building which do not include any changes to structural members of a building, or do not modify means of egress, handicap accessible routes, fire resistivity or other life safety concerns.

“*Occupancy*” means a purpose for which a building, or part thereof, is used or intended to be used.

“*Outbuildings*” means the same as “accessory buildings.”

“*Place of assembly of people or public gathering*” means the use of a building or structure, or a portion thereof, for the gathering of persons such as for civic, social, or religious functions; recreation, food or drink consumption; or awaiting transportation. “Place of assembly of people or public gathering”



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

is intended to encompass the uses listed in Group A of the 2015 International Building Code®. Places of assembly with occupancy of fewer than 50 people are considered part of the primary occupancy.

“*Residential use*” means the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an institutional use. “Residential use” is intended to encompass the uses listed in Group R of the 2015 International Building Code®.

“*Story*” means that portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above.

“*Structural members*” consists of building elements which carry an imposed load of weight and forces in addition to their own weight including, but not limited to, loads imposed by forces of gravity, wind, and earthquake. Structural members include, but are not limited to, footings, foundations, columns, load-bearing walls, beams, girders, purlins, rafters, joists, trusses, lintels, and lateral bracing.

“*Use*” means the same as “occupancy.”

“*Warehouses*” or “*warehouse use*” means the use of a building or structure, or portion thereof, for storage that is not classified as a hazardous use. “Warehouse use” is intended to encompass the uses listed in Group S of the 2015 International Building Code®.

**193B—5.2(544A) Exceptions.** An architect licensed in this state is required to perform professional architectural services for all buildings except those listed in Iowa Code section 544A.18.

**193B—5.3(544A) Building use.** The following criteria are used when applying the exceptions outlined in Iowa Code section 544A.18 and rule 193B—5.2(544A):

**5.3(1) Building use takes priority over size.** In all cases, the use of the building takes priority over the size. For example, a place of assembly is not a commercial use, and would not constitute an exception even if the building is not more than one story in height and does not exceed more than 10,000 square feet in gross floor area.

**5.3(2) Mixed building use.** In the case that a building contains more than one use, the most stringent use is applied to the entire building when applying the exceptions. For example, a two-story building containing a 6,000 square foot commercial space as well as 6,000 square feet of residential space on the second floor would be considered a 12,000 square foot, two-story commercial building for the purposes of the exception matrix.

**5.3(3) Agricultural buildings.** Activities inherent to housing farm implements, farm inputs, farm products, and livestock or other agricultural products, such as recordkeeping, sanitation, storage of farm inputs, or equipment preparation, repair, or modifications, are not to be construed as a use in and of itself for the purposes of applying the exceptions. For example, welding operations to repair an implement or grain-handling equipment would not trigger the consideration of an agricultural building or a portion of the building as an industrial use.

**5.3(4) Churches and accessory buildings.** When under the height and gross floor area noted in the exception and encompassing uses inherent to a church or an accessory building as defined, these buildings are exempted, even if the use within the building would normally not be exempted. For example, a church used as a place of assembly with occupancy of more than 50 people but still under the height and gross floor area noted would still be exempted even though the occupancy would place the building in the nonexempted category.

**193B—5.4(544A) Exceptions matrix.** The following matrix is compiled to illustrate the exceptions outlined in Iowa Code section 544A.18. The laws and rules governing the practice of engineering are not illustrated herein.

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

<b>BUILDINGS NEW CONSTRUCTION</b>			
<b>Building Use Type</b>	<b>Description</b>	<b>Architect Required</b>	<b>Architect May Not Be Required</b>
Agricultural use	Including grain elevators and feed mills		X
Churches and accessory buildings whether attached or separate	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
	Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
	More than two stories in height	X	
Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
	Two stories in height, greater than 6,000 square feet of gross floor area	X	
	More than two stories in height	X	
Detached residential use	One, two or three stories in height, containing 12 or fewer family dwelling units		X
	More than 12 family dwelling units	X	
	More than three stories in height	X	
	Outbuildings in connection with detached residential buildings		X
Educational use		X	
Hazardous use		X	
Industrial use		X	
Institutional use		X	
Light industrial use			X
Places of assembly		X	
Warehouse use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	More than one story in height	X	
Factory-built buildings	Any height and size, if certified by a professional engineer licensed under Iowa Code chapter 542B		X
	One or two stories in height, up to a maximum of 20,000 square feet in gross floor area		X
	One or two stories in height, greater than 20,000 square feet in gross floor area	X	
	More than two stories in height	X	
	More than 20,000 square feet in gross floor area	X	

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

<b>ALTERATIONS TO EXISTING BUILDINGS</b>				
<b>Alteration Type</b>	<b>Description</b>	<b>Architect Required</b>	<b>Architect May Not Be Required</b>	
Structural alterations to exempt buildings	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns		X	
Structural alterations to nonexempt buildings	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns	X		
Nonstructural alteration	Which does not modify means of egress, handicap accessible path, fire resistivity or other life safety concerns		X	
	Which maintains the previous type of use		X	
Nonstructural alteration which changes the use of the building from any other use to:	A place of assembly of people or public gathering	X		
	Educational use	X		
	Hazardous use	X		
	Residential use exempted	and is one, two or three stories in height and contains not more than 12 family dwelling units		X
	Residential use not exempted otherwise	and is more than three stories in height	X	
and containing more than 12 family dwelling units		X		
Nonstructural alterations which change the use of the building from industrial or warehouse to:	Commercial or office use	and is one story in height and not greater than a maximum of 10,000 square feet in gross floor area		X
		and is one story in height and greater than 10,000 square feet in gross floor area	X	
		and is two stories in height and not greater than a maximum of 6,000 square feet in gross floor area		X
		and is two stories in height and greater than 6,000 square feet in gross floor area	X	
		and is more than two stories in height	X	
		and is greater than 10,000 square feet of gross floor area	X	
Nonstructural alterations to:	Agricultural use	Including grain elevators and feed mills		X
	Churches and accessory building uses	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
		Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
		Two stories in height, greater than 6,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Detached residential buildings	One, two or three stories in height, containing 12 or fewer family dwelling units		X
More than 12 family dwelling units		X		
More than three stories in height		X		

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

ALTERATIONS TO EXISTING BUILDINGS				
		Outbuildings in connection with detached residential buildings		X
	Educational use		X	
	Hazardous use		X	
	Industrial use		X	
	Institutional use		X	
	Light industrial use			X
	Places of assembly		X	
	Warehouse use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		More than one story in height	X	
	Factory-built buildings	Any height and size if entire building is certified by a professional engineer licensed under Iowa Code chapter 542B		X
		One or two stories in height, up to a maximum of 20,000 square feet of gross floor area		X
		One or two stories in height, greater than 20,000 square feet in gross floor area	X	
		More than two stories in height	X	
		More than 20,000 square feet in gross floor area	X	

These rules are intended to implement Iowa Code section 544A.18.

**ARC 7440C****ARCHITECTURAL EXAMINING BOARD[193B]****Notice of Intended Action****Proposing rulemaking related to disciplinary action against licensees and providing an opportunity for public comment**

The Architectural Examining Board hereby proposes to rescind Chapter 6, “Disciplinary Action Against Licensees,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 272C.3 to 272C.5, 544A.5 and 544A.29.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 544A.

*Purpose and Summary*

This proposed chapter provides Iowans and licensees and their employers with information about the disciplinary process and possible actions against licensed architects. The public knows that the Board can take disciplinary action for violations of the Board’s rules. The public has the ability to submit a complaint about a licensee to the Board, which can then investigate the complaint. The Board has the ability to seek discipline against the licensee, ensuring that the public is protected. The proposed chapter was approved by the Board on November 30, 2023.

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

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@iowa.gov](mailto:lori.schraderbachar@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11:50 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>
January 31, 2024 11:50 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

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

ITEM 1. Rescind 193B—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6  
DISCIPLINARY ACTION AGAINST LICENSEES

**193B—6.1(544A,272C) Disciplinary action.** The architectural examining board has authority in Iowa Code chapters 544A, 17A and 272C to impose discipline for violations of these chapters and the rules promulgated thereunder.

**193B—6.2(544A,272C) Investigation of complaints.** The board will, upon receipt of a complaint in writing, or may, upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rules. In order to determine if probable cause exists for a hearing on a complaint, the investigators designated by the chairperson will investigate the allegations of the complaint. If the board determines that the complaint does not present facts which constitute a basis for disciplinary action, the board may take no further action.

**193B—6.3(544A,272C) Peer investigative committee.** A peer investigative committee may be appointed by the chairperson to investigate a complaint. The committee members will consist of one or more architects who have been licensed to practice in Iowa for at least five years, serving at the discretion of the chairperson. The committee will review and determine the facts of the complaint and make a report to the board in a timely manner.

**193B—6.4(544A,272C) Investigation report.** Upon completion of the investigation, the investigator(s) will prepare for the board's consideration a report containing the position or defense of the licensee to determine what further action is necessary. The board may:

1. Order the matter be further investigated.
2. Allow the licensee who is the subject of the complaint an opportunity to appear before a committee of the board for an informal discussion regarding the circumstances of the alleged violation.
3. Determine there is no probable cause to believe a disciplinary violation has occurred and close the case.
4. Determine there is probable cause to believe that a disciplinary violation has occurred.

**193B—6.5(544A,272C) Informal discussion.** If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. The licensee is not required to attend the informal discussion.

Unless disqualification is waived by the licensee, board members who personally investigated a disciplinary complaint are disqualified from making decisions at a later formal hearing. Because board members generally rely upon staff, investigators, auditors, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question-and-answer format. In order to preserve the ability of all board members to participate in board decision making, licensees who desire to attend an informal discussion will therefore waive their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the

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

event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges will be filed simultaneously with the consent order.

**193B—6.6(544A,272C) Decisions.** The board will make findings of fact and conclusions of law and may take one or more of the following actions:

**6.6(1)** Dismiss the charges.

**6.6(2)** Revoke the architect's license.

**6.6(3)** Suspend the licensee's license as authorized by law.

**6.6(4)** Impose civil penalties, not to exceed \$1,000. Civil penalties may be imposed for any of the disciplinary violations specified in Iowa Code sections 544A.13 and 544A.15 and these rules. Factors the board may consider when determining whether to assess civil penalties and the amount to assess include:

- a.* Whether other forms of discipline are being imposed for the same violation.
- b.* Whether the amount imposed will be a substantial deterrent to the violation.
- c.* The circumstances leading to the violation.
- d.* The severity of the violation and the risk of harm to the public.
- e.* The economic benefits gained by the licensee as a result of the violation.
- f.* The interest of the public.
- g.* Evidence of reform or remedial action.
- h.* Time lapsed since the violation occurred.
- i.* Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j.* The clarity of the issues involved.
- k.* Whether the violation was willful and intentional.
- l.* Whether the licensee acted in bad faith.
- m.* The extent to which the licensee cooperated with the board.
- n.* Whether the licensee practiced architecture with a lapsed, inactive, suspended or revoked certificate of licensure.

**6.6(5)** Impose a period of probation, either with or without conditions.

**6.6(6)** Require reexamination, using one or more parts of the examination given to architectural licensee candidates.

**6.6(7)** Require additional professional education, reeducation, or continuing education.

**6.6(8)** Issue a citation and a warning.

**6.6(9)** Issue a consent order.

**193B—6.7(544A,272C) Voluntary surrender.** Voluntary surrender of licensure is considered as disciplinary action. The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board will not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such voluntary surrender is considered disciplinary action and will be published in the same manner as is applicable to any other form of disciplinary order.

These rules are intended to implement Iowa Code section 544A.13 and chapter 272C.

**ARC 7441C**

**ARCHITECTURAL EXAMINING BOARD[193B]**

**Notice of Intended Action**

**Proposing rulemaking related to disciplinary action for unlicensed practice  
and providing an opportunity for public comment**

The Architectural Examining Board hereby proposes to rescind Chapter 7, “Disciplinary Action—Unlicensed Practice,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 272C.3 to 272C.5, 544A.5 and 544A.29.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 544A.

*Purpose and Summary*

This proposed chapter provides Iowans with information about the disciplinary process and possible actions against those who practice architecture without a license. The public knows that the Board can take disciplinary action for violations of the Board’s rules. The public has the ability to submit a complaint to the licensing board who can then investigate the complaint. The Board has the ability to seek discipline for unlicensed practice, ensuring that the public is protected. The proposed chapter was approved by the Board on November 30, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@iowa.gov](mailto:lori.schraderbachar@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:



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

January 30, 2024  
11:50 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

January 31, 2024  
11:50 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193B—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7  
DISCIPLINARY ACTION—UNLICENSED PRACTICE

**193B—7.1(544A,272C) Disciplinary action.** The architectural examining board has authority in Iowa Code chapters 544A, 17A and 272C to impose discipline for violations of these chapters and the rules promulgated thereunder.

**193B—7.2(544A,272C) Investigation of complaints.** The board will, upon receipt of a complaint in writing, or may, upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts which the board reasonably believes constitute cause under applicable law or administrative rules. In order to determine if probable cause exists for a hearing on a complaint, the investigators designated by the chairperson will investigate the allegations of the complaint. If the board determines that the complaint does not present facts which constitute a basis for disciplinary action, the board may take no further action.

**193B—7.3(544A) Civil penalties against unlicensed person.** The board may impose civil penalties by order against a person who is not licensed as an architect pursuant to Iowa Code chapter 544A based on the unlawful practices specified in Iowa Code section 544A.15(3). In addition to the procedures set forth in Iowa Code section 544A.15(3), this rule applies.

**7.3(1)** The notice of the board's intent to impose a civil penalty required by Iowa Code section 544A.15(3) may be served upon the unlicensed person by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 1.305. Alternatively, the unlicensed person may accept service personally or through authorized counsel. The notice includes the following:

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

- a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b. Reference to the particular sections of the statutes and rules involved.
- c. A short, plain statement of the alleged unlawful practices.
- d. The dollar amount of the proposed civil penalty.
- e. Notice of the unlicensed person's right to a hearing and the time frame in which a hearing is requested.
- f. The address to which written request for hearing is made.

**7.3(2)** Unlicensed persons need to request a hearing in writing within 30 days of the date the notice is mailed, if served through restricted certified mail to the last-known address, or within 30 days of the date of service, if service is accepted or made in accordance with Rule of Civil Procedure 1.305. A request for hearing is deemed made on the date of the United States Postal Service postmark or the date of personal service.

**7.3(3)** If a request for hearing is not timely made, the board chair or the chair's designee may issue an order imposing the civil penalty described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

**7.3(4)** If a request for hearing is timely made, the board issues a notice of hearing and conducts a hearing in the same manner as applicable to disciplinary cases against licensed architects.

**7.3(5)** In addition to the factors set forth in Iowa Code section 544A.15(3), the board may consider the following when determining the amount of civil penalty to impose, if any:

- a. The time lapsed since the unlawful practice occurred.
- b. Evidence of reform or remedial actions.
- c. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
- d. Whether the violation involved an element of deception.
- e. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
- f. The clarity of the issue involved.
- g. Whether the violation was willful and intentional.
- h. Whether the unlicensed person acted in bad faith.
- i. The extent to which the unlicensed person cooperated with the board.

**7.3(6)** An unlicensed person may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty at any stage of the proceeding upon mutual consent of the board.

**7.3(7)** The notice of intent to impose civil penalty and order imposing civil penalty are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, the National Council of Architectural Registration Boards, and other entities. Hearings are open to the public.

These rules are intended to implement Iowa Code section 544A.15.

**ARC 7404C****ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]****Notice of Intended Action****Proposing rulemaking related to administration and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 1, "Administration," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 1 implement changes recommended by Executive Order 10. The purpose of this chapter is to inform Iowans of the structure and functionality of the Board and provide guidance on building situations where a professional engineer may be needed.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5157259024)

January 31, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5157259024)

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1  
ADMINISTRATION

**193C—1.1(542B) General statement.** The practices of engineering and land surveying affect the life, health, and property of the people in Iowa. The engineering and land surveying examining board's principal mandate is the protection of the public interest.

**1.1(1) Administration.** Administration of the board has not been separated into panels, divisions, or departments. While the expertise of a board member may be called upon to frame special examinations and evaluate applications for licensing in a specialized engineering branch, the board functions in a unified capacity on all matters that may come before it. The board maintains an office at 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309, and requests or submissions may be directed to the secretary of the board at that location.

**1.1(2) Meetings.** Regular meetings of the board are held in Des Moines, Iowa. Information concerning the location and dates for meetings may be obtained from the board's office at 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309, or by telephoning 515.725.9022.

**193C—1.2(542B) Definitions.** For the purposes of these rules, the following definitions apply:

*"Accredited"* means a program accredited by the Accreditation Board for Engineering Technology, Inc. (ABET) or the Canadian Engineering Accreditation Board (CEAB) or another accrediting body accepted by the National Council of Examiners for Engineering and Surveying (NCEES).

*"Board"* means the engineering and land surveying examining board provided by Iowa Code chapter 542B.

*"Design coordination"* means the same as defined in Iowa Code section 542B.2(2).

*"Engineering documents"* means the same as defined in Iowa Code section 542B.2(4).

*"Engineering survey,"* as used in the definition of the practice of engineering, includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but excludes the survey of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land system.

*"Engineer intern"* means the same as defined in Iowa Code section 542B.2(3).

*"In responsible charge"* means the same as defined in Iowa Code section 542B.2(6).

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

“*Land surveying documents*” means the same as defined in Iowa code section 542B.2(7).

“*Practice of engineering*” means the same as defined in Iowa Code section 542B.2(9) “a” and “b.”

1. The practice of engineering includes:

- Environmental engineering activities that may be involved in developing plans, reports, or actions to remediate an environmentally hazardous site;
- Design of fixturing devices for manufacturing machinery that must be performed by a licensed professional engineer or under the responsible charge and direct supervision of a professional engineer unless performed within the industrial exemption by a full-time employee of a corporation that constructs the fixtures.

2. Activities that the board will construe as the practice of engineering for which the board may by order impose a civil penalty upon a person who is not licensed as a professional engineer are set out in Iowa Code section 542B.27.

“*Practice of land surveying*” means the same as defined in Iowa Code section 542B.2(10) and also includes activities that the board will construe as the practice of land surveying and for which the board may by order impose a civil penalty upon a person who is not licensed as a professional land surveyor as set out in Iowa Code section 542B.27.

“*Professional engineer*” means the same as defined in Iowa Code section 542B.2(11).

“*Professional land surveyor*” means a person who engages in the practice of land surveying as defined in this rule.

“*Written,*” when used to describe an examination, means a computer-based format.

**193C—1.3(542B) Declaratory orders.** The board’s rules regarding declaratory orders can be found in the uniform rules for the division of professional licensing and regulation at 193—Chapter 10.

**193C—1.4(542B) Waivers.**

**1.4(1)** The board’s rules regarding waivers can be found in the uniform rules for the division of professional licensing and regulation at 193—Chapter 5.

**1.4(2)** Interim rulings. The board chairperson, or vice chairperson if the chairperson is not available, may rule on a petition for waiver when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

*a.* The executive secretary shall, upon receipt of a petition meeting all applicable criteria established in 193—Chapter 5, present the request to the board chairperson or vice chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

*b.* The chairperson or vice chairperson shall reserve the right to hold an electronic meeting of the board when:

(1) Board precedent does not clearly resolve the request and the input of the board is deemed required; and

(2) The practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

*c.* A waiver report will be placed on the agenda of the next regularly scheduled board meeting and recorded in the minutes of the meeting.

*d.* This subrule on interim rulings does not apply if the waiver was filed in a contested case.

**193C—1.5(542B) Licensed professional engineers and building construction.**

**1.5(1) Purpose.** This rule is intended to provide guidance to licensed professional engineers, other design professionals, unlicensed persons engaged in various aspects of building construction, building officials, owners, and others on when the services of a licensed professional engineer are required or not in connection with new building construction and alterations to existing structures.

**1.5(2) General guidelines.** Given the wide range of buildings covered by this rule and the unique issues that may arise with respect to specific buildings, it is not possible to establish definitive criteria that will universally resolve when building construction or alterations will or will not implicate the practice of professional engineering, as defined in Iowa Code sections 542B.2(8) and 542B.27(1). For example,

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

while the construction of a single-family residence would not generally necessitate the services of a licensed professional engineer, unique or unconventional features of a particular site or design may necessitate complex structural calculations or other services that fall within the definition of professional engineering. As a result, this rule should be interpreted as providing only general guidelines on when a licensed professional engineer is necessary.

**1.5(3) Applicability.** The board will consider the guidelines provided in this rule when enforcing Iowa Code chapter 542B, including when determining whether an unlicensed person has engaged in the practice of professional engineering. This rule is not intended to constrain building officials or other public officials in their enforcement of other laws, rules, regulations or ordinances. A building code official, for example, may require that certain documents be prepared by a licensed professional engineer or that certain construction inspections be performed by a licensed professional engineer whether or not the guidelines in this rule would so require. This rule only addresses the practice of professional engineering and does not address the practice of architecture. Similar guidelines with respect to the practice of architecture may be found at 193B—Chapter 5.

**1.5(4) Definitions.** The definitions set forth in rule 193B—5.1(544A) apply to this rule.

**1.5(5) Guidelines for new construction.** The following matrix describes by building type and use when the services of a licensed professional engineer are required in connection with new building construction:

<b>BUILDINGS NEW CONSTRUCTION</b>			
<b>Building Use Type</b>	<b>Description</b>	<b>Engineer Required</b>	<b>Engineer May Not Be Required</b>
Agricultural Use	Facilities for private use only and individually owned and operated facilities including grain elevators and feed mills		X
	Corporate-owned facilities or publicly owned facilities including grain elevators and feed mills	X	
Churches and accessory buildings whether attached or separate	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
	Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
	More than two stories in height	X	
Commercial Use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
	Two stories in height, greater than 6,000 square feet in gross floor area	X	
	More than two stories in height	X	
Detached Residential Use	One, two or three stories in height, containing 12 or fewer family dwelling units		X
	More than 12 family dwelling units	X	
	More than three stories in height	X	
	Outbuildings in connection with detached residential buildings		X
Educational Use		X	

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

<b>BUILDINGS NEW CONSTRUCTION</b>			
<b>Building Use Type</b>	<b>Description</b>	<b>Engineer Required</b>	<b>Engineer May Not Be Required</b>
Governmental Use	When the occupancy is of another building use type listed herein, those provisions shall apply	X	
Industrial Use		X	
Institutional Use		X	
Light Industrial Use			X
Places of assembly		X	
Warehouse Use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	More than one story in height	X	
Factory-Built Buildings	One or two stories in height, up to a maximum of 20,000 square feet in gross floor area		X
	One or two stories in height, greater than 20,000 square feet in gross floor area	X	
	More than two stories in height	X	
	More than 20,000 square feet in gross floor area	X	

**1.5(6)** *Guidelines for alterations to existing buildings.* The following matrix describes by alteration type when the services of a licensed professional engineer are required in connection with alterations to existing buildings:

<b>ALTERATIONS TO EXISTING BUILDINGS</b>			
<b>Alteration Type</b>	<b>Description</b>	<b>Engineer Required</b>	<b>Engineer May Not Be Required</b>
Structural alterations to exempt buildings under Iowa Code section 544A.18	Modifications that change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns		X
Structural alterations to buildings that are not exempt	Modifications that change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns	X	
Nonstructural alteration	That does not modify means of egress, handicap accessible path, fire resistivity or other life safety concerns		X

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

<b>ALTERATIONS TO EXISTING BUILDINGS</b>				
<b>Alteration Type</b>	<b>Description</b>		<b>Engineer Required</b>	<b>Engineer May Not Be Required</b>
	That maintains the previous type of use			X
Nonstructural alteration that changes the use of the building from any other use to:	A place of assembly of people or public gathering		X	
	Governmental use		X	
	Educational use		X	
	Hazardous use		X	
	A place of residence exempted	and is one, two or three stories in height and contains not more than 12 family dwelling units		X
	A place of residence not exempted otherwise	and is more than three stories in height	X	
and containing more than 12 family dwelling units		X		
Nonstructural alterations that change the use of the building from industrial or warehouse to:	Commercial or office use	and is one story in height and not greater than a maximum of 10,000 square feet in gross floor area		X
		and is one story in height and greater than 10,000 square feet in gross floor area	X	
		and is two stories in height and not greater than a maximum of 6,000 square feet in gross floor area		X
		and is two stories in height and greater than 6,000 square feet in gross floor area	X	
		and is more than two stories in height	X	
		and is greater than 10,000 square feet of gross floor area	X	
Nonstructural alterations to:	Agricultural Use	Including grain elevators and feed mills		X
	Churches and Accessory Building Uses	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
		Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Commercial Use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
		Two stories in height, greater than 6,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Detached Residential Buildings	One, two or three stories in height, containing 12 or fewer family dwelling units		X
		More than 12 family dwelling units	X	



## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

ALTERATIONS TO EXISTING BUILDINGS				
Alteration Type	Description	Engineer Required	Engineer May Not Be Required	
		More than three stories in height	X	
		Outbuildings in connection with detached residential buildings		X
	Educational Use		X	
	Governmental Use	When the occupancy is of another building use type listed herein, those provisions shall apply	X	
	Industrial Use		X	
	Institutional Use		X	
	Light Industrial Use			X
	Places of Assembly		X	
	Warehouse Use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
More than one story in height		X		
Factory-Built Buildings	One or two stories in height, up to a maximum of 20,000 square feet of gross floor area		X	
	One or two stories in height, greater than 20,000 square feet in gross floor area	X		
	More than two stories in height	X		
	More than 20,000 square feet in gross floor area	X		

**1.5(7) Architectural exceptions do not apply.** The statutory exemptions in Iowa Code section 544A.18 do not apply to the practice of engineering. The construction of a building that falls within an exception in Iowa Code section 544A.18 may necessitate the services of an engineer if, for example:

*a.* There are structural elements that do not fall within building code definitions of conventional light frame construction,

*b.* The use of certain structural materials, members or components requires special inspections by engineers, or

*c.* HVAC, plumbing or electrical systems exceed certain building code standards. However, the matrix guidelines in this rule are generally compatible with the exceptions in Iowa Code section 544A.18 because the construction of buildings that fall outside the exceptions in Iowa Code section 544A.18 generally does implicate the practice of professional engineering in such disciplines as structural, electrical or mechanical engineering.

These rules are intended to implement Iowa Code sections 17A.9A, 542B.2, and 542B.3.

**ARC 7405C**

**ENGINEERING AND LAND SURVEYING EXAMINING  
BOARD[193C]**

**Notice of Intended Action**

**Proposing rulemaking related to fees and charges  
and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 2, “Fees and Charges,” Iowa Administrative Code, and to adopt a new chapter in lieu thereof.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 2 implement changes recommended by Executive Order 10. The information in Chapter 2 captures fee information all in one place to aid individuals researching the cost to acquire and maintain a license.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

January 30, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director’s report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2  
FEES AND CHARGES

**193C—2.1(542B) General statement.** Fees are fixed in such an amount as will defray the expense of administering board responsibilities. Fees are charged in accordance with the following table:

Type of fee	Amount
Renewal	
Active license renewal	\$100
Inactive license renewal	\$40
Reinstatement of lapsed license (In addition to the reinstatement fee, the applicant for reinstatement must also pay the appropriate prorated reinstated license fee below.)	\$100
Reinstatement of inactive to active license	\$60
New or reinstated license (In addition to the appropriate prorated reinstated license fee, the applicant for reinstatement must also pay the reinstatement fee above.)	\$100 Prorated at six-month intervals

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Type of fee	Amount
Application for examination	
Principles and Practice of Land Surveying	\$100
Examinations	
Fees for National Council of Examiners for Engineering and Surveying (NCEES) examinations are paid directly to the examination service at the rate established by contract based upon cost of the examination materials and processing expenses.	Variable
Iowa State Specific Land Surveying Examination	\$30
Application for licensure by comity or verification as a professional engineer or professional land surveyor	\$150
Certificates	
Initial professional engineer or professional land surveyor certificate	\$15
Additional or duplicate certificate	\$25
Engineer or land surveyor intern certificate	No charge
Check returned for insufficient funds	\$15
Verification of records for lapsed licensees	\$15 per verification
Late renewal fee (for renewals completed after December 31 and before January 31)	\$25

**193C—2.2(542B) Nonrefundable fees.** Application fees submitted with applications for the Fundamentals of Engineering examination, the Fundamentals of Land Surveying examination, the Principles and Practice of Engineering examination, the Principles and Practice of Land Surveying examination, comity licensure, or renewal of licensure are not refundable for any reason.

These rules are intended to implement Iowa Code sections 542B.13, 542B.15, 542B.20 and 542B.30.

**ARC 7406C****ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]****Notice of Intended Action****Proposing rulemaking related to application and renewal process and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 3, “Application and Renewal Process,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 3 implement changes recommended by Executive Order 10. The purpose of Chapter 3 is to provide applicants with detailed information regarding the application and renewal process to acquire and maintain an engineer or land surveyor license.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
APPLICATION AND RENEWAL PROCESS

**193C—3.1(542B) General statement.** A person requesting to be licensed as a professional engineer or professional land surveyor shall submit a completed, standardized application form, which may be obtained electronically from the board's Internet web page.

**3.1(1) Application expiration.** On the examination and comity applications due date, the applications are considered current if it has been one year or less since the applications were received by the board office.

**3.1(2) Academic transcripts.**

*a. United States institutions.* Completion of post-high school education shall be evidenced by the board's receipt of an applicant's transcripts directly from the office of the registrar of each institution conferring a qualifying degree.

*b. Institutions outside the United States.* Transcripts from institutions located outside the boundaries of the United States of America shall be sent directly from the institution to an evaluation service to be evaluated for authenticity and substantial equivalency with Accreditation Board for Engineering and Technology, Inc. (ABET), or Engineering Accreditation Commission (EAC) accredited engineering programs. To be readily acceptable, such evaluations shall be from the National Council of Examiners for Engineering and Surveying (NCEES). However, the board may accept evaluations from other recognized foreign credential evaluators satisfactory to the board. The expense of the evaluation is the responsibility of the applicant. Each evaluation shall be sent directly to the board from the evaluation service and include a copy of the transcript in the form sent to the evaluation service directly from the educational institution. Each evaluation must address both whether the transcript is authentic and whether the engineering program is equivalent to those accredited by ABET or EAC.

**193C—3.2(542B) Application components and due dates.**

**3.2(1) Fundamentals of Engineering examination.** Applications for the Fundamentals of Engineering examination are submitted directly to the examination service selected by the board to administer the examinations.

**3.2(2) Fundamentals of Land Surveying examination application components and due dates.** The components of this application include: the completed application form, references pursuant to 193C—paragraph 5.1(5) "b" and transcripts. Fundamentals of Land Surveying examination applications must be submitted to the board office. Applications submitted by the first day of each month will be reviewed by the board at the next regularly scheduled board meeting.

**3.2(3) Principles and Practice of Engineering examination application.** Principles and Practice of Engineering examination applications are submitted directly to the examination service selected by the board. Documentation of a qualifying degree will be required prior to approval to sit for the examination.

**3.2(4) Principles and Practice of Land Surveying application components and due dates.** Principles and Practice of Land Surveying examination applications are submitted to the board office. Application files with all components submitted to the board office by the first day of each month will be reviewed at the next regularly scheduled board meeting.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

*a.* The examination application file includes the following components:

- (1) The completed online application form.
- (2) The required number of references.
- (3) The project statement.
- (4) The ethics questionnaire.

*b.* In addition, a complete application file includes verification of examination records and transcripts. Examination applications will not be reviewed by the board until the application file is complete.

**3.2(5) Professional engineer license application.** Professional engineer license applications are submitted to the board office. Application files with all components submitted to the board office by the first day of each month will be reviewed at the next regularly scheduled board meeting.

*a.* The professional engineer license application includes the following components:

- (1) The completed online application form.
- (2) The required number of references.
- (3) The project statement.
- (4) The ethics questionnaire.

*b.* In addition, a complete application file includes verification of examination records and transcripts. Professional engineer license applications will not be reviewed until the application file is complete.

**193C—3.3(542B) Comity applications.**

**3.3(1)** The components of a comity application include the completed application form, the ethics questionnaire, references, transcripts, and verification of examinations, as appropriate. Comity applicants may submit the NCEES record in lieu of providing references, verifications, transcripts, and employment history. Since the verification of examination records must, in most cases, be sent directly from the jurisdiction where the applicant took the Fundamentals of Engineering and Principles and Practice Engineering examinations, the applicant should contact the other jurisdiction in advance of submitting the application to request this verification and make every effort to have the verification sent to the board at the time that the application is submitted. Likewise, for transcripts the applicant should contact the university in advance of submitting the application to make every effort to have the transcripts transmitted to the board at the time that the application is submitted.

**3.3(2)** Comity applications will be reviewed as they are completed. Comity applications will not be reviewed until all components have been received.

**3.3(3)** Comity applicants will be notified in writing via regular mail or email regarding the results of the review of their applications.

**3.3(4)** Temporary license. The board does not issue temporary licenses, except as provided for in rule 193C—5.3(542B,272C).

**193C—3.4(542B) Renewal applications.**

**3.4(1) Expiration dates.** Certificates of licensure expire biennially on December 31. Certificates that were initially issued in even-numbered years expire in odd-numbered years and certificates that were initially issued in odd-numbered years expire in even-numbered years. In order to maintain authorization to practice engineering or land surveying in Iowa, licensees must renew their certificates of licensure on or prior to the expiration date. A licensee who fails to renew prior to the date the certificate expires is not authorized to practice in Iowa unless the certificate is reinstated as provided in these rules. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

**3.4(2) Renewal notification.** The board typically mails a renewal notification to a licensee's last-known address at least one month prior to the license expiration date. Neither the board's failure to mail a renewal notification nor the licensee's failure to receive a renewal notification affects in any way the licensee's duty to timely renew if the licensee intends to continue practicing in Iowa. Licensees need to contact the board office if they do not receive a renewal notification prior to the expiration date.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

**3.4(3) *Renewal process.*** Upon receipt of a timely and sufficient renewal application, with the proper fee, the board's executive secretary will issue a new license reflecting the next expiration date, unless grounds exist for denial of the application.

**3.4(4) *Notification of expiration.*** The board will notify licensees whose certificates of licensure have expired. The failure of the board to provide this courtesy notification, or the failure of the licensee to receive the courtesy notification, does not extend the date of expiration.

**3.4(5) *Sanction for practicing after license expiration.*** A licensee who continues to practice in Iowa after the license has expired is subject to disciplinary action. Such unauthorized activity may also provide grounds to deny a licensee's application to reinstate.

**3.4(6) *Timely and sufficient renewal application.*** Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application shall be:

- a. Received by the board through the online renewal process;
- b. Fully completed; and
- c. Accompanied by the proper fee. The fee is deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is left off the application or is incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds.

**3.4(7) *Responsibility for accuracy of renewal application.*** The licensee is responsible for verifying the accuracy of the information submitted on the renewal application regardless of how the application is submitted or by whom it is submitted.

**3.4(8) *Denial of renewal application.*** If the board, upon receipt of a timely, complete and sufficient application to renew a certificate of licensure, accompanied by the proper fee, denies the application, the executive secretary will send written notice to the applicant by restricted, certified mail, return receipt requested, identifying the basis for denial. The applicant may contest the board's decision as provided in rule 193—7.40(546,272C).

**3.4(9) *Continuing education.*** A licensee who does not satisfy the continuing education requirements for licensure renewal will be denied renewal of licensure in accordance with subrule 3.4(8).

**3.4(10) *Consent order option.*** When a licensee appears to be in violation of mandatory continuing education under 193C—Chapter 7, the board may, in lieu of proceeding to a contested case hearing on the denial of renewal as provided in uniform division rule 193—7.40(546,272C), offer the licensee the opportunity to sign a consent order. While the terms of a consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation, and establish deadlines for compliance, and the consent order may impose additional educational requirements upon the licensee. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of licensure and, if the terms of the consent order are not complied with, will be subject to disciplinary action. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to uniform division rule 193—7.40(546,272C).

**3.4(11) *Inactive status.*** Licensees who are not engaged in engineering or land surveying practices that require licensure in Iowa may be granted inactive status. No inactive licensee may practice in Iowa unless otherwise exempted in Iowa Code chapter 542B.

**193C—3.5(542B) Reinstatement of licensure.**

**3.5(1)** To reinstate a license that has lapsed for one year or more, the applicant for reinstatement must pay the fee under rule 193C—2.1(542B) and satisfy one of the following:

- a. Provide documentation of 45 professional development hours achieved within the current and previous biennium (dual licensees must provide documentation of 30 professional development hours for each profession); or
- b. Successfully complete the principles and practice examination within one year immediately prior to application for reinstatement; or
- c. For an applicant for reinstatement who is an out-of-state resident, submit a statement from the resident state's licensing board as documented evidence of compliance with the resident state's



## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

mandatory continuing education during the period that the licensee's Iowa license was lapsed. An applicant for reinstatement whose resident state has no mandatory continuing education shall comply with the documented evidence as outlined in this subrule and at 193C—subrule 7.8(2).

**3.5(2)** To reinstate a license that has lapsed for less than one year, the applicant for reinstatement must pay the fee under rule 193C—2.1(542B) and satisfy one of the following:

*a.* Provide documentation of 30 professional development hours achieved within the current and previous biennium (dual licensees must provide documentation of 20 professional development hours for each profession). Professional development hours used for reinstatement shall not be reused at the next renewal; or

*b.* Successfully complete the principles and practice examination within one year immediately prior to application for reinstatement; or

*c.* For an applicant for reinstatement who is an out-of-state resident, submit a statement from the resident state's licensing board as documented evidence of compliance with the resident state's mandatory continuing education requirement during the period that the licensee's Iowa license was lapsed. The statement shall bear the seal of the licensing board. An applicant for reinstatement whose resident state has no mandatory continuing education requirement shall comply with the documented evidence requirement as outlined in this subrule and at 193C—subrule 7.8(2).

**3.5(3)** A lapsed license may not be reinstated to inactive status.

**3.5(4)** To reinstate from inactive status to active status, the applicant for reinstatement must pay the fee under rule 193C—2.1(542B) and provide documentation of 45 professional development hours achieved within the current and previous biennium (dual licensees must provide documentation of 30 professional development hours for each profession). Professional development hours used for a reinstatement shall not be reused at the next renewal.

These rules are intended to implement Iowa Code sections 272C.2, 272C.3, 542B.2, 542B.6, 542B.13, 542B.14, 542B.15, 542B.20 and 542B.30.

**ARC 7407C****ENGINEERING AND LAND SURVEYING EXAMINING  
BOARD[193C]****Notice of Intended Action****Proposing rulemaking related to engineering licensure  
and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 4, "Engineering Licensure," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 4 implement changes recommended by Executive Order 10. The rules of Chapter 4 provide information on compliance to become licensed as a professional engineer. Professional licensing ensures a baseline level of proven qualifications and expertise, which helps protect the public from unqualified practitioners.

*Fiscal Impact*

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 12:50 to 1:10 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-pp">meet.google.com/yxd-hmkw-pp</a> More phone numbers: <a href="tel:meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>
January 31, 2024 12:50 to 1:10 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-pp">meet.google.com/yxd-hmkw-pp</a> More phone numbers: <a href="tel:meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
ENGINEERING LICENSURE

**193C—4.1(542B) Licensure by examination.** The board will issue initial licensure only when an applicant satisfies the provisions of Iowa Code section 542B.14 as follows:

**4.1(1)** An applicant is eligible for the Engineer in Training certificate by meeting one of the following educational standards:

*a.* The applicant graduates from an engineering program of four years or more with an Accreditation Board of Engineering and Technology/Engineering Accreditation Commission (ABET/EAC)- or Canadian Engineering Accreditation Board (CEAB)-accredited curriculum. An engineering technology curriculum does not constitute an engineering program of four years or more.

*b.* After graduation from a nonaccredited engineering program of four years or more as described above, the applicant will complete one extra year of practical experience satisfactory to the board, verified by a professional engineer (PE) supervisory reference.

*c.* The applicant graduates with a master's degree in engineering from an institution in the United States of America that offers an accredited bachelor's degree in the same curriculum. The master's degree or a doctor of philosophy degree candidate must fulfill the requirements for the bachelor's degree in the same area of specialization.

*d.* An applicant with a master's degree or a doctor of philosophy degree in engineering from an institution in the United States of America that does not offer an accredited bachelor's degree in the same curriculum will be required to have an additional year of qualifying experience obtained after receipt of the qualifying degree. Applicants using a master's degree or a doctor of philosophy degree as the qualifying degree may not also use the master's degree or a doctor of philosophy degree for qualifying experience credit or as an exemption for the Fundamentals of Engineering examination (FE exam).

**4.1(2)** An applicant successfully completes the FE exam.

*a.* An applicant may take the FE exam any time after the educational requirements as specified above are completed, but the applicant must successfully complete the FE exam prior to taking the Principles and Practice of Engineering examination.

*b.* College seniors studying an ABET/EAC- or CEAB-accredited curriculum may take the FE exam during the final academic year. Applicants will be permitted to take the examination during the testing period that most closely precedes anticipated graduation.

*c.* An applicant who graduated from a satisfactory engineering program and has ten years or more of work experience satisfactory to the board is not required to take the FE exam. This experience is in addition to the four or five years of experience necessary for the PE license.

*d.* An applicant who has earned a Doctor of Philosophy degree from an institution in the United States of America with an accredited Bachelor of Science engineering degree program in the same discipline, or a similar doctoral degree in a discipline approved by the board, is not required to take the FE exam.

*e.* FE exam candidates will apply directly to the National Council of Examiners for Engineering and Surveying (NCEES) and will self-attest as to the candidate's eligibility to sit for the FE exam. The board will verify acceptable education and experience at the time an applicant applies for an Engineer in Training (EIT) number. The board shall apply the education and experience standards set forth in this rule but may allow reasonable flexibility in timing in the event an applicant sat for and passed the FE exam

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

at a point earlier than provided in this rule. The board will not, however, issue an EIT number unless all experience required for candidates who hold engineering degrees from nonaccredited programs has been satisfied at the time of the EIT application.

**4.1(3)** An applicant successfully completes the Principles and Practice of Engineering examination (PE exam).

*a.* An applicant may take the PE exam any time after passing the FE exam.

*b.* PE exam candidates will apply directly to the NCEES. The applicant will document a qualifying education. The board will verify acceptable experience at the time the applicant applies for a professional engineer license.

**4.1(4)** An applicant obtains satisfactory practical experience in engineering work as follows:

*a. Oversight.* An applicant has direct supervision or professional tutelage (instruction, guidance, mentoring, review, and critique) from one or more licensed professional engineers. This experience will be verified by one or more licensed professional engineers who are familiar with the applicant's work and can attest that the experience was of the required quality and was accurately described. Verification of the qualifying experience is provided through the reference forms. It is the responsibility of the applicant to provide reference forms to the licensed professional engineers to complete and return directly to the board.

(1) To be readily acceptable, all of the practical experience is under the direct supervision and tutelage of one or more licensed professional engineers.

(2) To be considered, a portion of the qualifying experience is under the direct supervision or tutelage of one or more licensed professional engineers, and the rest of the practical experience is under the direct supervision or tutelage of an unlicensed graduate engineer.

*b. Documentation of experience.* An applicant submits references and a work project description. The board reserves the right to contact the employer and the person providing tutelage on the project for information about the project experience acquired by the applicant.

(1) References. An applicant for the professional engineer license shall submit three references from professional engineers or a combination of professional engineers and graduate engineers on forms provided by the board.

1. The practical experience provided under the direct supervision or professional tutelage of the licensed professional engineers in the course of a mentoring relationship must include technical skills; professional development; the exercise of professional judgment, ethics, and standards in the application of engineering principles and in the review of such matters by others; and the professional obligations of assuming responsible charge of professional engineering works and services.

2. If the applicant has had more than one supervisor, at least two of the references shall be from a supervisor of the applicant. An applicant shall submit supervisor references to verify at least four years of qualifying experience.

3. If an applicant has had professional experience under more than one employer, the applicant shall provide references from individuals with knowledge of the work performed under a minimum of two employers.

4. The board reserves the right to contact references, supervisors, or employers for information about the applicant's professional experience and competence or to request additional references.

5. The board uses references partially as a means of verifying an applicant's record of experience. The applicant must distribute a reference form to individuals who are asked to submit references for the applicant. To each reference form, the applicant shall attach a narrative of the applicant's experience record that is being addressed by the referring individual.

6. The board may require the applicant to submit other evidence of suitable tutelage and supervision.

7. The board may conduct interviews with persons providing tutelage or supervision to the applicant.

(2) Work project description. An application for initial licensure includes a work project statement describing a significant project on which the applicant worked during the previous 12 months. The board

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

will review all work project statements and will approve only those that include all of the following components:

1. Description of the applicant's degree of responsibility for the project.
  2. The project's owner and location.
  3. The name of the supervisor in charge of the project and, if the supervisor is a professional engineer, the license number of the supervisor.
  4. The applicant's signature and date of signature.
- (3) Criteria the board uses in evaluating the acceptability of the project as qualifying experience for the applicant includes, but is not limited to, the following:
1. The degree to which the project and the experience described have progressed from assignments typical of initial assignments to those more nearly expected of a licensed professional;
  2. The scope and quality of the professional tutelage experienced by the applicant;
  3. The technical decisions required of the applicant in the project; and
  4. The professional decisions required of the applicant.
- c. Quality.* An applicant has experience that demonstrates that the applicant has developed technical skill and initiative in the correct application of engineering principles. Such experience should demonstrate the applicant's capacity to review the application of these principles by others and to assume responsibility for engineering work of professional character.
- d. Scope.* The applicant has experience that includes sufficient breadth and scope to ensure that the applicant has attained reasonably well-rounded professional competence in a basic engineering field, rather than highly specialized skill in a narrow and limited field.
- e. Progression.* The record of experience indicates successive and continued progress from initial, subprofessional work of simpler character to recent, professional work of greater complexity and a higher degree of responsibility, as well as continued interest and effort on the part of the applicant toward further professional development and advancement. In evaluating this progression, the board will consider both subprofessional and professional activity as reported by the applicant. However, only work experience obtained after the applicant's receipt of the qualifying degree will be considered, except as described in paragraph 4.1(4) "f." Subprofessional work includes the time spent as an engineering technician, engineering assistant, inspector, or similar under the direct supervision of a licensed professional engineer. Professional work includes the time during which the applicant was occupied in engineering work of higher grade and responsibility than that defined above as subprofessional work. Time spent in teaching engineering subjects in a college or university at the level of assistant professor or higher may be listed as professional work.
- f. Special work experience.* Work experience prior to graduation from college may be accepted toward satisfaction of practical experience only as follows: Cooperative work programs and internships administered by engineering colleges and verified on the transcript, with a verifying reference from the internship supervisor, will be considered as half-time credit, with a maximum allowance of 6 months (12 months of cooperative work experience or internship) applicable toward the satisfaction of qualifying experience requirements. An applicant's advanced education, military experience, or both will be reviewed in order to determine if they are applicable toward the statutory requirements for experience.
- g. Advanced education.* An applicant who has earned a master of science degree that includes research experience, in addition to writing an associated thesis, from an institution in the United States of America with an accredited bachelor of science engineering degree program in the same discipline and who has fulfilled the requirements for a bachelor of science degree may be granted a maximum of one year's experience credit. An applicant who has earned a doctor of philosophy degree from an institution in the United States of America with an accredited bachelor of science engineering degree program in the same discipline may be granted a maximum of two years of experience credit in addition to the one-half year's credit for the master of science degree. An applicant using an advanced degree as experience credit may not also use the advanced degree as the qualifying degree to become licensed.
- h. Teaching experience.* Teaching of engineering subjects at the level of assistant professor or higher in an accredited engineering program may be considered as experience, provided the applicant's immediate supervisor is a licensed professional engineer in the jurisdiction in which the college or

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

university is located. If the applicant's immediate supervisor is not a licensed professional engineer, a program of mentoring or peer review by a licensed professional engineer acceptable to the board must be demonstrated. Applicants using teaching or research as experience must have a minimum of four years of acceptable experience in research, industry, or consulting. The board will consider the complexity of the project(s) presented, the degree of responsibility of the applicant within the project, and other factors the board deems relevant. Academic experience must demonstrate increasing levels of responsibility for the conduct and management of projects involving engineering research, development, or application. The board reserves the right to contact employers for information about the applicant's professional experience and competence.

*i. Joint applications.* Applicants requesting licensure both as a professional engineer and a land surveyor must submit a history of professional experience in both fields. Such histories will be considered separately on a case-by-case basis. The board does not grant full credit for concurrent experience in both professions.

*j. Corporate exemption.* The purpose of the provisions on qualifying experience that authorize the board to consider some experience that was not acquired under the direct supervision and tutelage of a licensed professional engineer is to provide a path toward licensure for those applicants who gain experience in settings where licensure is not required under the corporate exemption set forth in Iowa Code section 542B.26 or under similar statutory provisions in other jurisdictions. Such applicants may lawfully gain professional engineering experience under the supervision or tutelage of graduate engineers who are not licensed. To aid such applicants, the following guidelines are provided:

(1) The board will not consider any of the following experience:

1. Experience gained under circumstances where the applicant could not lawfully have practiced professional engineering.

2. Experience attained in compliance with the law but that was not under the supervision or tutelage of a graduate engineer. The fundamental purpose of qualifying experience is professionally guided training to expand and complement engineering education. Self-guided experience does not qualify.

(2) Unlicensed graduate engineers are not authorized to offer professional engineering services to the public or to be in responsible charge of such services, nor are they subject to the examinations required for licensure, the professional and ethical standards applicable to licensees, or the regulatory oversight of a licensing authority. Qualifying experience is intended to address both technical competence and the obligations to the public of a licensed professional engineer.

(3) Because the circumstances of individual applicants in corporate exemption settings are diverse, it is not possible to identify the minimum period of time during which the applicant must receive supervision or tutelage from one or more licensed professional engineers to be eligible for licensure. The board will evaluate both the quantity and quality of such experience. In general, an applicant's exposure to supervision or tutelage by one or more licensed professional engineers should reflect a sustained period of in-depth interaction from which the licensed engineers are in a position to form credible opinions on the applicant's qualifications to be in responsible charge of engineering services offered to the public as a licensed professional engineer.

(4) The burden is on the applicant to demonstrate to the board's satisfaction that the combination of unlicensed and licensed supervision and tutelage satisfies the requirements of qualifying experience described in this rule.

*k. Practical experience.* An applicant for a professional engineer license shall have a minimum of one year of practical experience in the United States of America or a territory under its jurisdiction.

**4.1(5)** Education and experience requirements. The board will require the minimum number of years set forth on the following chart before an applicant will be eligible for licensure.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Experience Requirements	
If the education is:	Required years of experience
A four-year bachelor's degree in a nonaccredited engineering program	5
A four-year bachelor's degree in an accredited engineering program OR a qualifying master's degree pursuant to paragraph 4.1(1) "c" OR a qualifying PhD pursuant to paragraph 4.1(1) "d"	4
A four-year bachelor's degree in an accredited engineering program plus a qualifying master's degree pursuant to paragraph 4.1(4) "g"	3
A four-year bachelor's degree in an accredited engineering program plus a qualifying PhD pursuant to paragraph 4.1(4) "g"	2
A four-year bachelor's degree in an accredited engineering program AND a qualifying master's degree AND a qualifying PhD pursuant to paragraph 4.1(4) "g"	1

**4.1(6)** Required examinations. All examinations are uniform examinations prepared and graded by the NCEES. The board may negotiate an agreement with an examination service to administer the examinations to applicants approved by the board, in which case applicants shall pay examination fees directly to the service.

*a. Fundamentals of Engineering examination.* The Fundamentals of Engineering examination is a computer-based examination covering general engineering principles and other subjects commonly taught in accredited engineering programs.

*b. Principles and Practice of Engineering examination.* A separate examination is required for each branch in which licensure is granted. An applicant may obtain a Structural branch license by passing either the Principles and Practice of Engineering Civil (Structural) examination or the Principles and Practice of Engineering Structural examinations.

*c. Conduct during the exam.* Examinees will comply with the testing rules and regulations of the exam administrator.

**193C—4.2(542B) Requirements for licensure by comity.** A person holding a certificate of licensure to engage in the practice of engineering issued by a proper authority of a jurisdiction or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of Iowa Code section 542B.14 and who has met standards determined by the board to be substantially equivalent to those required of applicants for initial licensure in this state may, upon application, be licensed without further examination. Comity applicants are governed by the same standards as are required of applicants for initial licensure in Iowa.

**4.2(1) References.** An applicant for licensure by comity shall submit references on forms provided by the board to verify satisfactory engineering experience, as provided in paragraph 4.1(4) "a."

**4.2(2) Basis for evaluation of applications.** Applications for licensure by comity will be evaluated on the following basis:

*a.* The applicant's record of education, references, practical experience, and successful completion of approved examinations will be reviewed to determine if it currently satisfies the substantive requirements of Iowa Code section 542B.14. In reviewing the education, references, and practical experience of comity applicants, the board will use the same criteria used by the board to determine the eligibility of a candidate for the Principles and Practice of Engineering examination; or

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

b. The applicant's licensure in a jurisdiction other than Iowa will be reviewed to determine if it was granted only after satisfaction of requirements substantially equivalent to those that are required of applicants for initial licensure in Iowa under Iowa Code section 542B.14. When determining whether the licensing standards satisfied by a comity applicant are substantially equivalent to those required in Iowa, the board considers each of the four licensing prerequisites in Iowa Code section 542B.14(1) individually. The licensing standards are satisfied by the comity applicant if the standards are equal or superior to those required in Iowa for education, fundamentals examination, experience, and professional examination. Unless expressly stated in this chapter, the board will not consider an applicant's superior satisfaction of one licensing prerequisite, such as a higher level of education than is required in Iowa, as resolving an applicant's lack of compliance with another prerequisite, such as professional examination.

**4.2(3) Comity application process.**

a. An applicant for licensure by comity from a jurisdiction other than Iowa meets or exceeds the education requirements set forth in Iowa Code section 542B.14 and subrule 4.1(1).

b. An applicant successfully completes the Fundamentals of Engineering examination. An applicant who graduated from a satisfactory engineering program and who has ten years or more of work experience satisfactory to the board is not required to take the Fundamentals of Engineering examination.

c. The applicant successfully completes the Principles and Practice of Engineering examination.

d. The applicant has satisfactory practical experience under paragraph 4.1(3) "a."

e. While the board will consider evidence presented by a comity applicant on non-NCEES examinations successfully completed in a foreign country, the non-NCEES examination will be compared with the appropriate NCEES examination. A non-NCEES professional examination, for instance, must be designed to determine whether a candidate is minimally competent to practice professional engineering in a specific branch of engineering, such as civil, structural, electrical, or mechanical engineering. The examination must be written, objectively graded, verifiable, and developed and validated in accordance with the testing standards of the American Psychological Association or equivalent testing standards. Free-form essays and oral interviews are not equal or superior to NCEES examinations.

**4.2(4) Education and experience requirements.**

a. For applicants who were originally licensed in a jurisdiction other than Iowa prior to July 1, 1988, the board will employ the following chart to determine if the applicant's licensure was granted after satisfaction of requirements substantially equivalent to those which were required by Iowa Code section 542B.14 at the time of the applicant's original licensure. Column 1 indicates the years of practical experience that were required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience that were required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who were licensed prior to July 1, 1988		
If the applicant's educational level was:	The applicant has had the following additional years of experience prior to taking the Fundamentals of Engineering examination:	The applicant has had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination:
No post-high school education	8	4
Postsecondary study in mathematics or physical sciences		
One year	7	4
Two years	6	4
Three years	5	4
Four years	3	4



## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who were licensed prior to July 1, 1988		
If the applicant's educational level was:	The applicant has had the following additional years of experience prior to taking the Fundamentals of Engineering examination:	The applicant has had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination:
Four-year BS degree in mathematics or physical sciences plus master's degree in engineering	0	4
Postsecondary study in engineering technology programs and architecture		
One year	7	4
Two years	5.5	4
Three years	4	4
Four-year degree in a nonaccredited engineering technology program or BA in architecture	2.5	4
Four-year degree in an accredited engineering technology program	2	4
Bachelor of architecture, four years or more	2	4
Four-year degree in engineering technology or architecture plus master's degree in engineering	0	4
Postsecondary study in a nonaccredited engineering program		
One year	7	4
Two years	5	4
Three years	3	4
Four-year BS degree	1	4
Four-year degree in a nonaccredited engineering program plus master's degree in engineering	0	4
Postsecondary study in an accredited engineering program		
Two years	6	4
Three years	3	4
Four-year degree in an accredited engineering program	0	4

*b.* For applicants who were originally licensed in another jurisdiction and who meet the requirements of Iowa Code section 542B.14(1)“a”(1)(c), the board will employ the following chart to determine if the applicant's licensure was granted after satisfaction of requirements substantially equivalent to those which were required by Iowa Code section 542B.14 at the time of the applicant's original licensure. Column 1 indicates the years of practical experience that were required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience that were required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who meet the requirements of Iowa Code section 542B.14(1)"a"(1)(c)		
If the applicant's educational level was:	The applicant has had the following additional years of experience prior to taking the Fundamentals of Engineering examination:	The applicant has had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination:
College or junior college (mathematics or physical sciences)		
Two years	6	4
Three years	5	4
Four-year BS degree	3	4
Four-year BS degree plus master's degree in engineering	0	4
All engineering technology programs and architecture		
Two years	6	4
Three years	5	4
Four-year degree, nonaccredited technology or BA in architecture	3	4
Four-year degree, accredited technology	2	4
Four-year degree or more, bachelor of architecture	2	4
Four-year BS degree, technology or architecture plus master's degree in engineering	0	4
Engineering program, nonaccredited		
Two years	6	4
Three years	3	4
Four-year BS degree	1	4
Four-year BS degree plus master's degree in engineering	0	4
Engineering program, accredited		
Two years	6	4
Three years	3	4
Four-year BS degree	0	4

c. For all other applicants who were originally licensed in a jurisdiction other than Iowa on or after July 1, 1988, the board will employ the chart found at subrule 4.1(5) to determine if the applicant's licensure was granted after satisfaction of requirements substantially equivalent to those that are required by Iowa Code section 542B.14.

d. For purposes of this subrule, an applicant's master's degree in engineering is to be from an institution in the United States of America with an accredited bachelor's degree in the same curriculum, and the master's degree candidate is required to fulfill the requirements for the bachelor's degree in the same area of specialization.

**193C—4.3(542B) Requirements for a licensee requesting additional examination.** A person holding an active certificate of licensure to engage in the practice of engineering issued by the state of Iowa may, upon written request and payment of the application and examination fees, take additional examinations in other branches of engineering without submitting a formal application to the board as described for initial or comity licensure.

These rules are intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

**ARC 7408C**

**ENGINEERING AND LAND SURVEYING EXAMINING  
BOARD[193C]**

**Notice of Intended Action**

**Proposing rulemaking related to land surveying licensure  
and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 5, “Land Surveying Licensure,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 5 implement changes recommended by Executive Order 10. The rules of Chapter 5 provide information on compliance to become licensed as a professional land surveyor. Professional licensing ensures a baseline level of proven qualifications and expertise, which helps protect the public from unqualified practitioners. These revisions also support changes to Iowa Code section 542B.14 outlined in 2023 Iowa Acts, Senate File 197.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

January 30, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5  
LAND SURVEYING LICENSURE

**193C—5.1(542B) Requirements for licensure by examination.** The specific requirements for initial licensing in Iowa are established in Iowa Code section 542B.14, and it is the board's intention to issue initial licensure only when those requirements are satisfied chronologically as set forth in the statute.

**5.1(1)** The applicant for initial licensure in Iowa must satisfy the education plus experience requirements stated in Iowa Code section 542B.14 "b"(1). Refer to the chart in subrule 5.1(8) for education-based experience requirements. If the applicant's degree is not in surveying, surveying technology, engineering, or engineering technology, the applicant must have taken a minimum of nine credit hours in mathematics, of which at least one course must include trigonometry in its coursework, and may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus; and a minimum of nine credit hours in basic sciences, which must cover one or more of the following topics: general chemistry, advanced chemistry, biology, geology, ecology, meteorology, astronomy, forestry, general physics, advanced physics, or land surveying, for the applicant's degree to be a qualifying degree.

*a.* Internet or online degrees will only be considered as qualifying degrees if the institution issuing the degree is accredited by a recognized accreditation board or the degree is evaluated as substantially

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

equivalent to that of an accredited program by the National Council of Examiners for Engineering and Surveying (NCEES). The board may accept evaluations from other recognized foreign credential evaluators satisfactory to the board. Initiating the evaluation and the expense of the evaluation are the responsibilities of the applicant. Each evaluation shall be sent directly to the board from the evaluation service and shall include a copy of the transcript in the form sent to the evaluation service directly from the educational institution.

*b.* Internet or online degrees will only be considered as qualifying degrees if the institution issuing the degree is accredited by a recognized accreditation board.

**5.1(2)** The applicant must successfully complete the Fundamentals of Land Surveying examination. The applicant may take the Fundamentals of Land Surveying examination any time after the education and experience requirements described above are completed.

**5.1(3)** The applicant must successfully complete the Principles and Practice of Land Surveying examination. An applicant may take the Principles and Practice of Land Surveying examination after passing the Fundamentals of Land Surveying examination.

**5.1(4)** The applicant satisfies the qualifying experience requirements set forth in this chapter.

**5.1(5)** The applicant must successfully complete the Iowa specific land surveying examination administered by the board.

**5.1(6)** Work project description. A complete application includes a statement of approximately 200 words describing a significant project on which the applicant worked closely during the last 12 months. The statement describes the applicant's degree of responsibility for the project and identifies the project's owner and its location. The statement is signed and dated. The criteria the board uses in evaluating the acceptability of the project as qualifying experience for the applicant includes, but is not limited to, the following:

- a.* The degree to which the project and the experience described has progressed from assignments typical of initial assignments to those more nearly expected of a licensed professional;
- b.* The scope and quality of the professional tutelage experienced by the applicant;
- c.* The technical decisions required of the applicant in the project; and
- d.* The professional decisions required of the applicant.

The board reserves the right to contact the employer and the person providing tutelage on the project for information about the project experience presented to the applicant.

**5.1(7)** References.

*a.* An applicant for the Principles and Practice of Land Surveying examination will submit a minimum of three references, on forms provided by the board, in accordance with the following:

- (1) The references will be from licensed professional land surveyors.
- (2) If the applicant has had more than one supervisor, at least two of the references are from a supervisor of the applicant.
- (3) If an applicant has had professional experience under more than one employer, the applicant provides references from individuals with knowledge of the work performed under a minimum of two employers.

(4) The board reserves the right to contact employers for information about the applicant's professional experience and competence or to request additional references.

*b.* An applicant for the Fundamentals of Land Surveying examination will provide three references on forms provided by the board.

**5.1(8)** Education and experience requirements. The board requires the minimum number of years set forth on the following chart before an applicant may take either the Fundamentals of Land Surveying or the Principles and Practice of Land Surveying examination. To determine the total years to become licensed as a land surveyor in Iowa, column 2 is added to column 1.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

EXPERIENCE REQUIREMENTS		
If the applicant's educational level was:	The applicant must have the following years of experience prior to taking the Fundamentals of Land Surveying examination and the Principles and Practice examination:	The applicant must have the following additional years of experience before the board will issue a license in land surveying:*
A college program with fewer than nine credit hours of surveying [Reference Sec. 5.1(1) above]		
Two-year degree	4	4
Four-year degree	2	4
Graduate degree	1	4
A college program with nine or more credit hours of surveying		
Two-year degree	0	4
Four-year degree	0	4
Graduate degree	0	4

\*This allows applicants to take the Principles and Practice of Land Surveying examination and Iowa State Specific Land Surveying examination during this time period.

**5.1(9)** Practical experience requirements. Practical land surveying experience, of which a minimum of one-half shall be field experience, is required prior to licensing. All practical experience must occur after high school graduation and be under the tutelage of a professional land surveyor.

*a. Quality.* Experience will demonstrate that the applicant has developed technical skill and initiative in the correct application of surveying principles. For the purposes of this chapter, one year of experience shall consist of 1,872 hours of full- or part-time employment, as attested to by the applicant's references. An applicant may use a maximum of 1,872 hours in any one 12-month period to satisfy the experience requirements. Full-time students, as defined by the student's school, may not, simultaneously, be considered full-time employees for the purposes of this chapter.

*b. Scope.* Experience will be of sufficient breadth and scope to ensure that the applicant has attained reasonably well-rounded professional competence in land surveying. For purposes of this section, field experience is considered of sufficient breadth and scope if the applicant conducts research for boundary surveys, conducts boundary monument recovery field work, gathers field information necessary for boundary line recovery, analyzes all collected boundary recovery field data, establishes land surveying monuments in the field, prepares land surveying documents, as defined in this chapter, and writes property descriptions.

*c. Progression.* The record of experience will indicate successive and continued progress from initial work of simpler character to recent work of greater complexity and higher degree of responsibility.

*d. Advanced education and military experience.* An applicant's advanced education, military experience, or both will be reviewed to determine if they are applicable toward the statutory requirements for experience.

*e. Joint applications.* Applicants requesting licensure both as professional engineers and professional land surveyors must submit a history of professional experience in both fields. Such histories will be considered separately on a case-by-case basis. The board does not grant full credit for concurrent experience in both professions.

**5.1(10)** Examinations. The board prepares and grades the Iowa State Specific Land Surveying examination administered to professional land surveyor candidates. All other examinations are uniform examinations prepared and graded by the NCEES. The board may negotiate an agreement with an examination service to administer the examinations to applicants approved by the board, in which case applicants pay examination fees directly to the service.

An applicant who has failed two consecutive examinations of the state-specific portion of the professional land surveying examination is not allowed to retake the state-specific portion for one year.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

*a.* Materials permitted in examination room. For security reasons, applicants shall comply with requirements regarding materials permitted in the examination room as issued by the NCEES and provided to candidates prior to the examination.

*b.* Release of examination results. Results of any examination are only reported as pass or fail except that the candidate who fails an examination may be provided with the candidate's converted score and a diagnostic report indicating areas of weakness, as available.

**193C—5.2(542B) Requirements for licensure by comity.** A person holding a certificate of licensure to engage in the practice of land surveying issued by a proper authority of a jurisdiction or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of Iowa Code section 542B.14 and of a standard not lower than that specified in the applicable licensure Act, may, upon application and successful completion of the Iowa State Specific Land Surveying examination, be licensed without further examination. Comity applicants are governed by the same standards as are required of Iowa applicants.

**5.2(1) References.** An applicant for licensure by comity shall submit one or more professional land surveyor references on forms provided by the board to verify the number of years of satisfactory experience required with the applicant's level of education. The board reserves the right to contact employers for information about the applicant's professional experience and competence.

**5.2(2) Comity application process.**

*a.* The applicant will provide proof of active land surveying licensure in another jurisdiction and be in good standing with that jurisdiction's licensing authority.

*b.* The applicant for licensure by comity from a jurisdiction other than Iowa will satisfy the education and experience requirements as set forth in Iowa Code section 542B.14 and rule 193C—5.1(542B) for licensure by examination.

*c.* The applicant needs to successfully complete the Fundamentals of Land Surveying examination.

*d.* The applicant needs to successfully complete the Principles and Practice of Land Surveying examination.

While the board will consider evidence presented by a comity applicant on non-NCEES examinations successfully completed in a foreign country, the non-NCEES examination will be compared with the appropriate NCEES examination. A non-NCEES professional examination, for instance, must be designed to determine whether a candidate is minimally competent to practice professional land surveying. The examination must be written, objectively graded, verifiable, and developed and validated in accordance with the testing standards of the American Psychological Association or equivalent testing standards. Free-form essays and oral interviews are not equal or superior to NCEES examinations for reasons including the subjective nature of such procedures, lack of verifiable grading standards, and heightened risk of inconsistent treatment.

*e.* The applicant must successfully complete an Iowa-specific land surveying examination administered by the board.

**5.2(3) Substantial equivalency.** Pursuant to Iowa Code section 546.10(8), the board may grant a comity application for licensure as a professional land surveyor if the board concludes that the applicant has met or exceeded all requirements for licensure applicable to initial applicants in Iowa, other than the sequence in which experience must be attained.

**193C—5.3(542B,272C) Licensure by verification.** In addition to the requirements of rule 193—14.4(272C), professional land surveying candidates applying for an Iowa license by verification must pass the Iowa State Specific Land Surveying examination prior to being issued a license. The board will issue a temporary license that is valid for a period of three months to professional land surveying candidates who have not yet passed the Iowa State Specific Land Surveying examination

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

prior to their application. The professional land surveying candidate may request one renewal of the temporary license for an additional period of three months.

This rule is intended to implement Iowa Code section 272C.12.

These rules are intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15 and 542B.20.

**ARC 7409C**

**ENGINEERING AND LAND SURVEYING EXAMINING  
BOARD[193C]**

**Notice of Intended Action**

**Proposing rulemaking related to seal and certificate of responsibility  
and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 6, “Seal and Certificate of Responsibility,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 6 implement changes recommended by Executive Order 10. The rules of Chapter 6 provide information on compliance for the professional seal and signature.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:



## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Robert E. Lampe  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.725.9024  
 Fax: 515.725.9032  
 Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
 12:50 to 1:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
 12:50 to 1:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

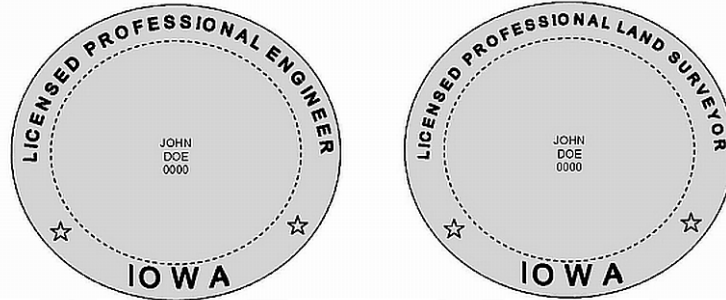
ITEM 1. Rescind 193C—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6  
 SEAL AND CERTIFICATE OF RESPONSIBILITY

**193C—6.1(542B) Seal and certificate of responsibility.**

**6.1(1)** The seal, under Iowa Code section 542B.16, should substantially conform to the samples shown below:

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)



**6.1(2)** The word “licensed” may be added but is not required on the seal. Neither the word “registrant” nor “registered” may be used on the seal.

**6.1(3)** The certification block, under Iowa Code section 542B.16(2), on engineering or land surveying documents submitted to a client or any public agency, hereinafter referred to as the official copy (or official copies), appears on the first page or attached cover sheet. A certification block should be provided for the licensee in responsible charge and for each professional consultant contributing to the submission. In lieu of each contributing professional consultant providing a certification block on the front page or attached cover sheet for application of a seal, a table shall be provided that identifies the contributing professionals and where their respective certification blocks can be found within the document. The seal and original signature only need to be applied to a final submission. Each official copy (or official copies) of a submission shall be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the submission. Each certification block shall display the seal of the licensee and designate the portion of the submission for which that licensee is responsible, so that responsibility for the entire submission is clearly established by the combination of the stated seal responsibilities. Any nonfinal submission of an engineering or land surveying document to a client or public agency shall be clearly labeled “preliminary” or “draft.”

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

The engineering certification block shall conform to the wording in the sample shown below:

SEAL	I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer under the laws of the State of Iowa.
	_____ (signature) <span style="float: right;">(date)</span>
	Printed or typed name
	License number _____
	My license renewal date is December 31, _____.
	Pages or sheets covered by this seal: _____ _____ _____

The land surveying certification block shall conform to the wording in the sample shown below. For maps or acquisition plats prepared from public records or previous measurements by others, the following land surveying certification block may be modified by removing the phrase “and the related survey work was performed.”

SEAL	I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.
	_____ (signature) <span style="float: right;">(date)</span>
	Printed or typed name
	License number _____
	My license renewal date is December 31, _____.
	Pages or sheets covered by this seal: _____ _____ _____

**6.1(4)** Except for the original signature and handwritten date in contrasting ink color, the information requested in each certification block must be typed or legibly printed in permanent ink on each official copy. The seal implies responsibility for the entire submission unless the area of responsibility is clearly identified in the information accompanying the seal.

**6.1(5)** It is the responsibility of the licensee to forward copies of all revisions to the submission, which then become a part of the official copy of the submission. Such revisions shall be identified as applicable on a certification block or blocks with professional seals applied so as to clearly establish professional responsibility for the revisions.

**6.1(6)** The licensee is responsible for the custody and proper use of the seal. Improper use of the seal is grounds for disciplinary action.

**6.1(7)** Computer-generated seals may be used on final original documents.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

**6.1(8)** Secure electronic signature. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee's responsibility to ensure, prior to affixing an electronic signature to an engineering or land surveying document, that security procedures are adequate to (1) verify the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed.

This rule is intended to implement Iowa Code sections 542B.13, 542B.15, 542B.20 and 542B.30.

**ARC 7410C**

**ENGINEERING AND LAND SURVEYING EXAMINING  
BOARD[193C]**

**Notice of Intended Action**

**Proposing rulemaking related to professional development  
and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 7, "Professional Development," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 7 implement changes recommended by Executive Order 10. The rules of Chapter 7 provide information on compliance for professional development.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Robert E. Lampe  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.725.9024  
 Fax: 515.725.9032  
 Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
 12:50 to 1:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
 12:50 to 1:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7  
 PROFESSIONAL DEVELOPMENT

**193C—7.1(542B,272C) General statement.** Completion of continuing education for professional development is a condition of licensure renewal for each licensee.

**193C—7.2(542B,272C) Definitions.** As used in these rules, the following definitions apply:

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

“College or unit semester or quarter hour” means the unit of credit given for advanced technical and graduate courses from universities with programs accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, Inc. or other related college course qualified in accordance with this chapter.

“Continuing education” means education obtained by a licensee in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

“Continuing education unit (CEU)” means the unit of credit customarily granted for continuing education courses. One continuing education unit is given for ten hours of class in an approved continuing education course.

“Course or activity” means any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee’s field of practice.

“Independent study” means any course or activity in which there is no real-time interaction between the training provider and the licensee, such as courses offered on the Internet.

“Professional development hour (PDH)” means a contact hour of instruction or presentation and is the common denominator for other units of credit.

### 193C—7.3(542B,272C) Professional development hours.

**7.3(1) Allowable activities.** Licensees may earn professional development hours by participating in a variety of activities. The following is a list of allowable activities and is not all-inclusive:

- a. Successful completion of college courses;
- b. Successful completion of continuing education courses;
- c. Successful completion of correspondence, televised, videotaped, and other short courses or tutorials;
- d. Successful completion of courses online via the Internet;
- e. Active participation in seminars, in-house courses, workshops, technical committees of professional engineering organizations, and professional conventions;
- f. Teaching or instructing in the activities set forth above if such teaching or instruction is outside of the licensee’s regular employment duties and if the licensee can document such teaching activity or instruction was newly developed and presented for the first time;
- g. Authoring published papers, articles or books;
- h. Obtaining patents;
- i. Attendance at online video courses;
- j. Participation on an NCEES examination development committee;
- k. Attendance at engineering college graduate research seminars.

All of the allowable activities listed above must adhere to this chapter to be accepted by the board.

**7.3(2) PDH conversion.** The following chart illustrates the conversion from other units to PDH:

ACTIVITY	PDH
1 College or unit semester hour Credit for qualifying college or community college courses will be based upon course credit established by the college.	45 PDH per semester hour
1 College or unit quarter hour Credit for qualifying college or community college courses will be based upon course credit established by the college.	30 PDH per quarter hour
1 Continuing education unit as defined in rule 193C—7.2(542B,272C)	10 PDH
1 Contact hour attendance in a class, course, seminar, or professional or technical presentation made at a meeting, in-house training session, convention or conference. Credit for qualifying seminars and workshops will be based on 1 PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional or technical society meetings will earn PDH units for the actual time of each program, excluding time for breaks and meals.	1 PDH per hour
1 Contact hour teaching a class, course, seminar, or a professional or technical presentation	2 PDH

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

ACTIVITY	PDH
a. Teaching credit is valid for teaching a course or seminar for the first time only. b. Teaching credit does not apply to full-time faculty. c. Teaching credit is limited to 10 PDH per biennial renewal period.	per hour
Each published paper, article, or book Credit for published material is earned in the biennium of publication.	10 PDH per publication
Active participation in a professional or technical society. Credit for active participation in professional and technical societies is limited to 2 PDH per renewal period per organization and requires that a licensee serve as an officer or actively participate in a committee of the organization. PDH credits are earned for a minimum of one year's service.	2 PDH per organization per renewal period
Each patent Credit for patents is earned in the biennium the patent is issued.	10 PDH per patent
Participation on an NCEES examination development committee or Iowa State Specific Land Surveying examination development committee, including the writing and grading of examination questions, writing reference materials for examinations, and evaluating past examination question performance. Licensees may claim a maximum of 30 PDH per biennial renewal period for participation in this activity.	2 PDH per hour of committee participation

**7.3(3) Determination of credit.** The board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit. No preapproval of offerings will be issued. The board may deny any renewal or reinstatement upon a determination of insufficient or unsatisfactory continuing education.

**193C—7.4(542B,272C) Professional development guidelines.** Continuing education activities that satisfy the professional development criteria are those that relate to engineering or land surveying practice or management. It is recognized that an engineer's specialized skills must have as their foundation a fundamental knowledge of chemistry, physics, mathematics, graphics, computations, communication, and humanities and social sciences. However, continuing education in the fundamentals alone will not be sufficient to maintain, improve, or expand engineering skills and knowledge. For that reason, licensees will be limited in their use of fundamental courses in proportion to ABET criteria for accreditation of engineering curricula. Continuing education activities are classified as:

**7.4(1) Group 1 activities.** Group 1 activities are intended to maintain, improve, or expand skills and knowledge obtained prior to initial licensure. The following chart illustrates the maximum PDH allowable per renewal period for Group 1 activities:

Type of course/activity	Number of PDH allowed per renewal period
Mathematics and basic sciences Math beyond Trigonometry Basic sciences: Chemistry, Physics, Life sciences, Earth sciences	10 PDH
Engineering sciences Mechanics, Thermodynamics, Electrical and electrical circuits, Materials science, *Computer science *Courses in computer science will generally be considered a part of the Engineering Sciences category in the ABET criterion and, therefore, limited to a maximum of 10 PDH per renewal period.	10 PDH
Humanities and social sciences Philosophy, Religion, History, Literature, Fine arts, Sociology, Psychology, Political science, Anthropology, Economics, Foreign languages, Professional ethics, Social responsibility	5 PDH
Engineering-related courses Accounting, Industrial management, Finance, Personnel administration, Engineering economy, English, Speech, *Computer applications *The computer is considered a tool available to engineers and land surveyors. Courses related to computer drafting and general computer applications are generally not applicable to either Group 1 or Group 2 activities. Computer courses that relate to engineering or land surveying design applications, such as structural design/analysis software, are considered acceptable.	10 PDH

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

**7.4(2) Group 2 activities.** Group 2 activities are intended to develop new and relevant skills and knowledge. Credit for participation in activities in the group is unlimited, subject to maximum carryover. Typical areas include postgraduate level engineering science or design, new technology, environmental regulation and courses in management of engineering or land surveying activity (regular work duties do not qualify).

**7.4(3) Independent study.** To be readily acceptable by the board, independent study as defined in rule 193C—7.2(542B,272C) meets all of the following criteria:

- a. A written evaluation process is completed by the independent study provider; and
- b. A certificate of satisfactory completion is issued by the provider; and
- c. An evaluation assessment is issued to the licensee by the provider; and
- d. Documentation supporting such independent studies is maintained by the licensee and provided to the board as required by subrule 7.8(2).

A maximum of ten professional development hours of independent study activity will be allowed per biennium per licensee.

**7.4(4) Exclusions.** Types of continuing education activities that will be excluded from allowable continuing education are those in which it is not evident that the activity relates directly to the licensee's practice of professional engineering or land surveying or the management of the business concerns of the licensee's practice, or that do not comply with the board's administrative rules. Examples of activities that do not qualify as continuing education include the following:

- a. Regular employment;
- b. Toastmasters club meetings;
- c. Service club meetings or activities;
- d. Personal estate planning;
- e. Banquet speeches unrelated to engineering;
- f. Professional society business meeting portions of technical seminars;
- g. Financial planning/investment seminars;
- h. Foreign travel not related to engineering study abroad;
- i. Personal self-improvement courses;
- j. Real estate licensing courses;
- k. Stress management;
- l. Trade shows;
- m. Peer review;
- n. Accreditation review;
- o. Independent study or self-study that does not meet the requirements of subrule 7.4(3);
- p. Basic CAD and fundamental computer application courses;
- q. Undergraduate engineering seminars.

**193C—7.5(542B,272C) Biennial requirement.** The biennial requirement may only be satisfied during the biennium prior to licensure renewal except for the carryover permitted.

**7.5(1)** Completion of 30 professional development hours, including at least 2 professional development hours in the area of professional ethics, satisfies the continuing education necessary for biennial licensure renewal in engineering or land surveying. Completion of 40 professional development hours, including 20 professional development hours in engineering and 20 professional development hours in land surveying and at least 4 professional development hours in the area of professional ethics, satisfies the continuing education necessary for biennial licensure renewal for individuals actively licensed in both engineering and land surveying. Up to 15 professional development hours may be carried forward only into the next biennium. For individuals actively licensed in both engineering and land surveying, up to 10 professional development hours for each profession may be carried forward only into the next biennium.

**7.5(2)** Inactive licensees are exempt from the continuing education requirements.

**7.5(3)** A licensee who is active in one profession and inactive in another is obligated to meet the continuing education requirements for licensure in the profession in which active licensure is maintained.



## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

**7.5(4)** A new licensee is obligated to satisfy one-half of the biennial continuing education requirement at the first renewal following initial licensure. Professional engineers and professional land surveyors licensed by comity are not new licensees and are not eligible for the one-half continuing education requirement.

**193C—7.6(542B,272C) Exemptions.**

**7.6(1)** The continuing education requirements may be reduced in proportion to the following:

- a.* Periods of time that the licensee serves honorably on active duty in the military services;
- b.* Periods of time that the licensee is licensed in and a resident of another state or district having continuing education requirements for professional engineering or land surveying and meets all requirements of that state or district for practice therein;
- c.* Periods of time that the licensee is a government employee working as a professional engineer or professional land surveyor and assigned to duty outside the United States; or
- d.* Documented periods of the licensee's active practice and absence from the United States that are approved by the board.

**7.6(2)** No exemption will be granted without a written request from the licensee with documentation of the period of absence.

**193C—7.7(542B,272C) Hardships or extenuating circumstances.** Upon a written request to the board, the board may, in individual cases involving hardship or extenuating circumstances, grant waivers of the continuing education requirements for a period of time not to exceed one year.

**193C—7.8(542B,272C) Reports, records, and compliance review.** At the time of application for license renewal, each licensee reports, on a form provided by the board, the number of professional development hours achieved during the preceding biennium.

**7.8(1) Record keeping.** Maintaining records to be used to support professional development hours claimed is the responsibility of the licensee. It is recommended that each licensee keep a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned. The licensee is obligated to maintain documentation of reported PDHs for two years after the period for which the form was submitted.

**7.8(2) Compliance review.** The board may select licensees for review of compliance with continuing education on a random basis or upon receiving information regarding noncompliance and will review compliance with continuing education for reinstatement of lapsed or inactive licenses. Each licensed board member is audited for PDH compliance for a biennium that is within each member's respective three-year appointment term. For each PDH claimed, licensees chosen for compliance review will furnish:

- a.* Proof of attendance. Attendance verification records in the form of completion certificates, or other documents supporting evidence of attendance;
- b.* Verification of the hours claimed; and
- c.* Information about the course content.

**7.8(3) Compliance review sanctions.** Any discrepancy between the number of PDHs reported and the number of PDHs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any PDH, or the licensee has failed to complete the required PDHs, the licensee has 60 days from board notice to either provide further evidence of having completed the PDHs disallowed or remedy the discrepancy by completing the required number of PDHs (provided that such PDHs are not used again for the next renewal). Extension of time may be granted on an individual basis if requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action. If the board finds, after proper notice and hearing, that the licensee willfully disregarded these requirements or falsified documentation of required PDHs, the licensee may be subject to disciplinary action as further identified in 193C—paragraphs 9.3(1) "c" and 9.3(3) "e."

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

**7.8(4) *Out-of-state residents.*** A person licensed to practice engineering or land surveying or both in Iowa shall be deemed to have complied with the continuing education requirement of this state during the periods that the person is a resident of another state or district which has a continuing education requirement for engineers or land surveyors and the individual meets all requirements of that state or district for practice therein. However, if selected for compliance review, such individuals must provide documentation as specified in subrule 7.8(2).

These rules are intended to implement Iowa Code sections 272C.2, 272C.3, 542B.6, and 542B.18.

**ARC 7411C****ENGINEERING AND LAND SURVEYING EXAMINING  
BOARD[193C]****Notice of Intended Action****Proposing rulemaking related to professional conduct of licensees  
and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 8, "Professional Conduct of Licensees," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 8 implement changes recommended by Executive Order 10. The rules of Chapter 8 provide information on professional conduct of the licensee.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Robert E. Lampe  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.725.9024  
 Fax: 515.725.9032  
 Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
 12:50 to 1:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
 12:50 to 1:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8  
 PROFESSIONAL CONDUCT OF LICENSEES

**193C—8.1(542B) General statement.** In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following code of professional conduct is binding upon every person holding a certificate of licensure as a professional engineer or professional land surveyor in this

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

state. The code of professional conduct is an exercise of the police power vested in the board by the Acts of the legislature.

**193C—8.2(542B) Code of professional conduct.** All persons licensed under Iowa Code chapter 542B are charged with having knowledge of the existence of this code of professional conduct and are expected to be familiar with its provisions, to understand them, and to abide by them. Such knowledge includes the understanding that the practices of engineering and land surveying are a privilege, as opposed to a right, and the licensee shall be forthright and candid in statements or written response to the board or its representatives on matters pertaining to professional conduct.

**8.2(1) Responsibility to the public.** Licensees will conduct their professional practices in a manner that will protect life, health and property and enhance the public welfare. If their professional judgment is overruled under circumstances where safety, health and welfare of the public are endangered, they shall inform their employer or client of the possible consequences, notify such other proper authority as may be appropriate, and withdraw from further services on the project.

Licensees may neither approve nor certify engineering or land surveying documents that may be harmful to the public health and welfare and that are not in conformity with accepted engineering or land surveying standards.

**8.2(2) Competency for assignments.** Licensees may perform engineering or land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or professional land surveying involved. Licensees shall engage experts or advise that experts and specialists be engaged whenever the client's or employer's interests are best served by such service.

Licensees may accept an assignment on a project requiring education or experience outside their field of competence, but only to the extent that their services are restricted to those phases of the project in which they are qualified.

**8.2(3) Truth in reports and testimony.** Licensees, when serving as expert or technical witnesses before any court, commission, or other tribunal, may express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of their testimony. Under these circumstances, the licensee must disclose inadequate knowledge.

Licensees shall be objective and truthful in all professional reports, statements or testimony. All relevant and pertinent information shall be included in such reports, statements or testimony. Licensees shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.

**8.2(4) Conflict of interest.** Licensees shall:

*a.* Not issue statements, criticisms or arguments on engineering or land surveying matters connected with public policy that are influenced or paid for by an interested party, or parties, unless they have prefaced their comments by explicitly identifying themselves, by disclosing the identities of the party or parties on whose behalf they are speaking, and by revealing the existence of any pecuniary interest.

*b.* Avoid all known conflicts of interest with their employers or clients and, when unforeseen conflicts arise, shall promptly inform their employers or clients of any business association, interest, or circumstances that could influence judgment or the quality of services.

*c.* Not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

*d.* Act in professional matters for each employer or client as faithful agents or trustees and maintain full confidentiality on all matters in which the welfare of the public is not endangered.

**8.2(5) Ethics.** Licensees shall conduct their business and professional practices of engineering and land surveying in an ethical manner. In addition to the provisions of this chapter, the board will consider, although not necessarily be bound by, the ethical standards that address public protection issues adopted by a recognized state or national engineering or land surveying organization such as the National Society of Professional Engineers and the National Society of Professional Surveyors.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

**8.2(6) Unethical or illegal conduct.***a. Business practices.* Licensees shall not:

(1) Pay or offer to pay, either directly or indirectly, any commission, percentage, brokerage fee, political contribution, gift, or other consideration to secure work, except to a bona fide employee or bona fide, established commercial or marketing agency retained by them or to secure positions through employment agencies.

(2) Engage in any discriminatory practice prohibited by law and shall, in the conduct of their business, employ personnel upon the basis of merit.

(3) Solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their clients or employers in connection with work for which they are responsible.

(4) Solicit or accept an engineering or land surveying contract from a governmental body when a principal or officer of the licensee's organization serves as an elected, appointed, voting or nonvoting member of the same governmental body that is letting the contract. For purposes of this subparagraph, "governmental body" means a board, council, commission, or similar multimembered body. A licensee would not violate this provision, however, if the principal or officer of the licensee's organization who serves as a member of the governmental body plays no role in the solicitation or acceptance of the contract, and the contract would be legally permissible under applicable Iowa law, including but not limited to Iowa Code sections 68B.3, 279.7A, 331.342, and 362.5.

(5) Associate with, or permit the use of their names or firms in a business venture by, any person or firm that they know, or have reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.

(6) Misrepresent pertinent facts concerning employers, employees, associates, firms, joint ventures, or past accomplishments in brochures or other presentations incident to the solicitation of employment.

*b. Individual professional conduct.* Licensees shall not:

(1) Use association with nonengineers, corporations or partnerships as "cloaks" for unethical acts.

(2) Violate any local, state or federal criminal law in the conduct of professional practice.

(3) Violate licensure laws of any state or territory.

(4) Affix their signatures or seals to any plans, plats or documents dealing with subject matter in which those licensees lack competence, nor to any plan, plat or document not prepared under their direct personal direction and control.

(5) Falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments.

*c. Real property inspection reports.* Licensees shall not:

(1) Represent themselves as licensed professional land surveyors or professional engineers on real property inspection reports (i.e., mortgage surveys).

(2) Place their firm names, logos, or title blocks on real property inspection reports (i.e., mortgage surveys).

**193C—8.3(542B) Reporting of acts or omissions.** Licensees shall report acts or omissions by a licensee that constitute negligence or carelessness. For the purposes of these rules, "negligence or carelessness" means demonstrating unreasonable lack of skill in the performance of engineering or land surveying services by failure of a licensee to maintain a reasonable standard of care in the licensee's practice of engineering or land surveying. In the evaluation of reported acts or omissions, the board determines if the engineer or land surveyor has applied learning, skill and ability in a manner consistent with the standards of the professions ordinarily possessed and practiced in the same profession at the same time. Standards referred to in the immediately preceding sentence shall include any minimum standards adopted by this board and any standards adopted by recognized national or state engineering or land surveying organizations.

**193C—8.4(542B) Standards of integrity.** Licensees shall:

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

1. Answer all questions of a duly constituted investigative body of the state of Iowa concerning alleged violations by another person or firm.
2. Admit and accept their own errors and not distort or alter the facts to justify their own decisions when proven wrong.
3. Present information to the engineering and land surveying examining board in writing and cooperate with the board in furnishing further information or assistance required by the board, if a licensee knows or has reason to believe that another person or firm may be in violation of Iowa law or rules regarding ethics or conduct of professional engineering or professional land surveying practice.
4. Licensees cannot assist in the application of an individual they know is unqualified for licensure by reason of education, experience or character.

**193C—8.5(542B) Engineering and land surveying services offered by business entities.**

**8.5(1) Purpose of rule.** The purpose of this rule is to protect the public from misleading or deceptive advertising by business entities that hold themselves out to the public as providing professional engineering or professional land surveying services and to guard against the unlicensed practice of professional engineering or professional land surveying by persons who are not properly licensed to perform such services in the state of Iowa. This rule shall not be construed as restricting truthful advertising by business entities that appropriately place professional engineers or professional land surveyors in responsible charge of the professional services offered to and performed for the public.

**8.5(2) Definitions.** For purposes of this rule, the following definitions apply:

*“Business entity”* includes corporations, partnerships, limited liability companies, persons using fictitious or assumed names, or any other form of entity that may conduct business.

*“In responsible charge”* means the same as defined in Iowa Code section 542B.2(6). Indications of being in responsible charge include:

1. Obtaining or setting the project or service parameters or criteria.
2. Dictating the manner and methods by which professional services are performed.
3. Establishing procedures for quality control and authority over professional services in a manner that ensures that the professional licensee is in control of the work and of all individuals performing the work under the licensee’s supervision.
4. Spending sufficient time directly performing the work or directly supervising the work to ensure that the licensee is familiar with all significant details of the work.
5. Maintaining familiarity with the capabilities and methods of the persons performing professional services, and providing adequate training for all persons working under the licensee’s direct supervision.
6. Sustaining readily accessible contact with all persons performing professional services by direct physical proximity, or as appropriate in the licensee’s professional judgment, by frequent communication, in clear and complete verbal and visual form, of information about the work being performed.
7. Specifically pertaining to land surveying, reviewing all field evidence and making all final decisions concerning the placement of survey monuments and surveyed lines.

*“Professional services”* includes professional engineering and professional land surveying services, as defined in Iowa Code sections 542B.2(5) and (8) and 542B.27, as applicable to the fact situation at issue.

**8.5(3) General rule.** Business entities offering professional services to the public must be owned, managed, or appropriately staffed by one or more professional engineers or professional land surveyors, as applicable, who are in responsible charge of all professional services offered and performed.

**8.5(4) Appropriate staffing.** The nature and extent of appropriate staffing by licensed professionals is necessarily a fact-based determination dependent on such factors as the nature and volume of professional services offered and performed, the risk of unlicensed practice, the impact of the professional services on the life, health and safety of the public and the public’s property, and the representations made to the public. While the legal nature of the business entity’s relationship (e.g., owner, manager, employee) with

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

a licensed professional engineer or professional land surveyor is not necessarily determinative, licensed professionals must be in responsible charge of all professional services offered and performed.

**8.5(5) *Professional engineering or professional land surveying firms.*** Business entities holding themselves out to the public as professional engineering or professional land surveying firms cannot satisfy the requirements of this rule solely by retaining, through employment or contract, a licensed professional on an as-needed, occasional or consulting basis. Such an arrangement fosters unlicensed practice by the unlicensed owners or managers who place themselves in charge of determining when a licensed professional is needed. When a business entity conveys to the public that it is organized as a firm of licensed professionals, the public has a right to expect that the firm retains the full-time services of one or more licensed professionals. "Full-time" in this context is not measured by hours, but by a licensee's sustained, meaningful, and effective, direct supervision of all professional services performed, whether the firm performs services, for example, 20 hours per month or 80 hours per week.

**8.5(6) *Restricted services.*** Business entities that do not generally hold themselves out to the public as professional engineering or professional land surveying firms, but that do offer some type of professional engineering or professional land surveying service, shall be appropriately staffed by licensed professionals in a manner that:

- a. Corresponds with the representations made to the public.
- b. Places licensed professionals in responsible charge of all professional services performed.
- c. Guards against the unlicensed practice of professional engineering or professional land surveying.

**8.5(7) *Permitted practices.***

a. Nothing in this rule is intended to prevent an individual or business entity from truthfully offering services as a project manager, administrator, or coordinator of a multidisciplinary project.

b. Nothing in this rule prevents a joint venture arrangement between an engineering or land surveying firm and a business entity that is not owned, managed, or staffed by professional engineers or professional land surveyors, in which the venturing entities jointly and truthfully offer professional engineering or professional land surveying services on a project-by-project basis. Licensed professional engineers and professional land surveyors who participate in such arrangements shall ensure that the public is accurately informed as to the nature of all professional services to be performed and by whom the services will be performed.

**8.5(8) *Remedies against licensees.*** Licensed professional engineers or professional land surveyors who aid and abet the unlicensed offering or practice of professional engineering or professional land surveying, or who otherwise knowingly participate in a business entity that does not comply with this rule, are engaging in unethical practices that are harmful or detrimental to the public and are subject to disciplinary action by the board.

**8.5(9) *Remedies against business entities and unlicensed individuals.*** The board may by order impose civil penalties against any business entity or unlicensed individual that offers or performs professional services in violation of Iowa Code chapter 542B.

These rules are intended to implement Iowa Code sections 542B.6, 542B.21 and 542B.26 and chapter 272C.

**ARC 7412C**

**ENGINEERING AND LAND SURVEYING EXAMINING  
BOARD[193C]**

**Notice of Intended Action**

**Proposing rulemaking related to complaints, investigations, and disciplinary actions  
and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 9, “Complaints, Investigations and Disciplinary Action,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 9 implement changes recommended by Executive Order 10. Chapter 9 provides protection to Iowans because it publicly defines the Board’s disciplinary authority, processes, and grounds for which disciplinary action can be taken. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, a licensee can be subject to discipline against the licensee’s license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:



## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Robert E. Lampe  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.725.9024  
 Fax: 515.725.9032  
 Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
 12:50 to 1:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
 12:50 to 1:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
 More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9  
 COMPLAINTS, INVESTIGATIONS AND DISCIPLINARY ACTION

**193C—9.1(542B) Complaints and investigations.**

**9.1(1) Complaints.** The board, upon receipt of a complaint or upon its own motion pursuant to other evidence received by the board, reviews and investigates alleged acts or omissions which reasonably constitute cause under applicable law or administrative rule for licensee discipline. Complaints may

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

be submitted to the board office via the board's website by members of the public, including clients, business organizations, nonprofit organizations, governmental bodies, licensees, or other individuals or entities with knowledge of possible violations of laws or rules by licensees.

**9.1(2) *Form and content.*** A written complaint may be submitted on forms available from the board office and on the board's website. The written complaint shall include the following information:

- a. The full name, address, and telephone number of complainant.
- b. The full name, address, and telephone number of the individual against whom the complaint is filed.
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.
- d. Citation of the statutes and administrative rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, that have been taken by the complainant to resolve the dispute with the respondent prior to the filing of the complaint.

**9.1(3) *Initial complaint screening.*** All written complaints received by the board are initially screened by the board's administrator to determine whether the allegations of the complaint fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the board's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous will be referred by the board administrator to the board for closure at the next scheduled board meeting. All other complaints are referred by the board administrator to the board's disciplinary committee for committee review.

**9.1(4) *Investigation of allegations.*** In order to determine if probable cause exists for a hearing on the complaint, the board may cause an investigation to be made into the allegations of the complaint. It may refer the complaint to a peer review committee or investigator for investigation, review and report to the board.

**9.1(5) *Informal discussion.*** If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. It is not necessary for the licensee to attend the informal discussion. By electing to attend, the licensee waives the right to seek disqualification, based upon personal investigation of a board member or staff, from participating in making a contested case decision or acting as a presiding officer in a later contested case proceeding. Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges will be filed simultaneously with the consent order.

**9.1(6) *Immunity.*** Complainants are immune from civil liability under Iowa Code section 272C.8.

**9.1(7) *Role of complainant.*** The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which the board may initiate based in whole or in part on information provided by the complainant.

**9.1(8) *Role of the board.*** The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

**193C—9.2(542B) Ruling on the initial inquiry.**

**9.2(1) Dismissal.** If a determination is made by the board that a complaint is without grounds or merit, the complaint will be dismissed. A letter of explanation concerning the decision of the board will be sent to the respondent and the complainant.

**9.2(2) Requirement of further inquiry.** If determination is made by the board to order further inquiry, the complaint and initial recommendations will be provided to the investigator(s) along with a statement specifying the information deemed necessary.

**9.2(3) Acceptance of the case.** If a determination is made by the board to initiate disciplinary action, the board may enter into an informal settlement or recommend formal disciplinary proceedings. The board's rules regarding informal settlement are found in rule 193—7.4(17A,272C).

This rule is intended to implement Iowa Code sections 542B.21, 542B.22 and 272C.6.

**193C—9.3(17A,272C,542B,546) Grounds for discipline.** The board has authority pursuant to Iowa Code chapters 542B, 17A and 272C to impose discipline for violations of those chapters and the rules promulgated thereunder and may initiate disciplinary action against a licensee holding an active, inactive or lapsed license on any of the grounds identified in Iowa Code section 542B.21.

**9.3(1) Fraud or deceit in procuring or attempting to procure an initial, comity, renewal, or reinstated license** includes any intentional perversion of or reckless disregard for the truth when an application, or information in support of another's application, is submitted to the board, including:

*a.* False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed.

*b.* Attempting to file or filing with the board any false or forged record or document, such as a college transcript, diploma or degree, examination report, verification of licensure, or continuing education certificate.

*c.* Reporting information, such as satisfaction of continuing education, in a false manner, through overt deceit, or with reckless disregard for the truth or accuracy of the information asserted.

*d.* Otherwise participating in any form of fraud or misrepresentation by act or omission.

**9.3(2) Professional incompetence** includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the practice of engineering or land surveying.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

*d.* Failure to conform to the minimum standards of acceptable and prevailing practice of engineering or land surveying in this state, including the land surveying standards set forth in Iowa Code chapters 354 and 355 and 193C—Chapters 11 and 12.

*e.* Engaging in engineering or land surveying practices which are outside the technical competence of the licensee without taking reasonable steps to associate with a competent licensee or other steps to ensure competent practice.

*f.* Any other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including acts or omissions described in rule 193C—8.3(542B).

**9.3(3) Deceptive practices** include, but are not limited to, the following:

*a.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of engineering or land surveying.

*b.* Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

*c.* Acceptance of any fee by fraud or misrepresentation.

*d.* Falsification of business or client records.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

*e.* Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education or as a condition of probation, or in a reference submitted for an examination or a license applicant or in any reports identified in this rule or rule 193C—8.3(542B).

*f.* Knowingly presenting as one's own the license, signature, or seal of another or of a fictitious licensee, or otherwise falsely impersonating a person holding an engineering or land surveying license.

*g.* Representing oneself as a professional engineer or professional land surveyor after the license has been suspended, revoked, surrendered, or placed on inactive status or has lapsed.

*h.* Fraud in representations as to skill or ability.

*i.* Any violation of Iowa Code section 542B.16 or associated rules in 193C—Chapter 6 involving a licensee's seal or certificate.

**9.3(4)** Behaviors and conduct which are unethical or harmful or detrimental to the public include, but are not limited to, the following actions:

*a.* A violation of the code of professional conduct in 193C—Chapter 8.

*b.* Verbal or physical abuse, or improper sexual contact, if such behavior occurs within the practice of engineering or land surveying or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior could occur within such practice and, if so, would place the public at risk.

*c.* Aiding or abetting a violation of a provision of Iowa Code section 542B.27(1).

**9.3(5)** Lack of proper qualifications, as provided in Iowa Code section 272C.3(2) "b," includes but is not limited to:

*a.* Continuing to practice as an engineer or land surveyor without satisfying the continuing education required for license renewal.

*b.* Violation of Iowa Code section 542B.21(4) that adversely affects the licensee's ability to practice in a safe and competent manner.

**9.3(6)** Professional misconduct which includes, but is not limited to, revocation, suspension, or other disciplinary action taken against a licensee by a licensing authority of this state or another state, territory, or country. "Disciplinary action" includes a voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A stay by an appellate court does not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated. A licensee shall notify the board of such disciplinary action within 30 days of the disciplinary action.

**9.3(7)** Willful or repeated violations include the willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 542B or any administrative rule adopted by the board in the administration or enforcement of such chapters.

**9.3(8)** Conviction of felony includes the conviction of a felony under the laws of the United States, of any state or possession of the United States, or of any other country. The board will vacate any discipline based solely on a conviction, if that conviction is overturned or reversed by a court of last resort.

**193C—9.4(542B) Disciplinary findings and sanctions.** The board's decision may include one or more of the following findings or sanctions:

1. Exoneration of respondent.
2. Revocation of license.
3. Suspension of license until further order of the board or for a specified period.
4. Nonrenewal of license.
5. Prohibition, until further order of the board or for a specific period, of engaging in specified procedures, methods or acts.
6. Probation.
7. Requirement of additional education or training.
8. Requirement of reexamination.
9. Issuance of a reprimand.
10. Imposition of civil penalties.
11. Issuance of citation and warning.
12. Desk review.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

13. Other sanctions allowed by law as may be appropriate.

**193C—9.5(272C) Civil penalties.** In addition to other disciplinary options, the board may assess civil penalties of up to \$1,000 per violation against licensees who violate any provision of rule 193C—9.3(17A,272C,542B,546). Factors the board may consider when determining whether and in what amount to assess civil penalties include:

1. Whether other forms of discipline are being imposed for the same violation.
2. Whether the amount imposed will be a substantial economic deterrent to the violation.
3. The circumstances leading to the violation.
4. The severity of the violation and the risk of harm to the public.
5. The economic benefits gained by the licensee as a result of the violation.
6. The interest of the public.
7. Evidence of reform or remedial action.
8. Time elapsed since the violation occurred.
9. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
10. The clarity of the issue involved.
11. Whether the violation was willful and intentional.
12. Whether the licensee acted in bad faith.
13. The extent to which the licensee cooperated with the board.
14. Whether the licensee practiced professional engineering or professional land surveying with a lapsed, inactive, suspended or revoked license.

This rule is intended to implement Iowa Code section 542B.22.

**193C—9.6(542B) Publication of decisions.** In addition to publication requirements found at 193—subrule 7.30(3), the following notifications shall be issued:

1. Following suspension of a professional land surveyor's license, notification must be issued to the county recorders and county auditors of the county of residence and immediately adjacent counties in Iowa.
2. Following revocation of a professional land surveyor's license, notification must be mailed to all county auditors in Iowa and the county recorders in the county of residence and immediately adjacent counties in Iowa.
3. Following the suspension or revocation of the license of a professional engineer or professional land surveyor, notification is issued to other boards of examiners for engineers and land surveyors under the jurisdiction of the government of the United States. This notification may be made through the National Council of Examiners for Engineering and Surveying or other national organizations recognized by the board. In addition, if the licensee is known to be registered in another nation in North America, the appropriate board(s) are notified of the action.

**193C—9.7(542B) Disputes between licensees and clients.** Reports from the insurance commissioner or other agencies on the results of judgments or settlements of disputes arising from malpractice claims or other actions between professional engineers or professional land surveyors and their clients may be referred to counsel or peer review committee. The counsel or peer review committee will investigate the report for violation of the statutes or rules governing the practice or conduct of the licensee. The counsel or peer review committee will advise the board of any probable violations or any further action required or recommend dismissal from further consideration.

**193C—9.8(272C,542) Confidentiality of complaint and investigative information.**

**9.8(1) General provisions.** All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code section 272C.6(4). Such information shall not be released to any person except as provided in that section.

**9.8(2) Disclosure to the subject of the investigation.**

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

*a. Legal authority.* Pursuant to Iowa Code section 546.10(9), the board may supply to a licensee who is the subject of a disciplinary complaint or investigation, prior to the initiation of a disciplinary proceeding, all or such parts of a disciplinary complaint, disciplinary or investigatory file, report, or other information as the board in its sole discretion believes would aid the investigation or resolution of the matter.

*b. General rule.* As a matter of general policy, the board will not disclose confidential complaint and investigative information to a licensee except as permitted by Iowa Code section 272C.6(4). Disclosure of a complainant's identity in advance of the filing of formal disciplinary charges, for instance, may adversely affect a complainant's willingness to file a complaint with the board.

*c. Exceptions to general rule.* The board may exercise its discretion to release information to a licensee that would otherwise be confidential under Iowa Code section 272C.6(4) under narrow circumstances, including but not limited to the following:

(1) Following a board determination that probable cause exists to file disciplinary charges against a licensee and prior to the issuance of the notice of hearing, the board may provide the licensee with a peer review or investigative report or expert opinions as reasonably needed for the licensee to assess the merits of a settlement proposal.

(2) The board may release to a licensee who is the subject of a board-initiated investigation, including those initiated following the board's receipt of an anonymous complaint, such records or information as may aid the investigation or resolution of the matter.

(3) The board may release information from a peer review or consultant's report when soliciting the licensee's position will aid in making the probable cause determination and such disclosure can be made to the licensee without revealing identifying information regarding the complainant, peer reviewer or consultant.

These rules are intended to implement Iowa Code chapter 17A and sections 542B.2, 542B.22, and 272C.6.

**ARC 7413C****ENGINEERING AND LAND SURVEYING EXAMINING  
BOARD[193C]****Notice of Intended Action****Proposing rulemaking related to peer review  
and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 10, "Peer Review," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 10 implement changes recommended by Executive Order 10. Chapter 10 covers peer review as it relates to disciplinary investigations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5157259024)

January 31, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5157259024)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10  
PEER REVIEW

**193C—10.1(542B,272C) Peer review.** The board may appoint a peer reviewer, or multiple peer reviewers, for the investigation of a complaint about the acts or omissions of one or more licensees.

**10.1(1) Peer review.** Peer reviewers are generally licensed engineers or licensed land surveyors or both, as determined by the board, who are selected for their knowledge and experience in the type of engineering or land surveying involved in the complaint.

An individual is ineligible as a peer reviewer in accordance with the standard for disqualification found at 193—subrule 7.14(1). If a peer reviewer is unable to serve after an investigation has begun, the peer reviewer will notify the board office.

**10.1(2) Authority.** The peer reviewer's investigation may include activities such as interviewing the complainant, the respondent, individuals with knowledge of the alleged violation, and individuals with knowledge of the respondent's practice in the community; gathering documents; conducting site visits; and performing independent analyses as deemed necessary. Although the board does not become involved in a complaint investigation, the board may give specific instructions to the peer reviewer regarding the scope of the investigation. In the course of the investigation, the peer reviewer will refrain from advising the complainant or respondent on actions that the board might take.

**10.1(3) Term of service.** The peer reviewer serves at the pleasure of the board. The board may dismiss any peer reviewer or add new peer reviewers at any time.

**10.1(4) Compensation.** The terms of payment as authorized by the peer review agreement may vary based on the nature and complexity of each assignment. The peer reviewer will be additionally entitled to reimbursement of expenses directly related to the peer review process, deposition or hearing preparation, or deposition or hearing testimony, such as mileage, meals, or out-of-pocket charges for securing copies of documents. Expenses will be reimbursed as allowed under the manuals and guidelines published by the Iowa department of administrative services, state accounting enterprise. The peer reviewer cannot hire legal counsel, investigators, secretarial help or any other assistance without written authorization from the board.

**193C—10.2(542B,272C) Reports.** Each peer reviewer will submit a written report to the board within 90 days of the peer review assignment, unless an extension is granted by the board.

**10.2(1) Components of the report.** The report will include:

- a. A statement of the charge to the peer reviewer;
- b. A description of the actions taken by the peer reviewer in the peer reviewer's investigation, including but not limited to document review, interviews and site visits;
- c. A summary of the peer reviewer's findings, including:
  - (1) The peer reviewer's opinion as to whether a violation has occurred,
  - (2) Citation of the Iowa Code section(s) and Iowa Administrative Code rule(s) violated, and
  - (3) The peer reviewer's opinion of the seriousness of the violation; and
- d. A recommendation.

In the case of a land surveyor peer reviewer report, the report must be plat-specific as to the violations.

**10.2(2) Recommended action.** The peer reviewer report will recommend one of the following:

- a. Dismissal of the complaint,
- b. Further investigation, or
- c. Disciplinary proceedings.



## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

If the peer reviewer recommends further investigation or disciplinary proceedings, supporting information must be submitted to the board, including citation of the specific Iowa Code section(s) and Iowa Administrative Code rule(s) violated.

**10.2(3) *Disciplinary recommendations.*** When recommending disciplinary proceedings, a peer reviewer will not suggest a particular form of discipline, but may provide guidance on the severity of the violations that prompted the recommendation and may identify professional areas in which the licensee needs additional education, experience or monitoring in order to safely practice.

**193C—10.3(542B,272C) Confidentiality.** The peer reviewer will not discuss or reveal the peer reviewer's findings and conclusions with any party other than the board (through the peer reviewer's report to the board) or board staff.

**193C—10.4(542B,272C) Testimony.** Peer reviewers may be required to testify in the event of formal disciplinary proceedings.

These rules are intended to implement Iowa Code section 272C.3.

**ARC 7414C****ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]****Notice of Intended Action****Proposing rulemaking related to property surveys and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 11, "Minimum Standards for Property Surveys," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 11 implement changes recommended by Executive Order 10. The rules of Chapter 11 provide information on minimum standards for property surveys.

*Fiscal Impact*

This rulemaking has minimal fiscal impact to the State of Iowa. The agency bears the cost of Board meetings, including a \$50 per diem per board member, per meeting, plus travel expenses as needed. Travel expenses in 2022 were approximately \$500. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. The agency is funded by licensing fees. There are no costs to the public.

*Jobs Impact*

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

*Waivers*

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

ITEM 1. Rescind 193C—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11  
MINIMUM STANDARDS FOR PROPERTY SURVEYS

**193C—11.1(542B) Scope.** Each professional land surveyor will comply with the minimum standards for property surveys described by statute or administrative rule. The minimum standards in this chapter apply to all property surveys performed in this state except those done for acquisition plats as described in Iowa Code chapter 354.

**193C—11.2(542B) Definitions.** For the purposes of these rules, the following definitions apply:

“*Plat*” means both a plat of survey and a subdivision plat as those terms are defined in Iowa Code section 355.1.

“*Property survey*” means any land survey performed for the purpose of describing, monumenting, retracing and establishing boundary lines, dividing, subdividing, or platting one or more parcels of land.

“*Retrace*” means following along a previously established line to logical termini.

**193C—11.3(542B) Boundary location.** Every property survey shall be made in accordance with the legal description (record title) boundaries as nearly as is practicable. The surveyor will acquire data necessary to retrace record title boundaries, centerlines, and other boundary line locations. The surveyor will analyze the data and determine the position of the boundaries of the parcel being surveyed. The surveyor will make a field survey, locating and connecting monuments necessary for location of the parcel, and coordinate the facts of such survey with the analysis. The surveyor will set monuments marking the corners of such parcel unless monuments already exist at such corners.

**193C—11.4(542B) Descriptions.** Descriptions defining land boundaries written for conveyance or other purposes shall be complete, providing definite and unequivocal identification of lines or boundaries. The description must contain dimensions sufficient to enable the description to be platted and retraced and describe the land surveyed either by government lot or by quarter-quarter section or by quarter section and identify the section, township, range and county; and by metes and bounds commencing with a corner monumented and established in the U.S. Public Land Survey System; or if such land is located in a recorded subdivision or recorded addition thereto, then by the number or other description of the lot, block or subdivision thereof that has been previously tied to a corner monumented and established by the U.S. Public Land Survey System. If the parcel is described by metes and bounds, it may be referenced to known lot or block corners in recorded subdivision or additions.

**193C—11.5(542B) Plats.** A plat shall be drawn for every property survey performed showing information developed by the survey and including the following elements:

**11.5(1)** The plat is drawn to a convenient scale that is clearly stated and graphically illustrated by a bar scale on every plat sheet.

**11.5(2)** The plat shows the length and bearing of the boundaries of the parcels surveyed. Where the boundary lines show bearing, lengths or locations that vary from those recorded in deeds, abutting plats or other instruments, the following note is placed along such lines: “recorded as (show recorded bearing, length or location).”

**11.5(3)** The plat shows and identifies all monuments necessary for the location of the parcel and indicates whether such monuments were found or placed and includes an accurate description of each monument consisting of size, shape, material type, capped with license number, and color as applicable.

**11.5(4)** The plat is captioned to identify the person for whom the survey was made and the date of the survey and describes the parcel as provided in rule 193C—11.4(542B) above.

**11.5(5)** The plat shows that record title boundaries, centerlines, and other boundary lines were retraced to monuments found or placed by the surveyor.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

**11.5(6)** The plat shows that the survey is tied to a physically monumented land line that is identified by two U.S. Public Land Survey System corners or by two physically monumented corners of a recorded subdivision. The plat shows a distance relationship measured by the surveyor between the two corners on the physically monumented land line. The physically monumented land line shall be germane to the survey of the lot, parcel, or tract.

**11.5(7)** The plat bears the signature of the professional land surveyor, a statement certifying that the work was performed by the surveyor or under the surveyor's direct personal supervision, the date of signature, and the surveyor's Iowa license number and legible seal as provided in rule 193C—6.1(542B).

**11.5(8)** The surveyor shall record every plat and description, excluding subdivision plats, with the county recorder no later than 30 days after signature on the plat by the surveyor.

**193C—11.6(542B) Measurements.**

**11.6(1)** Measurements may only be made with instruments and methods capable of attaining the required accuracy for the particular problem involved.

**11.6(2)** Measurements as placed on the plat shall be in conformance with the capabilities of the instruments used.

**11.6(3)** The unadjusted closure for all closed traverse surveys shall be not greater than 1 in 5,000 and, for subdivision boundaries, 1 in 10,000.

**11.6(4)** In a closed traverse, the sum of the measured angles shall agree with the theoretical sum by a difference not greater than 30 seconds times the square root of the number of angles.

**11.6(5)** The unadjusted error of field measurements shall not be greater than 1 in 5,000.

**11.6(6)** The relative positional tolerance at the 95 percent confidence level shall be as follows:

- a. For subdivision boundaries:  $\pm(0.13 \text{ feet} + 1:10,000)$
- b. For all other land surveying:  $\pm(0.26 \text{ feet} + 1:5,000)$

**11.6(7)** Bearings or angles on any property survey plat shall be shown to the nearest one minute; distance shall be shown to the nearest one-tenth foot.

**193C—11.7(542B) Monuments.** Monuments shall adhere to Iowa Code section 355.6. More information can be found in rule 193C—11.3(542B).

These rules are intended to implement Iowa Code sections 355.3 and 542B.2.

**ARC 7415C****ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]****Notice of Intended Action****Proposing rulemaking related to U.S. Public Land Survey Corner Certificates and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 12, "Minimum Standards for U.S. Public Land Survey Corner Certificates," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

These proposed revisions to Chapter 12 implement changes recommended by Executive Order 10. The rules in Chapter 12 provide information on minimum standards for U.S. Public Land Survey Corner Certificates.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email: [robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:tel.meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12  
MINIMUM STANDARDS FOR U.S. PUBLIC LAND SURVEY  
CORNER CERTIFICATES

**193C—12.1(542B) General statement.** Each professional land surveyor will comply with the minimum standards for preparing a U.S. Public Land Survey Corner Certificate as described by statute or administrative rule. The minimum standards in this chapter apply to every corner certificate prepared in this state.

**193C—12.2(355) U.S. Public Land Survey Corner Certificate.**

**12.2(1)** A corner is considered a part of the U.S. Public Land Survey System if it has the status of a corner of a:

- a. Quarter-quarter section or larger aliquot part of a section.
- b. Fractional quarter-quarter section or larger fractional part of a section.
- c. Government lot.

**12.2(2)** A U.S. Public Land Survey Corner Certificate shall be prepared by the surveyor as part of any land surveying that includes the use of a U.S. Public Land Survey System corner if one or more of the following conditions exist:

- a. There is no certificate for the corner monument on file with the recorder of the county in which the corner is located.
- b. The surveyor in responsible charge of the land surveying accepts a corner position that differs from that shown in the public records of the county in which the corner is located.
- c. The corner monument is replaced or modified in any way.
- d. The reference ties in an existing public record are incorrect or missing.

**12.2(3)** A U.S. Public Land Survey Corner Certificate shall comply with the following requirements:

- a. The identity of the corner monument, with reference to the U.S. Public Land Survey System, shall be clearly indicated.
- b. The certificate contains a narrative explaining:
  - (1) The reason for preparing the certificate.
  - (2) The evidence and detailed procedure used in establishing or confirming the corner position whether found or placed.
  - (3) The monumentation found or placed perpetuating the corner position with an accurate description of each monument including but not limited to size, shape, material type, capped with license number, and color.
  - (4) The extent of the search for an existing monument when the corner is reset as obliterated or lost.
- c. The certificate contains a plan-view drawing depicting:

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

(1) Relevant monuments including the reference monumentation and an accurate description thereof.

(2) Physical surroundings including highway and street centerlines, fences, structures and other artificial or natural objects as applicable that would facilitate recovery of the corner.

(3) Reference ties in sufficient detail to enable recovery of the corner, including at least three reference ties from the corner to durable physical objects near the corner that are located so that the intersection of any two of the ties will yield a strong corner position recovery. All ties are measured to one-hundredth of a foot.

*d.* The certificate bears the signature of the professional land surveyor, a statement certifying that the work was performed by the surveyor or under the surveyor's direct personal supervision, the date of signature, and the surveyor's Iowa license number and legible seal as provided in rule 193C—6.1(542B).

**12.2(4)** The surveyor shall record the required U.S. Public Land Survey Corner Certificate and forward a copy to the county engineer of the county in which the corner is located within 30 days after completion of the surveying.

These rules are intended to implement Iowa Code sections 355.3, 355.11 and 542B.2.

**ARC 7416C****ENGINEERING AND LAND SURVEYING EXAMINING  
BOARD[193C]****Notice of Intended Action****Proposing rulemaking related to civil penalties for unlicensed  
practice and providing an opportunity for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to rescind Chapter 13, "Civil Penalties for Unlicensed Practice," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 542B.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 542B and Executive Order 10.

*Purpose and Summary*

These proposed revisions to Chapter 13 implement changes recommended by Executive Order 10. Chapter 13 provides helpful information to licensees and members of the public regarding civil penalties the Board may impose as part of regulating the professions. This is important to the public because it creates a shared understanding of options available to the Board when a nonlicensee engages in activities requiring a license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against nonlicensees for those items outlined, ensuring that the public is protected.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*Jobs Impact*

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

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Robert E. Lampe  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9024  
Fax: 515.725.9032  
Email:[robert.lampe@dia.iowa.gov](mailto:robert.lampe@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
12:50 to 1:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

The Department may address agenda items out of sequence to accommodate persons appearing before the Department or to aid in the efficiency or effectiveness of the meeting.

All meetings held by the Department are accessible to everyone. Any persons who need special accommodations to participate should call 515.281.0254 (TDD: 1.800.735.2942) as soon as possible in advance of the meeting to ensure sufficient time to make the appropriate accommodations.

Public attendees may make comments at the conclusion of each board director's report.

The boards reserve the right to limit the length of comments based on the number of individuals who wish to speak.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).



## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

The following rulemaking action is proposed:

ITEM 1. Rescind 193C—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13  
CIVIL PENALTIES FOR UNLICENSED PRACTICE

**193C—13.1(542B) General statement.** The board may impose civil penalties by order against a person who is not licensed as an engineer or land surveyor pursuant to Iowa Code chapter 542B based on the unlawful practices specified in Iowa Code section 542B.27. In addition to the procedures set forth in Iowa Code section 542B.27, this rule shall apply.

**13.1(1)** The notice of the board's intent to impose a civil penalty required by Iowa Code section 542B.27 shall be served upon the nonlicensee by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 56.1. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice will include the following:

- a.* A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b.* A reference to the particular sections of the statutes and rules involved.
- c.* A short and plain statement of the alleged unlawful practice.
- d.* The dollar amount of the proposed civil penalty.
- e.* Notice of the nonlicensee's right to a hearing and the time frame in which a hearing must be requested.
- f.* The address to which the written request for a hearing will be made.

**13.1(2)** Nonlicensees must request a hearing within 30 days of the date the notice is mailed if served through restricted certified mail to the last-known address or within 30 days of the date of service if service is accepted or made in accordance with Rule of Civil Procedure 56.1. A request for hearing must be in writing and is deemed made on the date of the United States Postal Service postmark or the date of personal service.

**13.1(3)** If a request for hearing is not timely made, the board chair or the chair's designee may issue an order imposing the civil penalty described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

**13.1(4)** If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to a disciplinary case against a licensed engineer or land surveyor.

**13.1(5)** In addition to the factors set forth in Iowa Code section 542B.27, the board may consider the following when determining the amount of civil penalty to impose, if any:

- a.* The time elapsed since the unlawful practice occurred.
- b.* Evidence of reform or remedial actions.
- c.* Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
- d.* Whether the violation involved an element of deception.
- e.* Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
- f.* The clarity of the issue involved.
- g.* Whether the violation was willful and intentional.
- h.* Whether the nonlicensee acted in bad faith.
- i.* The extent to which the nonlicensee cooperated with the board.

**13.1(6)** A nonlicensee may waive the right to a hearing and all attendant rights and enter into a consent order imposing a civil penalty at any stage of the proceeding upon mutual consent of the board.

**13.1(7)** The notice of intent to impose civil penalty and order imposing civil penalty are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

be provided to the media, the National Council of Examiners for Engineering and Surveying, and other entities. Hearings shall be open to the public.

This rule is intended to implement Iowa Code section 542B.27.

**ARC 7463C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to licensure of chiropractic physicians  
and providing an opportunity for public comment**

The Board of Chiropractic hereby proposes to rescind Chapter 41, “Licensure of Chiropractic Physicians,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 151 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 151.

*Purpose and Summary*

These proposed rules establish minimum standards for obtaining licensure as a chiropractor. Iowa residents, licensees, and employers benefit from the rulemaking because it articulates the processes by which individuals apply for licensure, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the practice has minimum competency. Requirements include the application process, minimum educational qualifications, and examinations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Michele Royer  
 Bureau of Board Support  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.281.5234  
 Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
 12:30 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: 1.904.330.1060  
 PIN: 744 558 427#  
 More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](https://tel.meet/jji-jaoj-uqy?pin=4753713549740)

January 31, 2024  
 12:30 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: 1.904.330.1060  
 PIN: 744 558 427#  
 More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](https://tel.meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 41 and adopt the following **new** chapter in lieu thereof:

*CHIROPRACTIC*

CHAPTER 41	LICENSURE OF CHIROPRACTIC PHYSICIANS
CHAPTER 42	COLLEGES FOR CHIROPRACTIC PHYSICIANS
CHAPTER 43	PRACTICE OF CHIROPRACTIC PHYSICIANS
CHAPTER 44	CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS
CHAPTER 45	DISCIPLINE FOR CHIROPRACTIC PHYSICIANS

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

CHAPTER 41  
LICENSURE OF CHIROPRACTIC PHYSICIANS

**645—41.1(151) Definitions.** The following definitions will be applicable to the rules of the Iowa board of chiropractic:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the Iowa board of chiropractic.

“*Council on Chiropractic Education*” or “*CCE*” means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws.

“*Department*” means the Iowa Department of Inspections, Appeals, and Licensing.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*License*” means license to practice chiropractic in Iowa.

“*Licensee*” means any person licensed to practice as a chiropractic physician in Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice chiropractic to an applicant who is or has been licensed in another state and meets the criteria for licensure in this state.

“*NBCE*” means the National Board of Chiropractic Examiners.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—41.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*SPEC*” means Special Purposes Examination for Chiropractic, which is an examination provided by the NBCE that is designed specifically for utilization by state or foreign licensing agencies.

**645—41.2(151) Initial licensure.**

**41.2(1)** To apply for a license, the applicant will complete an online application packet and pay the nonrefundable application fee.

*a.* If licensed in another jurisdiction, the applicant will complete the licensure by endorsement application and submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

*b.* A person who is licensed in another jurisdiction and cannot satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

*c.* An application not completed according to guidelines will not be reviewed by the board.

*d.* The applicant will request the accredited chiropractic school submit official copies of the applicant’s transcripts to the board office.

*e.* The applicant will submit an official certificate of completion of 120 hours of physiotherapy that includes a practicum component from a board-approved chiropractic college.

*f.* The applicant will pass all parts of the NBCE examination as outlined in rule 645—41.3(151).

*g.* The applicant will submit a copy of the chiropractic diploma.

**41.2(2)** Licensees who were issued their licenses within six months prior to the renewal date are not required to renew their licenses until the renewal date two years later.

**41.2(3)** Incomplete applications that have been on file in the board office for more than two years will be:

*a.* Considered invalid and destroyed; or

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*b.* Maintained upon written request from the candidate.

**41.2(4)** A license will be publicly displayed in the licensee's primary place of practice.

**41.2(5)** Licensees are required to notify the board of chiropractic of changes in residence or place of practice within 30 days after the change of address occurs.

**645—41.3(151) Examination requirements.**

**41.3(1)** Applicants will submit the application for the NBCE examination and the fee directly to the NBCE.

**41.3(2)** The following criteria will apply for the NBCE:

*a.* Prior to July 1, 1973, applicants will provide proof of being issued a basic science certificate.

*b.* After July 1, 1973, applicants will provide proof of successful completion of the required examination from the NBCE. The required examination will meet the following criteria:

(1) Examinations completed after July 1, 1973, will be defined as the successful completion of Parts I and II of the NBCE examination.

(2) Examinations completed after August 1, 1976, will be defined as the successful completion of Parts I, II and Physiotherapy of the NBCE examination.

(3) Examinations completed after January 1, 1987, will be defined as the successful completion of Parts I, II, III and Physiotherapy of the NBCE examination.

(4) Examinations completed after January 1, 1996, will be defined as satisfactory completion of Parts I, II, III, IV and Physiotherapy of the NBCE examination.

**645—41.4(151) Educational qualifications.**

**41.4(1)** An applicant will present an official transcript verifying graduation from a CCE-accredited and board-approved college of chiropractic.

**41.4(2)** Foreign-trained chiropractic physicians will:

*a.* Provide an equivalency evaluation of their educational credentials processed by the International Education Research Foundation, Inc. The professional curriculum must be equivalent to that stated in these rules. The candidate will bear the expense of the curriculum evaluation.

*b.* Provide a copy of the certificate or diploma awarded to the applicant from a chiropractic program in the country in which the applicant was educated.

*c.* Receive a final determination from the board regarding the application for licensure.

**645—41.5(151) Temporary certificate.**

**41.5(1)** The board may issue a temporary certificate to practice chiropractic at its discretion if the issuance is in the public interest and the applicant demonstrates a need for the temporary certificate and meets the professional qualifications for licensure.

**41.5(2)** Demonstrated need. An applicant must submit information explaining the demonstrated need, how the issuance would serve the public interest, the scope of practice requested, and why a temporary certificate should be granted. To meet the demonstrated need requirement, the applicant will show the need meets one of the following conditions:

*a.* The applicant will provide chiropractic services in connection with a special activity, event or program conducted in this state;

*b.* The applicant will provide chiropractic services in connection with a state emergency as proclaimed by the governor;

*c.* The applicant previously held an unrestricted license to practice chiropractic in this state and will provide gratuitous chiropractic services as a voluntary public service; or

*d.* The applicant will provide chiropractic services in connection with an urgent need.

**41.5(3)** Qualifications for licensure include the following:

*a.* Complete an online application packet on the Iowa Board of Chiropractic website and pay the nonrefundable application fee.

*b.* If licensed in another jurisdiction, submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*c.* Provide a copy of a chiropractic diploma.

**41.5(4)** A temporary certificate will be issued for one year to fulfill the demonstrated need as described in subrule 41.5(2).

**41.5(5)** An applicant or temporary certificate holder who has been denied a temporary certificate may appeal the denial pursuant to rule 645—4.10(17A,147,272C). A temporary certificate holder is subject to discipline for any grounds for which licensee discipline may be imposed.

**41.5(6)** A temporary certificate holder who meets all licensure conditions as specified in rule 645—41.2(151) may obtain a permanent license in lieu of the temporary certificate. To obtain a permanent license, the applicant will submit any additional documentation required for permanent licensure that was not submitted as a part of the temporary certificate application. The applicant may receive fee credit toward the permanent licensure fee equivalent to the fee paid for the temporary certificate if the application for the permanent license and all required documentation are received by the board prior to the expiration of the temporary certificate.

**645—41.6(151) License renewal.**

**41.6(1)** The license renewal period for a license to practice begins on July 1 of an even numbered year and ends on June 30 of the next even numbered year.

**41.6(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

**41.6(3)** A licensee applying for renewal will:

*a.* Meet the continuing education requirements of rule 645—44.2(272C) and the mandatory reporting requirements of subrule 41.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Complete the online renewal application, pay the fee, and attach certificate of completing continuing education hours on the Iowa board of chiropractic website before the expiration date.

**41.6(4)** Mandatory reporter training requirements.

*a.* A licensee who examines, attends, counsels, or treats children, dependent adults or both in the scope of the licensee's professional practice will complete the applicable department of health and human services training for identifying and reporting child abuse, dependent adult abuse or both. A licensee will maintain written documentation of training completion for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver from the board demonstrating a hardship in complying with these training requirements.

*b.* The board may select licensees for audit of compliance with the requirements in paragraph 41.8(4) "a."

**41.6(5)** A two-year license will be issued after the requirements of rule are met. If the board receives adverse information on the renewal application, the board may refer the adverse information for further consideration or disciplinary investigation.

**41.6(6)** Late renewal. The licensee is responsible for renewing the license prior to expiration every two years. The licensee will complete the renewal requirements and pay the late fee within the 30-day grace period.

**41.6(7)** Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

**645—41.7(17A,147,272C) Requirements for reactivation.** To apply for reactivation, a licensee will:

**41.7(1)** Complete an online reactivation application on the Iowa board of chiropractic website and pay the nonrefundable reactivation fee.

**41.7(2)** Provide verification of current competence to practice as a chiropractic physician by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(1) Verification. If licensed in another jurisdiction, submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

(2) Proof. Submit proof of completing 40 hours of continuing education within two years of application.

*b.* If the license has been on inactive status for more than five years, an applicant must:

(1) Send verification. Submit a license verification document that discloses if disciplinary action was taken against the applicant from every jurisdiction in which the applicant has been licensed.

(2) Submit proof of completing 40 hours of continuing education within two years of application.

(3) Send verification of passing the SPEC if the applicant does not have a current license and has not had an active license in the United States during three of the past five years.

**645—41.8(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation prior to practicing in the state.

These rules are intended to implement Iowa Code chapters 17A, 147, 151 and 272C.

**ARC 7464C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to colleges of chiropractic physicians  
and providing an opportunity for public comment**

The Board of Chiropractic hereby proposes to rescind Chapter 42, “Colleges for Chiropractic Physicians,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 151 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 151 and Executive Order 10.

*Purpose and Summary*

This proposed rulemaking is intended to establish requirements for chiropractic colleges that meet accreditation standards by the U.S. Department of Education and to support an internship program that allows students to be mentored by a licensed chiropractor.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Michele Royer  
Bureau of Board Support  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

January 31, 2024  
12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 42 and adopt the following **new** chapter in lieu thereof:

CHAPTER 42  
COLLEGES FOR CHIROPRACTIC PHYSICIANS

**645—42.1(151) Definitions.** For the purposes of these rules, the following definitions will apply:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Chiropractic intern*” means a chiropractic student of an approved college of chiropractic in the student’s last academic quarter, semester, or trimester of study, who is eligible for graduation from the college of chiropractic and is eligible to complete a preceptorship program, as authorized by these rules.

“*Chiropractic preceptor*” means a chiropractic physician licensed and practicing in Iowa pursuant to Iowa Code chapter 151, who accepts a chiropractic intern or resident into the practice for the purpose of providing the chiropractic student with a clinical experience of the practice of chiropractic, and who meets the requirements of these rules.

“*Chiropractic resident*” means a graduate chiropractic physician who has received a doctor of chiropractic degree from a college of chiropractic approved by the board, and who is not licensed in any state, but who is practicing under a chiropractic preceptorship authorized under these rules.

“*Chiropractic student*” means a student of an approved college of chiropractic.

“*Council on Chiropractic Education*” or “*CCE*” means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws. A copy of the standards may be requested from the Council on Chiropractic Education (CCE).

“*Preceptorship practice*” means the chiropractic practice of a single chiropractic physician or group of chiropractic physicians in a particular business or clinic, into which a licensed practicing chiropractic physician has accepted a chiropractic intern or chiropractic resident for the limited purpose of providing the intern or resident with a clinical experience in the practice of chiropractic.

“*60-minute hour*” means at least 50 minutes of resident attendance with no more than 10 minutes for note taking and breaks.

**645—42.2(151) Board-approved chiropractic colleges.** Approval of a chiropractic college may be granted if the program submits proof to the board of chiropractic that the chiropractic program meets the following requirements:

**42.2(1)** The chiropractic college is fully accredited by the Commission on Accreditation of the Council on Chiropractic Education (CACCE), as recognized by the U.S. Department of Education.

**42.2(2)** The core curriculum meets the requirements of the CACCE standards and, in addition:

*a.* Covers a period of four academic years totaling not less than 4,000 60-minute hours in actual resident attendance;

*b.* Comprises a supervised course of study, including clinical practical instruction, in all of the subjects specified in Iowa Code section 151.1(3); and

*c.* Includes a minimum of 120 hours of physiotherapy coursework with a clinical practical component on the procedures covered in the course.

**42.2(3)** The chiropractic college publishes in a regularly issued catalog the requirements for graduation and degrees that are required by the Iowa board of chiropractic.

**42.2(4)** Transcripts include entries for all completed coursework.

**645—42.3(151) Practice by chiropractic interns and chiropractic residents.** A student enrolled in a board-approved chiropractic preceptorship program in the state of Iowa may treat patients without obtaining an Iowa license, provided the requirements of these rules are met.

**645—42.4(151) Approved chiropractic preceptorship program.** The board will approve a chiropractic college’s preceptorship program if the program meets the following requirements:

**42.4(1)** The preceptorship program meets current CCE standards for consumer protection.

**42.4(2)** The preceptorship program is an established component of the curriculum offered by a board-approved chiropractic college.

**42.4(3)** Chiropractic interns who participate in the preceptorship program have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period.

**42.4(4)** Chiropractic residents who participate in the postgraduate preceptorship program have graduated from a chiropractic college approved by the board.

**42.4(5)** All chiropractic physicians who serve as preceptors will be approved under rule 645—42.5(151).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**42.4(6)** The chiropractic college retains ultimate responsibility for student learning and evaluations during the preceptorship.

**42.4(7)** The chiropractic preceptor will supervise no more than one chiropractic intern or one chiropractic resident for the duration of a given preceptorship period.

**42.4(8)** If a preceptor agreement must be canceled for any reason, it is the responsibility of the chiropractic college to assign the intern or resident to another preceptor and notify the Iowa board of chiropractic of the preceptorship cancellation. The notice shall include reasons for cancellation of the preceptorship.

**645—42.5(151) Approved chiropractic physician preceptors.**

**42.5(1)** A chiropractic physician will be approved to be a chiropractic physician preceptor if the following criteria are met:

- a.* The chiropractic physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship;
- b.* The chiropractic physician is currently fully credentialed by the sponsoring chiropractic college and approved by the board; and
- c.* The chiropractic physician has not had any formal disciplinary action.

**42.5(2)** The role of the chiropractic physician preceptor will include:

- a.* Responsibility for supervising the practice of the chiropractic intern or chiropractic resident who is accepted into a preceptorship practice.
- b.* Identifying the chiropractic intern or chiropractic resident to the patients of the preceptorship practice to ensure that no patient will misconstrue the status of the intern or resident. The intern or resident will wear a badge identifying that person as an intern or resident at all times in the presence of preceptorship patients.
- c.* Exercising direct, on-premises supervision of the chiropractic intern or chiropractic resident at all times that the intern or resident is engaged in any facet of patient care in the chiropractic physician preceptor's clinic.
- d.* Directing the chiropractic intern or chiropractic resident only in treatment care that is within the educational background and experience of the preceptor.
- e.* Notifying the preceptorship program within 30 days of either of the following actions:
  - (1) If the preceptor has any formal disciplinary action taken by any licensing entity; or
  - (2) If the preceptor is a party to any malpractice settlement or judgment.

**645—42.6(151) Termination of preceptorship.** A preceptorship may terminate upon the occurrence of one of the following events:

**42.6(1)** Interns. The intern graduates from a board-approved college of chiropractic.

**42.6(2)** Residents. Twelve months have passed since the resident graduated from a board-approved college of chiropractic.

**42.6(3)** Formal disciplinary action is taken against the preceptor or the preceptor is a party to a final malpractice judgment or settlement agreement.

These rules are intended to implement Iowa Code chapter 151.

**ARC 7465C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to practice of chiropractic physicians  
and providing an opportunity for public comment**

The Board of Chiropractic hereby proposes to rescind Chapter 43, "Practice of Chiropractic Physicians," Iowa Administrative Code, and to adopt a new chapter with the same title.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 151 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 151 and Executive Order 10.

*Purpose and Summary*

These proposed rules articulate the medical scope of practice that a chiropractor can provide. They provide Iowans, licensees, and their employers with more information on the accepted minimum standards for the practice of this profession in Iowa.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Michele Royer  
Bureau of Board Support  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](https://tel.meet/jji-jaoj-uqy?pin=4753713549740)

January 31, 2024  
12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Or dial: 1.904.330.1060

PIN: 744 558 427#

More phone numbers:

[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 43 and adopt the following **new** chapter in lieu thereof:

CHAPTER 43  
PRACTICE OF CHIROPRACTIC PHYSICIANS

**645—43.1(151) Definitions.** The following definitions will be applicable to the rules of the Iowa board of chiropractic.

*“Active chiropractic physiotherapy”* means therapeutic treatment performed by the patient, including but not limited to exercises and functional activities that promote strength, endurance, flexibility, and coordination.

*“Acupuncture”* means the same as defined in Iowa Code section 148E.1.

*“Adjustment/manipulation of neuromusculoskeletal structures”* means the use by a doctor of chiropractic of a skillful treatment based upon differential diagnosis of neuromusculoskeletal structures and procedures related thereto by the use of passive movements with the chiropractic physician's hands or instruments in a manipulation of a joint by thrust so the patient's volitional resistance cannot prevent the motion. The manipulation is directed toward the goal of restoring joints to their proper physiological relationship of motion and related function, or stimulation of joint receptors. Movement of the joint is by force beyond its active limit of motion, but within physiologic integrity. Adjustment or manipulation commences where mobilization ends and specifically begins when the elastic barrier of resistance is encountered by the doctor of chiropractic and ends at the limit of anatomical integrity. Adjustment or manipulation as described in this definition is directed to the goal of the restoration of joints to their proper physiological relationship and associated functions of motion and related function, release of adhesions or stimulation of joint receptors. Adjustment or manipulation as described in this definition is by hand or instrument. The primary emphasis of this adjustment or manipulation is upon specific joint element adjustment or manipulation and treatment of the articulation and adjacent tissues of the neuromusculoskeletal structures of the body and nervous system, using one or more of the following:

1. Impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature that patient volitional resistance is overcome, commencing where the motion encounters the elastic barrier of resistance and ending at the limit of anatomical integrity.

2. Instrument adjusting, utilizing instruments specifically designed to deliver sudden, high velocity, short amplitude thrust.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

3. Light force adjusting, utilizing sustained joint traction or applied directional pressure, or both, that may be combined with passive motion to restore joint mobility.

4. Long distance lever adjusting, utilizing forces delivered at some distance from the dysfunctional site and aimed at transmission through connected structures to accomplish joint mobility.

*"Anatomic barrier"* means the limit of motion imposed by anatomic structure, the limit of passive motion.

*"CCCA"* means the Certified Chiropractic Clinical Assistant program offered by the FCLB.

*"Certified chiropractic assistant"* means a person who has completed a certified chiropractic assistant training program to perform selected chiropractic health care services under the supervision of a chiropractic physician.

*"Chiropractic insurance consultant"* means an Iowa-licensed chiropractic physician registered with the board who serves as a liaison and advisor to an insurance company.

*"Chiropractic manipulation"* means care of an articular dysfunction or neuromusculoskeletal disorder by manual or mechanical adjustment of any skeletal articulation and contiguous articulations.

*"Differential diagnosis"* means to examine the body systems and structures of a human subject to determine the source, nature, kind or extent of a disease, vertebral subluxation, neuromusculoskeletal disorder or other physical condition, and to make a determination of the source, nature, kind, or extent of a disease or other physical condition.

*"Elastic barrier"* means the range between the physiologic and anatomic barrier of motion in which passive ligamentous stretching occurs before tissue disruption.

*"Extremity manipulation"* means a corrective thrust or maneuver by a doctor of chiropractic by hand or instrument based upon differential diagnosis of neuromusculoskeletal structures applied to a joint of the appendicular skeleton.

*"FCLB"* means the Federal Chiropractic Licensing Board.

*"Malpractice"* means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a chiropractic physician in the practice of the profession.

*"Mobilization"* means movement applied singularly or repetitively within or at the physiological range of joint motion, without imparting a thrust or impulse, with the goal of restoring joint mobility.

*"PACE"* means Providers of Approved Continuing Education and is the signature program of the FCLB.

*"Passive chiropractic physiotherapy"* means therapeutic treatment administered and received by the patient, including but not limited to mechanical, electrical, thermal, or manual methods.

*"Physiologic barrier"* means the limit of active motion, which can be altered to increase range of active motion by warm-up activity.

*"Practice of acupuncture"* means the same as defined in Iowa Code section 148E.1.

*"Supervising chiropractic physician"* means the Iowa-licensed chiropractor responsible for supervision of services provided to a patient by a certified chiropractic assistant.

*"Supervision"* means the physical presence and direction of the supervising chiropractic physician at the location where services are rendered.

**645—43.2(147,272C) Principles of chiropractic ethics.** The following principles of chiropractic ethics are adopted by the board for the practice of chiropractic in this state.

**43.2(1)** These principles are intended to aid chiropractic physicians individually and collectively in maintaining a high level of ethical conduct. These are standards by which a chiropractic physician may determine the propriety of the chiropractic physician's conduct in the chiropractic physician's relationship with patients, with colleagues, with members of allied professions, and with the public.

**43.2(2)** The principal objective of the chiropractic profession is to render service to humanity with full respect for the dignity of the person. Chiropractic physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

**43.2(3)** Chiropractic physicians should strive continually to improve chiropractic knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**43.2(4)** A chiropractic physician should practice a method of healing founded on a scientific basis, and should not voluntarily associate professionally with anyone who violates this principle.

**43.2(5)** The chiropractic profession should safeguard the public and itself against chiropractic physicians deficient in moral character or professional competence. Chiropractic physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

**43.2(6)** A chiropractic physician may choose whom to serve. In an emergency, however, services should be rendered to the best of the chiropractic physician's ability. Having undertaken the case of a patient, the chiropractic physician may not neglect the patient; and, unless the patient has been discharged, the chiropractic physician may discontinue services only after giving adequate notice.

**43.2(7)** A chiropractic physician should not dispose of services under terms or conditions that tend to interfere with or impair the free and complete exercise of professional judgment and skill or tend to cause a deterioration of the quality of chiropractic care.

**43.2(8)** A chiropractic physician should seek consultation upon request, in doubtful or difficult cases, or whenever it appears that the quality of chiropractic service may be enhanced thereby.

**43.2(9)** A chiropractic physician may not reveal the confidences entrusted in the course of chiropractic attendance, or the deficiencies observed in the character of patients, unless required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

**43.2(10)** The honored ideals of the chiropractic profession imply that the responsibilities of the chiropractic physician extend not only to the individual, but also to society where these responsibilities deserve interest and participation in activities that have the purpose of improving both the health and well-being of the individual and the community.

**645—43.3** Reserved.

**645—43.4(151) Chiropractic insurance consultant.**

**43.4(1)** A chiropractic insurance consultant advises insurance companies, third-party administrators and other similar entities of Iowa standards of:

- a. Recognized and accepted chiropractic services and procedures permitted by the Iowa Code and administrative rules, and
- b. The propriety of chiropractic diagnosis and care.

**43.4(2)** All licensees who review chiropractic records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, will indicate on their licensure renewals that they are engaged in those activities and the location where those activities are performed.

**43.4(3)** Licensed chiropractic physicians will not hold themselves out as chiropractic insurance consultants unless they meet the following requirements:

- a. Hold a current license in Iowa.
- b. Have practiced chiropractic in the state of Iowa during the immediately preceding five years.
- c. Are actively involved in a chiropractic practice during the term of appointment as a chiropractic insurance consultant. Active practice includes but is not limited to maintaining an office location and providing clinical care to patients.

**645—43.5(151) Acupuncture.** A chiropractic physician who engages in the practice of acupuncture will maintain documentation that shows the chiropractic physician has successfully completed a course in acupuncture consisting of at least 100 hours of traditional, in-person classroom instruction with the instructor on site. The licensee will maintain a transcript or certification of completion showing the licensee's name, school or course sponsor's name, date of course completion or graduation, grade or other evidence of successful completion, and number of course hours. The licensee will provide the transcript or certification of completion to the board upon request.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—43.6(151) Adjunctive procedures.**

**43.6(1)** Adjunctive procedures are defined as procedures related to differential diagnosis.

**43.6(2)** For any applicant for licensure to practice chiropractic in the state of Iowa who chooses to be tested in limited adjunctive procedures, those limited procedures must be adequate for the applicant to come to a differential diagnosis in order to pass the examination.

**43.6(3)** Applicants for licenses to practice chiropractic who refuse to utilize any of the adjunctive procedures that they have been taught in approved colleges of chiropractic must adequately show the board that they can come to an adequate differential diagnosis without the use of adjunctive procedures.

**645—43.7(151) Physical examination.** The chiropractic physician is to perform physical examinations to determine human ailments, or the absence thereof, utilizing principles taught by chiropractic colleges. Physical examination procedures will not include prescription drugs or operative surgery.

**645—43.8(151) Record keeping.**

**43.8(1)** Chiropractic physicians will maintain clinical records in a manner consistent with the protection of the welfare of the patient. Records will be timely, dated, chronological, accurate, signed or initialed, legible, and easily understandable. Record-keeping rules apply to all patient records whether handwritten, typed or maintained electronically. Electronic signatures are acceptable when the record has been reviewed by the physician whose signature appears on the record.

**43.8(2)** Chiropractic physicians will maintain clinical records for each patient, which include all of the following:

*a. Personal data.*

- (1) Name;
- (2) Date of birth;
- (3) Address; and
- (4) Name of parent or guardian if a patient is a minor.

*b. Health history.* Records will include information from the patient or the patient's parent or guardian regarding the patient's health history.

*c. Patient's reason for visit.* When a patient presents with a chief complaint, clinical records will include the patient's stated health concerns.

*d. Clinical examination progress notes.* Records will include chronological dates and descriptions of the following:

(1) Clinical examination findings, tests conducted, a summary of all pertinent diagnoses, and updated health assessments;

(2) Plan of intended treatment, including description of treatment, frequency and duration;

(3) Services rendered and any treatment complications;

(4) All testing ordered or performed;

(5) Diagnostic imaging report if imaging procedure is ordered or performed;

(6) Sufficient data to support the recommended treatment plan.

*e. Clinical record.* Each page of the clinical record will include the patient's name, the date information was recorded and the doctor's name or facility's name.

**43.8(3)** Retention of records. A chiropractic physician will maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors will be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards will be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

**43.8(4)** Electronic record keeping. When electronic records, which include both electronically created records and scanned paper records, are utilized, a chiropractic physician will maintain either a duplicate hard-copy record or a backup electronic record.

**43.8(5)** Correction of written records. Notations will be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

single nondeleting line. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

**43.8(6)** Correction of electronic records. Any alterations made after the date of service will be visibly recorded. All alterations will include a notation setting forth the date of alteration and identification of the author. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

**43.8(7)** Abbreviations will be standard and common to all health care disciplines. Nonstandard abbreviations will be referenced with a key that is included in the record when the record is requested.

**43.8(8)** Confidentiality and transfer of records. Chiropractic physicians will preserve the confidentiality of patient records. Upon signed request of the patient, the chiropractic physician will furnish such records or copies of the records as directed by the patient within 30 days. A notation indicating the items transferred, date of transfer and method of transfer will be maintained in the patient record. The chiropractic physician may charge a reasonable fee for duplication of records but may not refuse to transfer records for nonpayment of any fees. A written request may be required before the transfer of the record(s), including, for example, compliance with HIPAA regulations. In certain instances, a summary of the record may be more beneficial for the future treatment of the patient; however, if a third party requests copies of the original documentation, that request must be honored.

**43.8(9)** Retirement or discontinuance of practice. A licensee, upon retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community, will:

*a.* Notify all active patients, in writing one month prior to discontinuation of practice. The notification will include the following information:

(1) That the licensee intends to discontinue the practice of chiropractic in the community and that patients are encouraged to seek the services of another licensee; and

(2) How patients can obtain their records, including the name and contact information of the records custodian.

*b.* Make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee.

*c.* For the purposes of this subrule, “active patient” means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the one-year period prior to retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community.

**43.8(10)** Record-keeping procedures and standards will be utilized for all individuals who receive treatment from a chiropractic physician in all sites where care is provided.

**43.8(11)** A chiropractic physician who offers a prepayment plan for chiropractic services will:

*a.* Have a written prepayment policy statement that is maintained in the office and available to patients upon request. The policy statement, at a minimum, will include provisions that:

(1) Prepaid funds will not be expended until services are provided; and

(2) The patient will receive a prompt refund of any unused funds upon request. The refund will be calculated based on a defined method, which will be clearly set forth in the written prepayment policy statement.

*b.* Require the patient to sign and date a prepayment document that incorporates the conditions and descriptions of the written prepayment policy statement.

*c.* Maintain the signed and dated written prepayment policy statement in the patient’s record.

**645—43.9(151) Billing procedures.**

**43.9(1)** Chiropractic physicians will maintain accurate billing records for each patient. Records may be stored on paper or electronically. The records will contain all of the following:

*a.* Name, date of birth and address.

*b.* Diagnosis indicated with description or ICD code.

*c.* Services provided with description or CPT code.

*d.* Dates of services provided.

*e.* Charges for each service provided.

*f.* Payments made for each service and indication of the party providing payment.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- g. Dates payments are made.
- h. Balance due for any outstanding charges.

**43.9(2)** Chiropractic physicians will preserve the confidentiality of billing records.

**43.9(3)** Upon signed request of the patient, the chiropractic physician will furnish billing records or copies of the records as directed by the patient within 30 days. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any outstanding balance.

**43.9(4)** Each chiropractic physician is responsible for the accuracy and validity of billings submitted under the chiropractic physician's name.

**43.9(5)** Chiropractic physicians:

a. Who are owners, operators, members, partners, shareholders, officers, directors, or managers of a chiropractic clinic will be responsible for the policies, procedures and billings generated by the clinic.

b. Who provide clinical services are required to familiarize themselves with the clinic's billing practices to ensure that the services rendered are accurately reflected in the billings generated. In the event an error occurs that results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by an employer, agent or any other individual or business entity responsible for such error.

**43.9(6)** A chiropractic physician has a right to review and correct all billings submitted under the chiropractic physician's name or identifying number(s). Signature stamps or electronically generated signatures will be utilized only with the authorization of the chiropractic physician whose name or signature is designated. Such authorization may be revoked at any time in writing by the chiropractic physician.

**43.9(7)** Chiropractic physicians will not knowingly:

- a. Increase charges when a patient utilizes a third-party payment program.
- b. Report incorrect dates or types of service on any billing documents.
- c. Submit charges for services not rendered.
- d. Submit charges for services rendered that are not documented in a patient's record.
- e. Bill patients or make claims under a third-party payer contract for chiropractic services that have not been performed.
- f. Bill patients or make claims under a third-party payer contract in a manner that misrepresents the nature of the chiropractic services that have been performed.

**43.9(8)** For cases not involving third-party payers, nothing in this rule will prevent a chiropractic physician from providing a fee reduction for reasonable time of service or substantiated hardship cases. The chiropractic physician will document time of service or hardship case fee reduction provisions in the patient record.

**43.9(9)** The chiropractic physician will not enter into an agreement to waive, abrogate, or rebate the deductible or copayment amounts of any third-party payer contract by forgiving any or all of any patient's obligation for payment thereunder, except in substantiated hardship cases, unless the third-party payer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness in accordance with the third-party payer contract. The chiropractic physician will document any hardship case fee reduction provisions in the patient record.

**645—43.10(151) Certified chiropractic assistants.**

**43.10(1)** *Supervisory responsibilities of the chiropractic physician.*

a. The supervising chiropractic physician will ensure at all times that the certified chiropractic assistant has the necessary training and skills as required by these rules to competently perform the delegated services.

b. The supervising chiropractic physician may delegate services to a certified chiropractic assistant that are within the scope of practice of the chiropractic physician in a manner consistent with these rules. Violation of these rules will be grounds for discipline under 645—Chapter 45.

c. A chiropractic physician will not delegate to the certified chiropractic assistant the following:

- (1) Services outside the chiropractic physician's scope of practice;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (2) Initiation, alteration, or termination of chiropractic treatment programs;
- (3) Chiropractic manipulation and adjustments;
- (4) Diagnosis of a condition.

*d.* A supervising chiropractic physician will ensure that a certified chiropractic assistant is informed of the supervisor and certified chiropractic assistant relationship and is responsible for all services performed by the certified chiropractic assistant.

**43.10(2) Education requirements for certified chiropractic assistants.**

*a.* The supervising chiropractic physician will ensure that a certified chiropractic assistant has completed a professional certification program. A certified chiropractic assistant training program will include training and instruction on the use of chiropractic physiotherapy procedures related to services to be provided by the certified chiropractic assistant. Any certified chiropractic assistant training program will be provided by an approved CCE-accredited chiropractic college, FCLB, PACE, CCCA, or a chiropractic state association.

*b.* Certified chiropractic assistants performing active chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours will be clinical experience under the supervision of the chiropractic physician.

*c.* Certified chiropractic assistants performing passive chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours will be clinical experience under the supervision of the chiropractic physician.

*d.* If both paragraphs “*b*” and “*c*” apply, then 12 hours of instruction for active chiropractic physiotherapy procedures and 12 hours of instruction for passive chiropractic physiotherapy procedures will be required for a total of 24 hours of instruction.

*e.* The supervising chiropractic physician will provide a written attestation to the chiropractic college that the certified chiropractic assistant has completed the clinical experience. The college will issue a separate certificate of completion for the active or passive chiropractic training program as defined in paragraphs “*b*,” “*c*,” and “*d*” of this subrule.

*f.* The chiropractic physician will maintain in the chiropractic physician’s primary place of business proof of the certified chiropractic assistant’s completion of the training program. Copies of such documents will be provided to the board upon request.

These rules are intended to implement Iowa Code chapters 147, 151, 272C, and 514F.

**ARC 7466C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education  
and providing an opportunity for public comment**

The Board of Chiropractic hereby proposes to rescind Chapter 44, “Continuing Education for Chiropractic Physicians,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 151 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 151 and Executive Order 10.

*Purpose and Summary*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The intended benefit of continuing education is to maintain professional competency and safety in diagnosing and analyzing human ailments, to stay current on techniques, and to stay current on billing guidelines administered by state and federal programs.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Michele Royer  
Bureau of Board Support  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

January 31, 2024  
12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 44 and adopt the following **new** chapter in lieu thereof:

CHAPTER 44  
CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS

**645—44.1(151) Definitions.** For the purpose of these rules, the following definitions will apply:

*“Active license”* means a license that is current and has not expired.

*“Audit”* means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

*“Board”* means the Iowa board of chiropractic.

*“Clinical case management”* means coursework pertaining to diagnosis, treatment, and appropriate referral or coordination of care.

*“Continuing education”* means planned, organized learning acts meeting the standards set forth in these rules, acquired during licensure, and designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of chiropractic practice, education, or theory development to improve the safety and welfare of the public.

*“Hour of continuing education”* means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

*“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

*“Independent study”* means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest and certificate of completion.

*“License”* means license to practice chiropractic in Iowa.

*“Licensee”* means any person licensed to practice as a chiropractic physician in Iowa.

**645—44.2(272C) Continuing education requirements.**

**44.2(1)** The biennial continuing education compliance period extends for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of each even-numbered year two years later.

**44.2(2)** Requirements of new licensees. Continuing education is not required in the first renewal period with the exception of two hours in the content areas of 645—Chapters 41 through 45 and Iowa Code chapter 151. Continuing education hours acquired any time from the initial licensing until the second license renewal, with the exception of two hours in the content areas of 645—Chapters 41 through 45 and Iowa Code chapter 151, may be used after the first renewal period. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

**44.2(3)** Hours of continuing education credit will be obtained by attending and participating in a continuing education activity as stipulated in rule.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**44.2(4)** No hours of continuing education will be carried over into the next biennium except as stated in 44.2(2) and 44.3(2)“a”(3). A licensee whose license is reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**44.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—44.3(151,272C) Standards.**

**44.3(1) General criteria.** A continuing education activity must meet the following criteria:

- a. Constitute an organized program of learning that contributes directly to the professional competency of the licensee;
- b. Pertain to subject matters that integrally relate to the practice of the profession;
- c. Be conducted by individuals who have specialized education, training and experience concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfill stated program goals, objectives, or both; and
- e. Provide proof of attendance to licensees in attendance including:
  - (1) Date(s), location, course title, presenter(s);
  - (2) Number of program clock hours; and
  - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**44.3(2) Specific criteria.**

a. Continuing education hours of credit will be obtained by completing:

- (1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. At least 20 of these hours will be earned by completing a program in which an instructor conducts the class by employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as that instructor. The remaining 16 hours of continuing education credit relating to clinical case management of chiropractic patients may be obtained by independent study, including any online instruction, that complies with conditions specified in 44.3(1).
- (2) A minimum of two hours per biennium in professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training and ethics.
- (3) A minimum of 12 hours per biennium of continuing education in the field of acupuncture is required for licensees certified in acupuncture and may be used toward clinical case management if the chiropractic physician is actively engaged in the practice of acupuncture. Chiropractic physicians not engaged in the active practice of acupuncture may take continuing education hours in the field of acupuncture for continuing education credit.
- (4) Classes on child abuse and dependent adult abuse that meet the criteria in 645—subrules 41.8(4) and 44.3(1).
- (5) Two hours of continuing education credit is required in the first biennial renewal period and one hour every biennial renewal period after that in the content areas of the administrative rules related to chiropractic physicians in Iowa, found at 645—Chapters 41 through 45 and the statutory provisions specific to the practice of chiropractic in Iowa Code chapter 151.

b. Continuing education hours of credit may be obtained by:

- (1) Teaching at a Council on Chiropractic Education (CCE)-approved program or board of chiropractic-approved institution. A maximum of 15 hours per biennium may be obtained for each course taught.
- (2) Completing electronically transmitted programs/activities or independent study programs/activities that have a certificate of completion.
- (3) Presenting a continuing education program once per biennium for the initial presentation of the program.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(4) Completing a program provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association or International Chiropractors Association.

(5) Completing continuing education courses/programs that are certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB).

(6) Proctoring at the NBCE examination. Fifteen hours of continuing education hours per NBCE examination event may be claimed up to a maximum of 30 hours of continuing education credit per biennium. The proctoring hours may apply toward the clinical requirement.

c. Continuing education may not be obtained by completing or teaching classes in basic anatomy and physiology or undergraduate level coursework.

**44.3(3) Specific criteria for presenters.** All instructors/presenters of a continuing education activity must include, as part of the continuing education activity, verbal and written statements to the participants regarding any affiliations or employment relationships with any entity promoting, developing or marketing products, services, procedures or treatment methods.

These rules are intended to implement Iowa Code section 272C.2 and chapter 151.

**ARC 7467C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline  
and providing an opportunity for public comment**

The Board of Chiropractic hereby proposes to rescind Chapter 45, “Discipline for Chiropractic Physicians,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 151 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 151 and Executive Order 10.

*Purpose and Summary*

The proposed rulemaking defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner’s license.

The 19 boards in the legacy Health and Human Services Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the chiropractor licensees and are therefore excluded from the general disciplinary chapter.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Michele Royer  
Bureau of Board Support  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

January 31, 2024  
12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 45 and adopt the following **new** chapter in lieu thereof:

CHAPTER 45  
DISCIPLINE FOR CHIROPRACTIC PHYSICIANS

**645—45.1(151,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—45.1(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

**45.1(1)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. This includes representations utilizing the term “physical therapy” when informing the public of the services offered by the chiropractic physician unless a licensed physical therapist is performing such services. Nothing herein will be construed as prohibiting a chiropractic physician from making representations regarding physiotherapy that may be the same as, or similar to, physical therapy or physical medicine as long as treatment is appropriate as authorized in Iowa Code chapter 151. Proof of actual injury need not be established.

**45.1(2)** Use of untruthful or improbable statements in advertisements and marketing. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public that is false, deceptive, misleading or promoted through fraud or misrepresentation, or representations that are likely to cause the average person to misunderstand. The term “advertisements” includes oral, written, electronic, and other types of communication disseminated by or at the direction of a licensee for the purpose of encouraging or soliciting the use of the licensee’s services.

**45.1(3)** Violate the provisions of direct health care agreements pursuant to Iowa Code section 135N.1.

**45.1(4)** Failure to maintain a patient’s record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

These rules are intended to implement Iowa Code chapters 147, 151, and 272C.

**ARC 7483C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure of hearing aid specialists  
and providing an opportunity for public comment**

The Board of Hearing Aid Specialists hereby proposes to rescind Chapter 121, “Licensure of Hearing Aid Specialists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 272C.3, 272C.4, and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154A, and 272C.

*Purpose and Summary*



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These proposed rules set minimum standards for entry into the hearing aid dispenser profession. Iowa residents, licensees and employers benefit from the rules since the rules articulate the processes by which individuals apply for licensure as a hearing aid dispenser in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process and examinations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 10:50 to 11:10 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#
January 31, 2024 10:50 to 11:10 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 121 and adopt the following **new** chapter in lieu thereof:

*HEARING AID SPECIALISTS*

CHAPTER 121	LICENSURE OF HEARING AID SPECIALISTS
CHAPTER 122	CONTINUING EDUCATION FOR HEARING AID SPECIALISTS
CHAPTER 123	PRACTICE OF HEARING AID DISPENSING
CHAPTER 124	DISCIPLINE FOR HEARING AID SPECIALISTS

CHAPTER 121  
LICENSURE OF HEARING AID SPECIALISTS

**645—121.1(154A) Definitions.** For purposes of these rules, the following definitions apply:

*“Active license”* means a license that is current and has not expired.

*“Board”* means the board of hearing aid specialists.

*“Dispense”* or *“sell”* means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or hearing aid specialist, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

*“Grace period”* means the 30-day period following expiration of a license when the license is still considered to be active.

*“Hearing aid specialist”* means any person engaged in the fitting, dispensing and sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board. These rules are not intended to regulate unlicensed people who sell, dispense, market, use, distribute, or provide customer support to over-the-counter hearing aids, as regulated by the U.S. food and drug administration.

*“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period.

*“License”* means a license issued by the state to a hearing aid specialist.

*“Licensee”* means any person licensed to practice as a hearing aid specialist in the state of Iowa.

*“Licensure by endorsement”* means the issuance of an Iowa license to practice as a hearing aid specialist to an applicant who is or has been licensed in another state.

*“National examination”* means the standardized licensing examination of the International Hearing Society (IHS) or its successor organization.

*“Reactivate”* or *“reactivation”* means the process as outlined in rule 645—121.14(17A,147,272C) by which an inactive license is restored to active status.

*“Reinstatement”* means the process as outlined in rule 645—11.31(272C). Once the license is reinstated, the licensee may apply for active status.

*“Temporary permit”* means a permit issued while the applicant is in training to become a licensed hearing aid specialist.

*“Trainee”* means the holder of a temporary permit.

**645—121.2(154A) Temporary permits.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**121.2(1)** The applicant will submit a completed online application and pay the nonrefundable licensure fee specified in rule 645—5.7(147,154A). The application will be accompanied by a statement from the employer, which includes the following information:

- a. The type of supervision to be provided to the trainee;
- b. A list of the subjects to be covered;
- c. The books and other training materials to be used for training; and
- d. An outline of the training program to prepare the trainee for examination.

**121.2(2)** A temporary permit is valid for one year and shall not be renewable.

**121.2(3)** The board reserves the right to deny an application for a temporary permit or rescind a temporary permit once issued.

**645—121.3(154A) Supervision requirements.**

**121.3(1)** The supervisor(s) of temporary permit holders will:

- a. Have a current hearing aid specialist license valid for the preceding 24 months;
- b. Have two years of actual experience in testing, fitting, and dispensing of hearing aids;
- c. Supervise no more than three trainees at the same time;
- d. Be responsible for training the temporary permit holder;
- e. For the first 90 days, provide a minimum of 20 hours of direct supervision;
- f. Provide direct supervision for any client activity that would require dispensing of hearing aids, including evaluation, selection, fitting or selling of hearing aids in the first 90 days;
- g. Evaluate the audiograms and determine which hearing aid and ear mold will best compensate for hearing loss;
- h. Cosign all audiometric evaluations and contracts processed by the trainee for the duration of the temporary permit;
- i. Submit, on a board-approved form, a supervision report for trainees prior to taking the board-approved examination. A supervision report is required each time the temporary permit holder submits a request to take the examination; and
- j. Notify the board within 15 days of the termination of the holder of a temporary permit.

**121.3(2)** A trainee with a temporary permit will notify the board in writing within ten days of an interruption of training due to loss of supervision and within 30 days, obtain a replacement supervisor for continuance of the training period. A statement will be signed by each supervisor.

**121.3(3)** If a statement by the replacement supervisor is not submitted, the trainee will revert to new trainee status.

**645—121.4(154A) Requirements for initial licensure.** The following criteria applies to licensure:

**121.4(1)** The applicant will submit a completed online application and pay the nonrefundable licensure fee specified in rule 645—5.7(147,154A).

**121.4(2)** The applicant will provide verification of passing one of the following examinations:

- a. The national examination through the International Hearing Society. The applicant may not take the national test through IHS more than six times without board approval.
- b. The Praxis Examination in audiology through the Educational Testing Service.

**121.4(3)** Applicants who hold a temporary permit are required to submit a supervisory report in accordance with paragraph 121.3(1) “i.”

**121.4(4)** An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- a. Licensee’s name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**121.4(5)** An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

**121.4(6)** Incomplete applications that have been on file in the board office for more than two years will be considered invalid and destroyed unless requested in writing by the candidate.

**645—121.5(154A) Licensure by endorsement.**

**121.5(1)** Applicants who have been a licensed hearing aid specialist under the laws of another jurisdiction may apply for licensure by endorsement by submitting the following:

- a. Verification the applicant meets the requirements of rule 645—121.4(154A);
  - b. Evidence of licensure requirements that are similar to those required in Iowa;
  - c. Official verification of one of the following:
    - (1) A passing score on the national examination determined by the International Hearing Society;
    - (2) A passing score on an examination that the board determines is equivalent to the national examination; or
    - (3) Current certification from the National Board for Certification in Hearing Instrument Sciences;
- and
- d. Evidence of:
    - (1) Completing a minimum of 32 continuing education hours within the 24 months prior to application; or
    - (2) Continuing education certificates that verify that the minimum hours of continuing education required by a state(s) in which the licensee is currently licensed have been met.

**121.5(2)** A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—121.6(154A) Display of license.** Hearing aid specialists will display their original licenses in a conspicuous public place at the primary site of practice.

**645—121.7(154A) License renewal.**

**121.7(1)** The biennial license renewal period for a hearing aid specialist license will begin on January 1 of each odd-numbered year and end on December 31 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

**121.7(2)** A licensee applying for renewal will:

- a. Meet the continuing education requirements of rule 645—122.2(154A) and the mandatory reporting requirements of subrule 121.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b. Submit the completed renewal application and renewal fee before the license expiration date.

An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

**121.7(3)** Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.7(5). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

**121.7(4)** Mandatory reporter training requirements.

- a. A licensee who examines, attends, counsels, or treats children, dependent adults or both in the scope of the licensee's professional practice will complete the applicable department of health and human services training relating to the identification reporting of child abuse, dependent adult abuse, or both. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*b.* The board may select licensees for audit of compliance with the requirements in rule 645—122.2(154A).

**121.7(5)** A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**121.7(6)** Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

**645—121.8(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee will:

**121.8(1)** Submit a completed online reactivation application and payment of the nonrefundable application fee.

**121.8(2)** Provide verification of current competence to practice as a hearing aid specialist by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant will provide the following:

(1) Verification of the license(s) from the jurisdiction in which the applicant has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status and any disciplinary action taken against the license; and

(2) Verification of completion of 32 hours of continuing education within two years of application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from the jurisdiction in which the applicant has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status and any disciplinary action taken against the license; and

(2) Verification of completion of 64 hours of continuing education within two years of application for reactivation.

**645—121.9(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing as a hearing aid specialist in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154A and 272C.

**ARC 7484C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education for hearing aid specialists and providing an opportunity for public comment**

The Board of Hearing Aid Specialists hereby proposes to rescind Chapter 122, "Continuing Education for Hearing Aid Specialists," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 272C.2 and 272C.3.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154A and 272C.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Purpose and Summary*

This proposed rulemaking sets forth continuing education requirements for hearing aid specialists. The rulemaking includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rules, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that hearing aid specialists maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 10:50 to 11:10 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#
January 31, 2024 10:50 to 11:10 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 122 and adopt the following **new** chapter in lieu thereof:

CHAPTER 122  
CONTINUING EDUCATION FOR HEARING AID SPECIALISTS

**645—122.1(154A) Definitions.** For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules.

“*License*” means a license issued by the state to a hearing aid specialist.

“*Licensee*” means any person licensed to practice as a hearing aid specialist in the state of Iowa.

**645—122.2(154A) Continuing education requirements.**

**122.2(1)** The biennial continuing education compliance period extends for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a hearing aid specialist in this state is required to complete a minimum of 24 hours of continuing education. A minimum of two hours will be in the content areas of Iowa hearing aid specialist law and rules, or ethics. Continuing education hours cannot be carried over to the next biennium.

**122.2(2)** Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

**122.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

**122.2(4)** The licensee is responsible for the cost of continuing education.

**645—122.3(154A,272C) Standards.**

**122.3(1) General criteria.** A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

*a.* Is an organized program of learning fundamental to the practice of the profession that contributes directly to the professional competency of the licensee;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*b.* Is conducted by individuals who have specialized education, training and experience in the subject matter of the program.

*c.* Fulfills stated program goals, objectives, or both; and

*d.* Provides proof of attendance including:

(1) Date, place, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**122.3(2) *Specific criteria.*** Continuing education hours of credit may be obtained by completing the following in person or virtually:

*a.* Academic coursework if the coursework is offered by an accredited postsecondary educational institution. The maximum number of continuing education hours of credit for academic coursework per biennium is 15 hours with:

*b.* 1 academic semester hour = 15 continuing education hours; and 1 academic quarter hour = 10 continuing education hours.

*c.* A maximum of four hours of credit may be obtained by independent study. Independent study hours are subject to the requirements stated in the rules in this chapter and in 645—Chapter 4.

*d.* Attending programs, conferences, or business, technical, or professional seminars that enhance a licensee's ability to provide quality hearing health care services.

*e.* Mandatory reporter training, as specified in 645—subrule 121.9(4). Hours reported for credit shall not exceed the hours required for compliance.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154A.

**ARC 7485C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to practice of hearing aid dispensing  
and providing an opportunity for public comment**

The Board of Hearing Aid Specialists hereby proposes to rescind Chapter 123, "Practice of Hearing Aid Dispensing," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 147, 154A and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154A and 272C.

*Purpose and Summary*

This proposed rulemaking provides Iowans, licensees, and their employers with definitions relevant to the practice of hearing aid dispensing, requirements prior to the sale of a hearing aid, requirements for sales receipts for hearing aids, and requirements for recordkeeping and telehealth appointments. This rulemaking articulates practice standards and provides a scope of practice for the profession.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
10:50 to 11:10 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone number: 904.330.1060  
PIN: 744 558 427#

January 31, 2024  
10:50 to 11:10 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone number: 904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 123 and adopt the following **new** chapter in lieu thereof:

CHAPTER 123  
PRACTICE OF HEARING AID DISPENSING

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—123.1(154A) Definitions.** For the purposes of these rules, the following definitions apply:

*“Health history”* means a series of questions pertaining to all of the following: client hearing needs and expectations, communication issues, otological conditions, medications, and previous amplification.

*“Hearing aid fitting”* means any of the following: the measurement of human hearing by any means for the purpose of selections, adaptations, and sales of hearing aids, and the instruction and counseling pertaining thereto, and demonstration of techniques in the use of hearing aids, and the making of earmold impressions as part of the fitting of hearing aids.

*“Sales receipt”* means a written record that is provided to a person who purchases a hearing aid. The sales receipt must be in compliance with these rules and be signed by the purchaser and the licensed hearing aid specialist. The requirements for the sales receipt may be found in rule 645—123.3(154A).

**645—123.2(154A) Requirements prior to sale of a hearing aid.**

**123.2(1)** Except as otherwise stated in these rules, no hearing aid shall be sold to an individual 18 years of age or older unless the individual:

- a. Provides a health history to a licensed hearing aid specialist;
- b. Presents a physician statement verifying that a medical evaluation, preferably by a physician specializing in diseases of the ear, has been done within the previous six months and stating the individual’s hearing loss, and that the individual may benefit from a hearing aid. In lieu of this requirement, the individual may verify in writing that the individual has been advised to obtain a medical evaluation by a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician, and that the individual chooses to waive said evaluation; and
- c. Is given a hearing examination that utilizes appropriate established procedures and instrumentation for the measurement of hearing and the fitting of hearing aids and that includes but is not limited to an assessment of the following: air conduction, bone conduction, masking capability, speech reception thresholds, speech discrimination, uncomfortable loudness levels (UCL), and most comfortable levels (MCL).

**123.2(2)** Any medical evaluation completed by a licensed physician requires all of the following prior to the sale of a hearing aid to an individual: receipt of the physician statement and clearance for amplification; and completion by the licensed hearing aid specialist of a current written health history and hearing examination that includes all of the procedures required in these rules, unless the physician order specifies otherwise. In the event an audiogram is provided by the physician, this testing requirement is waived. All records provided to the licensed hearing aid specialist will be maintained in the individual’s records in accordance with the record-keeping requirements in these rules.

**123.2(3)** Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid specialist or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid specialist or person holding a temporary permit will, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that the individual should consult a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician:

- a. Visible congenital or traumatic deformity of the ear.
- b. History of, or active drainage from the ear within the previous 90 days.
- c. History of sudden or rapidly progressive hearing loss within the previous 90 days.
- d. Acute or chronic dizziness.
- e. Unilateral hearing loss of sudden or recent onset within the previous 90 days. Significant air-bone gap (greater than or equal to 15dB ANSI 500, 1000 and 2000 Hz. average).
- f. Obstruction of the ear canal by structures of undetermined origin, such as foreign bodies, impacted cerumen, redness, swelling, or tenderness from localized infections of the otherwise normal ear canal.

**123.2(4)** Testing is not required in cases in which replacement hearing aids of the same make or model are sold within one year of the original sale, unless a medical evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**123.2(5)** Except as otherwise provided in these rules, for individuals younger than 18 years of age, all of the requirements stated in these rules are applicable. In addition, the following are required:

- a.* Written authorization of a parent or legal guardian consenting to the services covered in these rules, and
- b.* An original signature on all documents required by law or these rules to be signed, including all sales transactions and receipts, required notifications, and warranty agreements.

**123.2(6)** For individuals 12 years of age or younger, all of the requirements stated in these rules are applicable. In addition, the parent or legal guardian must first present a written, signed recommendation for a hearing aid from a licensed physician specializing in otolaryngology. The recommendation must have been made within the preceding six months. In the event of a lost or damaged hearing aid, a replacement of an identical hearing aid may be provided within one year, unless a medical evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

**645—123.3(154A) Requirements for sales receipt.** Upon sale of a hearing aid device, the licensee shall provide to the person a sales receipt, which will include the following:

1. Licensee's signature.
2. Licensee's business address.
3. Licensee's license number.
4. Client signature and address.
5. Make, model, and serial number of the hearing aid furnished.
6. Statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, if that is the fact.
7. Full terms of sale, including:
  - The date of sale;
  - Specific warranty terms, including whether any extended warranty is available through the manufacturer;
  - Specific return policy; and
  - Whether any trial period is available.
8. The following statement in type no smaller than the largest used in the body copy portion of the receipt: "The purchaser has been advised that any examination or representation made by a licensed hearing aid specialist in connection with the fitting or selection and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore, must not be regarded as medical opinion or advice."

**645—123.4(154A) Requirements for recordkeeping.** A licensee shall keep and maintain records in the licensee's office or place of business at all times, and each such record shall be kept and maintained for a seven-year period.

**123.4(1)** The records for each person will include:

- a.* A complete record of each test performed and the results of the test.
- b.* A copy of any written recommendations.
- c.* A copy of medical clearances or waivers.
- d.* A copy of the written sales receipt.
- e.* A copy of terms of sale, including any warranty. A record of any adjustments or services provided on the hearing aid device, including whether such services were provided under warranty or other agreement.
- f.* A notation that the client consented, either verbally or in writing, to a service or services provided through a telehealth appointment, if applicable.

**123.4(2)** No less than 30 days prior to closure of a licensee's business, the licensee will provide written notification to clients of the location at which records will be maintained for a period of no less than 30 days following closure and the procedure to obtain those records. The licensee may arrange the transfer of records to another licensee for the purpose of maintenance of the records, provided that all contractual agreements have been satisfied.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—123.5(154A) Telehealth appointments.** A licensee may conduct a telehealth appointment so long as the services are provided in accordance with this rule.

**123.5(1)** A “telehealth appointment” is one wherein the licensee provides testing or adjustment services to a client using technology where the hearing aid specialist and the client are not at the same physical location during the appointment.

**123.5(2)** Conducting a telehealth appointment with a client who is physically located in Iowa during the appointment, regardless of the location of the hearing aid specialist, requires Iowa licensure.

**123.5(3)** When conducting a telehealth appointment, a licensee will utilize technology that is secure, HIPAA-compliant (Health Insurance Portability and Accountability Act of 1996, PL 104–191, August 21, 1996, 110 Stat 1936), and that includes, at a minimum, audio and video equipment that allows for two-way, real-time interactive communication between the licensee and the client. The licensee may use non-real-time technologies to prepare for an appointment or to communicate with clients between appointments.

**123.5(4)** A licensee who conducts a telehealth appointment will be held to the same standard of care as a licensee who provides in-person services. A licensee will not utilize a telehealth appointment if the standard of care for the particular service cannot be met using telehealth technology.

**123.5(5)** Prior to the first telehealth appointment with a client, the licensee will obtain informed consent from the client that is specific to the service or services that will be provided in the telehealth appointment. The informed consent will specifically inform the client of, at a minimum, the following:

- a. The risks and limitations of the use of technology to the specific service;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth appointment.

**123.5(6)** A licensee will only conduct a telehealth appointment if the licensee is competent to provide the particular service using telehealth technology. A licensee’s competence to provide a particular service using telehealth technology will be established by the licensee’s education, training, and experience.

**123.5(7)** A licensee who conducts a telehealth appointment will note in the client’s record that the service or services were provided through a telehealth appointment.

These rules are intended to implement Iowa Code chapter 154A.

**ARC 7486C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline for hearing aid specialists  
and providing an opportunity for public comment**

The Board of Hearing Aid Specialists hereby proposes to rescind Chapter 124, “Discipline for Hearing Aid Specialists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.76, 272C.2 and 272C.3.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154A and 272C.

*Purpose and Summary*

This proposed rulemaking provides protection to Iowans because it publicly defines required professional standards for hearing aid specialists. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the licensee's license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the hearing aid specialist profession and are therefore excluded from the general disciplinary chapter.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
10:50 to 11:10 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone number: 904.330.1060  
PIN: 744 558 427#

January 31, 2024  
10:50 to 11:10 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone number: 904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 124 and adopt the following **new** chapter in lieu thereof:

CHAPTER 124  
DISCIPLINE FOR HEARING AID SPECIALISTS

**645—124.1(154A,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—124.3(154A,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

**124.1(1)** Failure to comply with the current Code of Ethics of the International Hearing Society (2023). The board hereby adopts by reference the current Code of Ethics of the International Hearing Society, available at [www.ihsinfo.org](http://www.ihsinfo.org).

**124.1(2)** Advertising that hearing testing or hearing screening is a medical examination used to diagnose or refer.

**124.1(3)** Except in cases of selling replacement hearing aids of the same make or model within one year of the original sale, a hearing aid will not be sold without adequate diagnostic testing and evaluation using established procedures to assess hearing needs as defined in 645—Chapter 123. Testing equipment will be calibrated to current standards at least annually or more often if necessary. The distributor will keep with the testing equipment a certificate indicating the date of calibration.

This rule is intended to implement Iowa Code chapters 147, 154A and 272C.

**ARC 7479C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure of massage therapists  
and providing an opportunity for public comment**

The Board of Massage Therapy hereby proposes to rescind Chapter 131, “Licensure of Massage Therapists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 152C.3, 272C.3, 272C.4 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152C and 272C.

*Purpose and Summary*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Proposed Chapter 131 sets minimum standards for entry into the massage therapy profession. Iowa residents, licensees, and employers benefit from the proposed rules because the rules articulate the processes by which individuals apply for licensure as a massage therapist in Iowa, as directed in statute. This includes the processes for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public has minimum competency. Requirements include the application process, minimum educational qualifications, and exam requirements.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
10:30 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

January 31, 2024  
10:30 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 131 and adopt the following **new** chapter in lieu thereof:

*MASSAGE THERAPISTS*

CHAPTER 131	LICENSURE OF MASSAGE THERAPISTS
CHAPTER 132	MASSAGE THERAPY EDUCATION CURRICULUM
CHAPTER 133	CONTINUING EDUCATION FOR MASSAGE THERAPISTS
CHAPTER 134	DISCIPLINE FOR MASSAGE THERAPISTS

CHAPTER 131  
LICENSURE OF MASSAGE THERAPISTS

**645—131.1(152C) Definitions.**

“*Anniversary month*” means the month the license was issued by the board.

“*Board*” means the Iowa board of massage therapy.

“*Board-approved school*” means a school for massage therapy education that provides at least 600 hours of supervised academic instruction; has been recognized as legitimate by the board in the state where the school is located or in the state where the school was located if the school has since closed; has been recognized by a similar board in another jurisdiction that licenses massage therapists if massage therapy is not a licensed profession in the state where the school is located; and has not been denied, suspended, or revoked by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Issuing jurisdiction*” means the duly constituted authority in another state that has issued a massage therapy license to a person.

“*Licensee*” means any person licensed to practice as a massage therapist in the state of Iowa.

“*License expiration date*” means the fifteenth day of the anniversary month every two years.

“*Massage therapy*” means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy that involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

**645—131.2(272C) Licensure by examination.** A person who has completed the curriculum at a board-approved school may seek licensure in accordance with this rule.

**131.2(1)** Submit the following:

*a.* A completed online application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.8(147). Official copies of academic transcripts sent directly to the board by the



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

board-approved school. If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.

*b.* Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination is the passing point criterion established by the testing authority at the time the test was administered.

*c.* If the applicant has been issued one or more licenses to practice massage therapy by other issuing jurisdictions, verification of licenses from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdiction(s) to the board. Web-based verification may be substituted for verification from the jurisdiction's board office if the verification provides:

- (1) The licensee's name;
- (2) The date of initial licensure;
- (3) The applicant's current licensure status; and
- (4) Any disciplinary action taken against the license.

**131.2(2)** An applicant who has relocated to Iowa from a state that did not require licensure to practice massage therapy may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

**645—131.3(152C) Educational qualifications for foreign-trained massage therapists.** Prospective applicants who completed their education outside of the United States may receive credit for their education, provided they comply with the following:

**131.3(1)** Provide an equivalency evaluation of their educational credentials by one of the following entities demonstrating the curriculum is equivalent to that stated in these rules. The applicant bears the expense of the curriculum evaluation.

*a.* International Education Research Foundation, Inc. Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone 310.258.9451; website [www.ierf.org](http://www.ierf.org).

*b.* International Credentialing Associates, Inc. 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777; telephone 727.549.8555.

*c.* Josef Silny & Associates, Inc. 7101 SW 102nd Avenue, Miami, FL 33173; telephone 305.273.1616; website [jsilny.org](http://jsilny.org).

**131.3(2)** Provide a notarized copy of the certificate or diploma awarded to the applicant from a massage therapy program in the country in which the applicant was educated.

**131.3(3)** Receive a final determination from the board that the applicant's education is acceptable.

**645—131.4(152C) Licensure by endorsement.**

**131.4(1)** A person who has been issued a license to practice massage therapy by another issuing jurisdiction may seek licensure in accordance with this rule.

**131.4(2)** Submit the following:

*a.* A completed online application for licensure and pay nonrefundable licensure fee specified in rule 645—5.8(147).

*b.* Official copies of academic transcripts sent directly to the board by the board-approved school. If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.

*c.* Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination is the passing point criterion established by the testing authority at the time the test was administered.

*d.* Proof that the licensure requirements in the issuing jurisdiction are equal to or exceed the requirements provided in rule 645—131.2(152C).

*e.* Verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdiction(s) to the board. Web-based verification may be substituted for verification from the issuing jurisdiction's board office if the verification provides:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (1) The licensee's name;
- (2) The date of initial licensure;
- (3) The applicant's current licensure status; and
- (4) Any disciplinary action taken against the license.

**645—131.5(152C) Licensure by verification.** A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—131.6(152C) Temporary license.** A person who is licensed to practice massage therapy in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement, and who does not seek licensure by verification, may be issued a temporary license in accordance with this rule.

**131.6(1)** An applicant for temporary license shall submit the following:

*a.* A completed online application for licensure and pay nonrefundable licensure fee specified in rule 645—5.8(147).

*b.* Verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdiction(s) to the board. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

*c.* A plan for meeting all remaining requirements for licensure within one year of issuance of the temporary permit. Such a plan will include proof of enrollment in a school of massage therapy whose curriculum has been approved by the board, the date of enrollment, and the expected date of graduation.

**131.6(2)** A temporary license is valid for a period of up to one year and will not be renewed.

**131.6(3)** A temporary license holder shall be issued a permanent license upon the board's receipt of the following:

*a.* Official copies of academic transcripts sent directly to the board by the board-approved school demonstrating completion of all remaining hours of education for licensure.

*b.* Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination is the passing point criterion established by the testing authority at the time the test was administered.

**645—131.7(152C) License display.** The license certificate and proof of active licensure will be displayed in a conspicuous public place at their primary site of practice.

**645—131.8(152C) License renewal.**

**131.8(1)** The biennial license renewal period begins on the sixteenth day of the anniversary month and ends on the fifteenth day of the anniversary month two years later. The licensee is responsible for renewing the license prior to its expiration.

**131.8(2)** Continuing education does not need to be completed during the first biennial license renewal period and is not a prerequisite for the first renewal of a license.

**131.8(3)** A licensee seeking renewal shall comply with the following before the license expiration date:

*a.* Submit a completed renewal application and renewal fee specified in rule 645—5.8(147), before the license expiration date; and

*b.* Meet the continuing education requirements of rule 645—133.2(152C) and the mandatory reporting requirements of subrule 131.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**131.8(4) Mandatory reporter training.**

*a.* A licensee who, in the scope of professional practice or in the licensee's employment responsibilities examines, attends, counsels, or treats children and dependent adults in Iowa shall complete the applicable department of health and human services' training related to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3) "b." The licensee will indicate on the renewal application completion of such training.

*b.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

- (1) Is engaged in active duty in the military service of this state or the United States; or
- (2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill the requirements due to a physical or mental disability or illness as provided in rule 645—4.14(272C).

*c.* The board may select licensees for audit of compliance with the requirements of this subrule.

**131.8(5) Issuing renewals.** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license renewal. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**131.8(6) Late renewal.** A license not renewed by the expiration date will be assessed a late fee as specified in 645—subrule 5.8(4). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

**131.8(7) Inactive license.** A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a massage therapist in Iowa until the license is reactivated. A licensee who practices as a massage therapist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—131.9(17A,147,272C) License reactivation.**

**131.9(1)** A person whose license is inactive may apply to reactivate the license in accordance with this rule.

**131.9(2)** The licensee shall submit all of the following:

*a.* A completed online application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.8(147). If the license has been inactive for five years or less, submission of:

- (1) Proof of completion of 16 hours of continuing education within two years of application; and
- (2) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

*b.* If the license has been on inactive status for more than five years, submission of:

- (1) Proof of completion of 16 hours of continuing education within two years of application;
- (2) Proof of two years of active, licensed practice in another issuing jurisdiction immediately prior to submitting the application, or proof of passing one of the following examinations within two years of submitting the application:

1. The National Certification Examination for Therapeutic Massage (NCETM);
2. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);
3. The National Examination for States Licensing (NESL) option; or

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

4. The Massage and Bodywork Licensing Examination (MBLEx); and
- (3) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:
  1. Licensee's name;
  2. Date of initial licensure;
  3. Current licensure status; and
  4. Any disciplinary action taken against the license.

**645—131.10(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and, if applicable, must apply for and be granted reactivation of the license in accordance with rule 645—131.9(17A,147,272C) prior to practicing as a massage therapist in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 152C, and 272C.

**ARC 7480C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to massage therapy education curriculum and providing an opportunity for public comment**

The Board of Massage Therapy hereby proposes to rescind Chapter 132, "Massage Therapy Education Curriculum," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 152C.3, 272C.3, 272C.4 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152C and 272C.

*Purpose and Summary*

Proposed Chapter 132 sets minimum standards for the education provided to massage therapists. Iowa residents, licensees, and employers benefit from the chapter since it articulates the processes by which schools can be recognized as an approved massage therapy school with an approved massage therapy curriculum. This includes ensuring the school meets curriculum requirements and student clinical practicum standards, as well as appropriate retention of school records. These requirements ensure public safety by setting standards that will allow schools to graduate students into the profession with the minimum competency needed to safely serve the public.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 10:30 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#
January 31, 2024 10:30 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 132 and adopt the following **new** chapter in lieu thereof:

CHAPTER 132  
MESSAGE THERAPY EDUCATION CURRICULUM

**645—132.1(152C) Definitions.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*“Approved curriculum”* means that the massage therapy education course of study meets the criteria specified in this chapter and has been approved by the board of massage therapy.

*“Board”* means the board of massage therapy.

*“Clinical practicum”* means hands-on massage therapy provided to members of the public by a student who is enrolled at a massage therapy school and is under the supervision of an instructor who is an Iowa-licensed massage therapist, is physically present on the premises and is available for advice and assistance. “Clinical practicum” does not include classroom practice.

*“Course of study”* means a series of classroom courses, not including continuing education, which is approved by the board as having a unified purpose in training individuals toward a certificate, degree or diploma in the practice of massage therapy.

**645—132.2(152C) Application for approval of massage therapy education curriculum.**

**132.2(1)** Applications for curriculum approval of in-state massage therapy schools will be submitted online with the accompanying fee. Curriculum approval is valid for up to two years with reapplication for approval due June 30 of each even-numbered year. The biennial renewal cycle begins July 1 of an even-numbered year and ends June 30 two years later. Schools that receive curriculum approval within six months prior to the start of the next biennial renewal cycle do not need to reapply for curriculum approval until the following even-numbered year.

**132.2(2)** The application for curriculum approval includes the following:

- a. A completed board-approved application form;
- b. The curriculum approval application fee as specified in 645—Chapter 4;
- c. A completed Curriculum Criteria and Documentation form;
- d. The current school catalog, including name of the program(s), a description of the curriculum delivery system, course descriptions, and program accreditation or approval by other professional entities; and
- e. A sample diploma and a sample transcript that identify the name of the graduate, name of the program, graduation date, and the degree, diploma or certificate awarded.

**132.2(3)** Out-of-state school curriculum will be reviewed on a case-by-case basis upon receipt of the curriculum as a part of an individual’s application for licensure to practice massage therapy in the state of Iowa.

**132.2(4)** Massage therapy schools that do not renew curriculum approval by the expiration date shall be removed from the board’s list of approved curriculum providers until such time that they comply with curriculum approval requirements.

**132.2(5)** Schools that apply for curriculum approval shall, at a minimum, provide a curriculum that meets the requirements of this chapter, offer a course of study of at least 600 clock hours or the equivalent in academic credit hours, and require for entrance into the massage therapy school graduation from high school or its equivalent.

**645—132.3(152C) Curriculum requirements.** An approved curriculum will include but not be limited to the following content areas:

1. Massage theory and principles.
2. Massage professional practices.
3. The therapeutic relationship.
4. Anatomy, physiology, and pathology.
5. Assessment and documentation.
6. Massage and bodywork application.
7. Palpation and movement.
8. Adapting sessions for clients.
9. Career development.
10. Iowa law and professional ethics.

**645—132.4(152C) Student clinical practicum standards.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**132.4(1)** The school must provide clinical practicum hours at the school's primary location or an event sponsored by the school.

**132.4(2)** At all times when the student delivers physical contact with the public or other students, a clinical instructor/supervisor who is an Iowa-licensed massage therapist shall be personally in attendance to supervise and evaluate.

**132.4(3)** Students shall complete at least 200 hours of coursework in the content areas of fundamentals of massage therapy and assessment that includes indications and contraindications for treatment prior to providing services to the public and beginning the clinical practicum. Included in this 200 hours will be a minimum of 100 hours in anatomy and physiology, which includes the structure and function of the human body and common pathologies.

**132.4(4)** The clinical practicum shall not exceed 25 percent of a program's total required hours.

**645—132.5(152C) School records retention.** Records documenting the student's completion of the curriculum will be maintained for two years following the student's graduation date. In the event of school closure, the board will be notified of the location of the records.

**645—132.6(152C) Massage school curriculum compliance.**

**132.6(1)** A school will maintain curriculum records and make the records available to the board upon request.

**132.6(2)** A school whose curriculum is approved shall notify the board in writing within 30 days if there is a change of address, a school closing, or a curriculum revision that does not meet the requirements of this chapter.

**132.6(3)** Each student who successfully completes curriculum requirements will be awarded a certificate or diploma that includes the student's legal name, date of graduation, the name of the program, and the degree or certificate awarded. The school will also provide them with an official transcript that includes the student's legal name and date of graduation.

**645—132.7(152C) Denial or withdrawal of approval.**

**132.7(1)** The board will deny or withdraw approval of a school curriculum if the board determines the curriculum does not meet the requirements of this chapter.

**132.7(2)** The board will notify the school in writing if the board denies or withdraws curriculum approval. Following denial or withdrawal of approval by the board, the school may request that the board reconsider its decision. The board in its sole discretion shall determine whether to grant such a request.

These rules are intended to implement Iowa Code chapter 152C.

**ARC 7481C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education  
and providing an opportunity for public comment**

The Board of Massage Therapy hereby proposes to rescind Chapter 133, "Continuing Education for Massage Therapists," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.76, 152C.3, 272C.2 and 272C.3.

*State or Federal Law Implemented*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152C and 272C.

*Purpose and Summary*

Proposed Chapter 133 sets forth continuing education requirements for massage therapists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet to comply with the chapter, and the types of continuing education courses and activities that are permissible. The intended benefit of continuing education is to ensure massage therapists maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
10:30 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

January 31, 2024  
10:30 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 133 and adopt the following new chapter in lieu thereof:

CHAPTER 133  
CONTINUING EDUCATION FOR MASSAGE THERAPISTS

**645—133.1(152C) Definitions.**

*“Active license”* means a license that is current and has not expired.

*“Approved program/activity”* means a continuing education program/activity meeting the standards set forth in these rules.

*“Audit”* means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.

*“Board”* means the board of massage therapy.

*“Continuing education”* means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

*“Hands-on training”* means learning techniques that manipulate the soft tissue of the body.

*“Hour of continuing education”* means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

*“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period.

*“Independent study”* means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

*“License”* means license to practice.

*“Licensee”* means any person licensed to practice as a massage therapist in the state of Iowa.

*“Presenter”* means person(s)/instructor(s) providing continuing education training.

**645—133.2(152C) Continuing education requirements.** Each biennium, each person who is licensed to practice as a massage therapist in this state shall be required to complete a minimum of 16 hours of continuing education. A biennium is a two-year period beginning with the date the license was granted.

**133.2(1)** The biennial continuing education compliance period runs concurrently with each two-year renewal period. The renewal period begins on the date the initial license is granted and ends two years later on the day before the anniversary date of that initial license.

**133.2(2)** Requirements for new licensees. Those persons licensed for the first time are not required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal period may be used.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**133.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity meeting the requirements of this chapter. These hours must be in accordance with these rules.

**133.2(4)** No hours of continuing education will be carried over into the next renewal period. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**133.2(5)** The cost of continuing education is the responsibility of each licensee.

**645—133.3(152C,272C) Continuing education criteria.**

**133.3(1) General criteria.** A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters that integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance, including:
  - (1) Date, location, course title, presenter(s);
  - (2) Number of program contact hours; and
  - (3) Certificate of completion or evidence of successful completion of the course from the course sponsor.

**133.3(2) Specific criteria.** A licensee shall obtain a minimum of 16 hours of continuing education credit every two years. A minimum of 8 hours of the 16 hours must be hands-on training. A maximum of 8 hours of the 16 hours may be independent study. Licensees may obtain continuing education hours of credit by:

- a. Attending workshops, conferences, or symposiums.
- b. Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.
- c. Teaching curriculum at a school of massage therapy or presenting professional continuing education programs that meet the criteria listed in this subrule. One hour of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. A maximum of 4 hours may be awarded under this paragraph per biennium.
- d. Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of massage therapy will be necessary in order for the licensee to receive the following continuing education credits:
  - 1 academic semester hour = 15 continuing education hours of credit
  - 1 academic trimester hour = 12 continuing education hours of credit
  - 1 academic quarter hour = 10 continuing education hours of credit
  - 1 academic clock hour = 1 continuing education hour of credit
- e. Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits:
  - 1 academic semester hour = 15 continuing education hours of credit
  - 1 academic trimester hour = 12 continuing education hours of credit
  - 1 academic quarter hour = 10 continuing education hours of credit
- f. Authoring research the results of which are published in a recognized professional publication. The licensee will receive 5 hours of credit per page.

g. Taking courses directly beneficial to business practices necessary for operating a massage practice. Content areas include, but are not limited to, business management, financial management,

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

accounting, tax preparation, marketing, human relations, communication skills, business ethics, and massage ethics.

*h.* Taking courses related to personal skills topics, such as career burnout, communication skills, human relations, and other like topics.

*i.* Completing programs that enhance a supplemental or complementary skill set directly related to promoting the public health while providing massage therapy. Content areas include, but are not limited to, CPR, first aid, contraindication training, sanitation, and geriatric care.

*j.* Completing mandatory reporter training pursuant to Iowa Code sections 232.69 and 235B.16. One hour of credit will be awarded for each hour of completed mandatory reporter training.

*k.* Passing a board-approved national examination administered by the Federation of State Massage Therapy Boards or the National Certification Board for Therapeutic Massage and Bodywork within the biennial continuing education compliance period. A copy of the applicant's official notification may be used by the board as verification.

These rules are intended to implement Iowa Code chapters 21, 147, 152C and 272C.

**ARC 7482C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline  
and providing an opportunity for public comment**

The Board of Massage Therapy hereby proposes to rescind Chapter 134, "Discipline for Massage Therapists," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.76, 152C.3, 272C.3, 272C.4, and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152C and 272C.

*Purpose and Summary*

Proposed Chapter 134 provides protection to both the public and licensees because it publicly defines the need to obtain a massage therapy license in order to practice massage therapy, hold oneself out to the public as a massage therapist, or employ someone to provide these services, as directed in Iowa Code section 152C.4. Iowans have the ability to submit a complaint of unlicensed practice to the Board, which can then investigate the allegation and impose civil penalties, ensuring that the public is protected and licensed massage therapists are not competing against unlicensed individuals.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only the civil penalties that may be imposed when persons imply or represent themselves, or an individual they employ, to be massage therapists when they are not licensed. This is unique to the massage therapy profession and excluded from the general disciplinary chapter.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
10:30 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

January 31, 2024  
10:30 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 134 and adopt the following **new** chapter in lieu thereof:

CHAPTER 134  
DISCIPLINE FOR MASSAGE THERAPISTS

**645—134.1(152C) Civil penalties.**

**134.1(1)** Civil penalties may be imposed upon a person or business that employs an individual who is not licensed as a massage therapist. Civil penalties may be imposed upon a person or business that employs an individual who uses the initials “L.M.T.” or the words “licensed massage therapist,” “massage therapist,” “masseur,” or “masseuse,” or any other words or titles that imply or represent that the employed person practices massage therapy but who is not licensed as a massage therapist. Failure to follow the above may result in:

- a.* A civil penalty not to exceed \$1,000 on a person or business that violates this rule:
  - (1) Each violation is a separate offense.
  - (2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed \$10,000;
- b.* The board’s inspection of any facility that advertises or offers services purporting to be delivered by massage therapists;
- c.* A citation being sent to the alleged violator by certified mail, return receipt requested; and
- d.* The board’s consideration of the following in determining civil penalties:
  - (1) Whether the amount imposed will be a substantial economic deterrent to the violation.
  - (2) The circumstances leading to or resulting in the violation.
  - (3) The severity of the violation and the risk of harm to the public.
  - (4) The economic benefits gained by the violator as a result of noncompliance.
  - (5) The welfare or best interest of the public.

**134.1(2)** Civil penalties may be imposed upon a person who is practicing as a massage therapist without a license. Civil penalties may be imposed upon a person who practices as an individual and uses the initials “L.M.T.” or the words “licensed massage therapist,” “massage therapist,” “masseur,” or “masseuse,” or any other words or titles that imply or represent that the person practices massage therapy but who is not licensed as a massage therapist. A person must be licensed as a massage therapist to practice in this state as a massage therapist. Failure to follow the above may result in:

- a.* A civil penalty not to exceed \$1,000 on a person who violates this rule:
  - (1) Each violation is a separate offense.
  - (2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed \$10,000;
- b.* The board’s inspection of any facility that advertises or offers services purporting to be delivered by massage therapists;
- c.* A citation being sent to the alleged violator by certified mail, return receipt requested;
- d.* The board’s consideration of the following in determining civil penalties:
  - (1) Whether the amount imposed will be a substantial economic deterrent to the violation.
  - (2) The circumstances leading to or resulting in the violation.
  - (3) The severity of the violation and the risk of harm to the public.
  - (4) The economic benefits gained by the violator as a result of noncompliance.
  - (5) The welfare or best interest of the public.

**134.1(3) Issuing an order or citation.**

- a.* The board shall provide a written notice and the opportunity to request a hearing on the record.
- b.* The hearing must be requested within 30 days of the issuance of the notice and shall be conducted according to Iowa Code chapter 17A.
- c.* The board may, in connection with a proceeding under this subrule, issue subpoenas to require the attendance and testimony of witnesses and the disclosure of evidence and may request the attorney general to bring an action to enforce the subpoena.

**134.1(4) Judicial review.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* A person aggrieved by the imposition of a civil penalty under this rule may seek a judicial review in accordance with Iowa Code section 17A.19.

*b.* The board shall notify the attorney general of the failure to pay a civil penalty within 30 days after entry of an order or within 10 days following final judgment in favor of the board if an order has been stayed pending appeal.

*c.* The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

*d.* An action to enforce an order under this rule may be joined with an action for an injunction.

**134.1(5)** A person is not in violation of the statute or rules if that person practices massage therapy for compensation while in attendance at a school offering a curriculum meeting the requirements of 645—Chapter 132 and is under the supervision of a member of the school's faculty.

These rules are intended to implement Iowa Code chapters 147, 152C, and 272C.

**ARC 7476C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure of nursing home administrators  
and providing an opportunity for public comment**

The Board of Nursing Home Administrators hereby proposes to rescind Chapter 141, "Licensure of Nursing Home Administrators," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 155 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 155 and 272C.

*Purpose and Summary*

These proposed rules set minimum standards for entry into the nursing home administrator profession. Iowa residents, licensees, and employers benefit from the rules because they articulate the processes by which individuals apply for licensure as a nursing home administrator in the state of Iowa, as directed in statute. This includes the processes for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualification, and examination requirements.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11:30 to 11:50 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#
January 31, 2024 11:30 to 11:50 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 141 and adopt the following **new** chapter in lieu thereof:

*NURSING HOME ADMINISTRATORS*

CHAPTER 141	LICENSURE OF NURSING HOME ADMINISTRATORS
CHAPTER 142	RESERVED
CHAPTER 143	CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATION
CHAPTER 144	DISCIPLINE FOR NURSING HOME ADMINISTRATORS

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

CHAPTER 141  
LICENSURE OF NURSING HOME ADMINISTRATORS

**645—141.1(155) Definitions.** For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Administrator*” means a licensed nursing home administrator.

“*Board*” means the board of nursing home administrators.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*HSE*” means a Health Services Executive as designated by the National Association of Boards of Examiners of Long Term Care Administrators.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a nursing home administrator in the state of Iowa.

“*License expiration date*” means December 31 of odd-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice nursing home administration to an applicant who is or has been licensed in another state.

“*NAB*” means National Association of Boards of Examiners of Long Term Care Administrators.

“*Preceptor*” means a person who is currently licensed as a nursing home administrator and is approved by the department to supervise a person in a mentoring or administrator training program.

“*Provisional license*” means a license issued to an administrator appointed on a temporary basis to perform the duties of a nursing home administrator.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—141.15(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions.

**645—141.2(155) Requirements for licensure.** The following criteria shall apply to licensure:

**141.2(1)** Submit a completed online application and pay the nonrefundable licensure fee specified in rule 645—5.10(147,155);

**141.2(2)** Provide verification of certification as an HSE through NAB;

**141.2(3)** Provide verification of the following:

*a.* Transcripts verifying a baccalaureate or post baccalaureate degree sent directly from an accredited college or university;

*b.* Passing score on all required national NAB exams must meet all other licensure requirements to be approved to take the exam;

*c.* Completion of one of the following:

(1) Administrator training program;

(2) Practicum in long-term health care completed through an accredited college or university; or

(3) 2,080 hours of long-term health care administration may be approved by the board.

**141.2(4)** An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if it provides:

*a.* Licensee’s name;

*b.* Date of initial licensure;

*c.* Current licensure status; and

*d.* Any disciplinary action taken against the licensee.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—141.3(147,155) Foreign-trained applicants.** Foreign-trained nursing home administrators will:

**141.3(1)** Provide an equivalency evaluation of their educational credentials by International Educational Research Foundation, Inc. Credentials Evaluation Service. A candidate will be responsible for the expense of the curriculum evaluation.

**141.3(2)** Provide a copy of the certificate or diploma awarded to the applicant from a nursing home administration program in the country in which the applicant was educated.

**141.3(3)** Provide satisfactory evidence of completion of administrator training program, practicum or 2,080 hours of work experience in long-term health care administration.

**645—141.4(155) Preceptor qualifications.** Preceptor qualifications are as follows:

**141.4(1)** Current licensure and at least two years of experience as a nursing home administrator.

**141.4(2)** Completion of a preceptor training course in the 12 months immediately prior to the preceptorship.

**141.4(3)** Preceptor has not had the preceptor's nursing home administrator license disciplined, limited, suspended, or placed on probation during the one year immediately prior to the application to act as a preceptor.

**141.4(4)** Is not related to the training administrator.

**645—141.5(155) Provisional license.** A provisional license may be issued to an administrator appointed on a temporary basis to perform the duties of a nursing home administrator. A provisional license is considered a temporary appointment, and the person appointed may serve as an administrator for a period of time not to exceed 12 months in an entire career. The 12 months in service are not required to be consecutive; however, a new application is required for each appointment period. It is the responsibility of the approved provisional administrator to maintain documentation of the actual dates the administrator serves in that capacity.

**141.5(1)** The limited circumstances under which the request for a provisional appointment will be granted include the inability of the licensed administrator to perform the administrator's duties, the death of the licensed administrator, or circumstances that prevent the immediate transfer of the licensed administrator's duties to another licensed administrator. A provisional license will not be issued to a licensed nursing home administrator.

**141.5(2)** Application for a provisional license shall be in writing on forms prescribed by the board. Applicants will meet the following minimum qualifications:

*a.* Be at least 18 years of age.

*b.* Be employed on a full-time basis of no less than 40 hours per week to perform the duties of the nursing home administrator.

*c.* Be knowledgeable about the nursing home administrator's domains of practice including resident care; human resources; finance; physical environment; and leadership and management.

*d.* Be without a history of unprofessional conduct or denial of or disciplinary action against a license to practice nursing home administration or any other profession by any lawful licensing authority for reasons outlined in 645—Chapter 144.

*e.* Provide evidence to establish that the provisional appointment will not exceed the lifetime maximum period of 12 calendar months in duration. For any period in which the applicant previously served as a provisional administrator, written employment verification or a written attestation of the facility owner, chief operating officer, or board officer will satisfy this requirement.

*f.* Provide evidence that the provisional appointment complies with the requirements in 481—subrule 58.8(4). A written attestation of the facility owner, chief operating officer, or board officer will satisfy this requirement.

**141.5(3)** Applications for an extension of the time period for the provisional appointment within the same facility do not require the payment of an additional fee, as long as all other requirements stated in this rule are met.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**141.5(4)** The board expressly reserves the right to withdraw approval of a provisional appointment. Withdrawal of approval will be based on information or circumstances warranting such action. The provisional administrator will be notified of the withdrawal of approval in writing by certified mail.

**645—141.6(155) Licensure by endorsement.**

**141.6(1)** An applicant who has been a licensed nursing home administrator under the laws of another jurisdiction will file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

- a.* Meets the requirements of rule 645—141.2(155).
- b.* Provides evidence of an active license as a nursing home administrator for at least two years prior to application, or meets the qualifications outlined in rule 645—141.4(155).

**141.6(2)** Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—141.7(147,155) License renewal.**

**141.7(1)** The biennial license renewal period for a license to practice nursing home administration will begin on January 1 of each even-numbered year and end on December 31 of the next odd-numbered year. All licensees will renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration.

**141.7(2)** An individual who was issued a license within six months of the license renewal date does not need to renew the license until the subsequent renewal two years later.

**141.7(3)** A licensee applying for renewal shall:

*a.* Meet the continuing education requirements of rule 645—143.2(272C) and the mandatory reporting requirements of subrule 141.9(8). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**141.7(4)** A two-year license will be issued after the requirements of this rule are met. If the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**141.7(5)** Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.10(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

**141.7(6)** Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a nursing home administrator in Iowa until the license is reactivated.

**141.7(7)** Licensees will display their license certificate and proof of active licensure will be in a conspicuous public place at the primary site of practice.

**141.7(8)** Mandatory reporter training requirements.

*a.* A licensee who examines, attends, counsels, or treats children, dependent adults, or both in the scope of the licensee's professional practice will complete the applicable department of health and human services training relating to the identification reporting of child abuse, dependent adult abuse, or both. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

*b.* The board may select licensees for audit of compliance with the requirements in subrule 141.7(8).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—141.8(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**141.8(1)** Submit a completed online reactivation application and pay the nonrefundable application fee.

**141.8(2)** Provide verification of current competence to practice as a nursing home administrator by satisfying the following criteria:

*a.* Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license; and

*b.* Verification of completion of 40 hours of continuing education within two years of the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

**645—141.9(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing as a nursing home administrator in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 155, and 272C.

**ARC 7477C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education for nursing home administration and providing an opportunity for public comment**

The Board of Nursing Home Administrators hereby proposes to rescind Chapter 143, "Continuing Education for Nursing Home Administration," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 147 and 272C and section 155.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 155 and 272C.

*Purpose and Summary*

This proposed rulemaking sets forth continuing education requirements for nursing home administrators. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rules, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that nursing home administrators maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11:30 to 11:50 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#
January 31, 2024 11:30 to 11:50 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 143 and adopt the following **new** chapter in lieu thereof:

CHAPTER 143  
CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATION

**645—143.1(272C) Definitions.** For the purpose of these rules, the following definitions will apply:

“*Active license*” means the license is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a nursing home administrator in the state of Iowa.

“*National Continuing Education Review Service (NCERS)*” means the continuing education review service operated by the National Association of Boards of Examiners for Nursing Home Administrators.

**645—143.2(272C) Continuing education requirements.**

**143.2(1)** The biennial continuing education compliance period will extend for a two-year period beginning on January 1 of each even-numbered year and ending on December 31 of the next odd-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state will be required to complete a minimum of 40 hours of continuing education. Continuing education hours do not carry over.

**143.2(2)** Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

**143.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

**143.2(4)** The licensee is responsible for the cost of continuing education.

**645—143.3(155,272C) Standards.**

**143.3(1) General criteria.** A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

*a.* Is an organized program of learning fundamental to the practice of the profession that contributes directly to the professional competency of the licensee;

*b.* Is conducted by individuals who have specialized education, training and experience in the subject matter of the program;

*c.* Fulfills stated program goals, objectives, or both; and

*d.* Provides proof of attendance including:

(1) Date(s), location, course title, presenter(s);

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (2) Number of program contact hours; and
- (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**143.3(2) Specific criteria.** Licensees may obtain continuing education hours of credit by:

*a.* Participating in the continuing education programs approved by the National Continuing Education Review Service (NCERS).

*b.* Academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

*c.* Attendance at or participation in a program or course that meets the requirements in subrule 143.3(1).

*d.* Making presentations; conducting research; producing publications; preparing new courses; participating in home study courses; attending electronically transmitted courses; and attending workshops, conferences, or symposiums.

*e.* Self-study coursework that meets the criteria set forth in these rules. Continuing education credit equivalent for self-study is as follows:

180 minutes of self-study work = 1 continuing education hour

The maximum number of hours for self-study, including television viewing, video or sound-recorded programs, correspondence work, or research, or by other similar means that is not directly sponsored by and supervised by an accredited postsecondary college or university or NCERS, is eight hours.

**645—143.4(155,272C) Exemptions.** A licensee is exempt from the continuing education requirement when that person:

- 1. Served honorably on active duty in the military service;
- 2. Resided in another state with continuing education requirements that the applicant met;
- 3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
- 4. Has a disability, illness, or primary caregiver status requiring an extension of time or exemption upon approval by the board office.

These rules are intended to implement Iowa Code section 272C.2 and chapter 155.

**ARC 7478C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline for nursing home administrators  
and providing an opportunity for public comment**

The Board of Nursing Home Administrators hereby proposes to rescind Chapter 144, "Discipline for Nursing Home Administrators," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 155 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 155 and 272C.

*Purpose and Summary*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This proposed rulemaking provides protection to Iowans because it publicly defines disciplinary options when a nursing home administrator fails to provide the standard of care. This is important to both the public and the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the licensee's license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Health and Human Services Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the nursing home administrator profession and are therefore excluded from the general disciplinary chapter. The grounds for discipline required in this rulemaking are related to falsification of facts contained in application documents or misappropriation of resident funds and are required by Iowa Code chapter 155.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

January 30, 2024  
11:30 to 11:50 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

January 31, 2024  
11:30 to 11:50 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 144 and adopt the following **new** chapter in lieu thereof:

CHAPTER 144  
DISCIPLINE FOR NURSING HOME ADMINISTRATORS

**645—144.1(155,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—13.3(155,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13.

**144.1(1)** Any falsification or misrepresentation contained in any report or document attesting to the facts, conditions and activities of the internship or work experience and submitted by the applicant, administrator/preceptor or other participants may be grounds for denial of license or for suspension or revocation of the nursing home administrator license in addition to the imposition of fines and any other penalties provided by law.

**144.1(2)** Any misappropriation of resident funds or facility funds may be grounds for denial of license or for suspension or revocation of the nursing home administrator license in addition to the imposition of fines and any other penalties provided by law.

This rule is intended to implement Iowa Code chapters 147, 155 and 272C.



**ARC 7472C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure of optometrists  
and providing an opportunity for public comment**

The Board of Optometry hereby proposes to rescind Chapter 180, “Licensure of Optometrists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 146.36, 154.3, 272C.3, 272C.4 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154 and 272C.

*Purpose and Summary*

These proposed rules set minimum standards for entry into the optometry profession. Iowa residents, licensees, and employers benefit from the proposed rules because they articulate the processes by which individuals apply for licensure as an optometrist in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by making certain that any individual entering the profession has minimum competency. Requirements include the application process and examinations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O’Brien  
Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

January 30, 2024  
11:50 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

January 31, 2024  
11:50 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 180 and adopt the following **new** chapter in lieu thereof:

*OPTOMETRISTS*

CHAPTER 180 LICENSURE OF OPTOMETRISTS  
CHAPTER 181 CONTINUING EDUCATION FOR OPTOMETRISTS  
CHAPTER 182 PRACTICE OF OPTOMETRISTS  
CHAPTER 183 DISCIPLINE FOR OPTOMETRISTS

CHAPTER 180  
LICENSURE OF OPTOMETRISTS

**645—180.1(154) Definitions.** For purposes of these rules, the following definitions will apply:

“Active license” means a license that is current and has not expired.

“Board” means the board of optometry.

“CELMO” means the Council on Endorsed Licensure Mobility for Optometrists.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Licensee” means any person licensed to practice as an optometrist in the state of Iowa.

“Licensure by endorsement” means the issuance of an Iowa license to practice optometry to an applicant who is or has been licensed in another state.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of optometrists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*NBEO*” means the National Board of Examiners in Optometry.

“*Optometrist*” means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry to employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of the conditions of the human eye and adnexa, excluding the use of injections other than to counteract an anaphylactic reaction, and notwithstanding Iowa Code section 147.107, may without charge supply any of the above pharmaceuticals to commence a course of therapy, with the exclusions cited in Iowa Code chapter 154.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—180.5(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions.

“*TPA*” means therapeutic pharmaceutical agents.

**645—180.2(154) Requirements for licensure.**

**180.2(1)** The following criteria applies to licensure:

a. Submit a completed online application and pay the non-refundable licensure fee specified in rule 645—5.12(147,154).

b. Applicants will submit proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154 including official copies of academic transcripts sent directly to the board from an accredited school or college of optometry.

c. Applicants will submit proof of passing all current NBEO examinations.

d. An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

**180.2(2)** Reserved.

**645—180.3(154) Licensure by endorsement.**

**180.3(1)** Applicants who have been licensed as an optometrist in another state may apply for licensure by endorsement by submitting the following:

a. Verification the applicant meets the requirements of rule 645—180.2(154); and

b. Verification of current competence to practice as an optometrist by satisfying one of the following criteria:

- (1) Current CELMO certification;
- (2) Practice as an optometrist for a minimum of 2,080 hours during the preceding two-year period;
- (3) Employment as a faculty member teaching optometry in an accredited school of optometry for at least one academic year during the preceding two-year period;
- (4) Completion of a minimum of 50 hours of continuing education during the preceding two-year period; or
- (5) Passing the NBEO examination during the preceding two-year period.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**180.3(2)** Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—180.4(154) License renewal.**

**180.4(1)** The biennial license renewal period for a license to practice optometry will begin on July 1 of an even-numbered year and end on June 30 two years later. The licensee is responsible for renewing the license prior to its expiration.

**180.4(2)** An individual who was issued a license within six months of the license renewal date does not need to renew the license until the subsequent renewal two years later.

**180.4(3)** A licensee applying for renewal will:

*a.* Meet the continuing education requirements of rule 645—181.2(154) and the mandatory reporting requirements of subrule 180.5(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**180.4(4)** Mandatory reporter training requirements.

*a.* A licensee who examines, attends, counsels, or treats children, dependent adults, or both in the scope of the licensee's professional practice will complete the applicable department of health and human services training relating to the identification reporting of child abuse, dependent adult abuse, or both. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

*b.* The board may select licensees for audit of compliance with the requirements in 645—Chapter 181.

**180.4(5)** A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**180.4(6)** The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

**180.4(7)** Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.12(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

**180.4(8)** Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

**645—180.5(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license:

**180.5(1)** Submit a completed online reactivation application and payment of the non-refundable application fee.

**180.5(2)** If licensed in another jurisdiction, provide verification from the jurisdiction in which the licensee has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status, and any disciplinary action taken against the licensee.

**180.5(3)** Verification of current competence to practice as an optometrist by satisfying one of the following criteria:

- a.* Practice as an optometrist for a minimum of 2,080 hours during the preceding two-year period;
- b.* Employment as a faculty member teaching optometry in an accredited school of optometry for at least one academic year during the preceding two-year period;
- c.* Completion of a minimum of 50 hours of continuing education during the preceding two-year period; or
- d.* Passing the NBEO examination during the preceding two-year period.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—180.6(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing as an optometrist in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

**ARC 7473C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to continuing education  
and providing an opportunity for public comment**

The Board of Optometry hereby proposes to rescind Chapter 181, “Continuing Education for Optometrists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 147, 154 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154 and 272C.

*Purpose and Summary*

This proposed rulemaking sets forth continuing education requirements for optometrists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rules, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that optometrists maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Jessica O'Brien  
 Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.281.6352  
 Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
 11:50 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: 1.904.330.1060  
 PIN: 744 558 427#

January 31, 2024  
 11:50 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: 1.904.330.1060  
 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 181 and adopt the following **new** chapter in lieu thereof:

CHAPTER 181  
 CONTINUING EDUCATION FOR OPTOMETRISTS

**645—181.1(154) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of optometry.

“*CELMO*” means the Council on Endorsed Licensure Mobility for Optometrists.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Distance learning*” means a format that provides one-way content to the licensee without immediate interaction with the instructor including but not limited to correspondence courses, online courses and local study group programs.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*Interactive online CE*” means the format allows for immediate interaction and feedback between the audience and the instructor.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an optometrist in the state of Iowa.

**645—181.2(154) Continuing education requirements.**

**181.2(1)** The biennial continuing education compliance period will extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as an optometrist in this state will be required to complete a minimum of 50 hours of continuing education approved by the board. Continuing education hours cannot be carried over to the next biennium.

**181.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

**181.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

**181.2(4)** The licensee is responsible for the cost of continuing education.

**645—181.3(154,272C) Standards.**

**181.3(1)** *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Is an organized program of learning fundamental to the practice of the profession that contributes directly to the professional competency of the licensee;
- b. Is conducted by individuals who have specialized education and training in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- c. Fulfills stated program goals, objectives, or both; and
- d. Provides proof of attendance including:
  - (1) Date, location, course title, presenter(s);
  - (2) Numbers of program contact hours; and
  - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**181.3(2)** *Specific criteria.*

- a. Continuing education hours of credit may be obtained by attending:
  - (1) The continuing education programs of the Iowa Optometric Association, the American Optometric Association, the American Academy of Optometry, and national regional optometric congresses, schools of optometry, all state optometric associations, and any accredited department of ophthalmology;
  - (2) Postgraduate study through an accredited school or college of optometry;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(3) Meetings or seminars that are approved and certified for optometric continuing education by the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education (COPE) committee.

*b.* The maximum number of hours in each category in each biennium is as follows:

(1) Five hours of credit for distance learning.

(2) Fifteen hours of credit for interactive online CE.

(3) Twenty hours of credit for postgraduate study courses as referenced in subparagraph 181.3(2) "a"(2).

*c.* Required continuing education hours. Licensees shall provide proof of continuing education in all of the following areas:

(1) Current certification in CPR offered in person by the American Heart Association, the American Red Cross or an equivalent organization. At least two hours per biennium is required, but credit will be granted for four hours.

(2) Training on child abuse and dependent adult abuse identification and reporting through the department of health and human services for all licensees who examine, attend, counsel or treat children or dependent adults in the scope of the professional practice. Initial two-hour courses need to be taken with six months of employment. One-hour recertification training needs to be done every three years.

(3) A minimum of one hour of continuing education per renewal period regarding guidelines for prescribing opioids, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options. Credit will be granted for up to two hours per renewal period. If the continuing education did not cover the United States Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, the licensee shall read the guideline prior to license renewal. "Opioid" means any drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

*d.* Current CELMO certification meets the continuing education requirements for licensees.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154.

**ARC 7474C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to practice of optometrists  
and providing an opportunity for public comment**

The Board of Optometry hereby proposes to rescind Chapter 182, "Practice of Optometrists," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 154 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154 and 272C.

*Purpose and Summary*

The proposed rulemaking provides Iowans, licensees, and their employers with definitions relevant to the practice of optometrists and requirements for recordkeeping, prescriptions, and the use of injectables. This rulemaking articulates practice standards and provides a scope of practice for the profession.

*Fiscal Impact*



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
11:50 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

January 31, 2024  
11:50 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 182 and adopt the following **new** chapter in lieu thereof:

CHAPTER 182  
PRACTICE OF OPTOMETRISTS

**645—182.1(154) Code of ethics.** The board hereby adopts by reference the Code of Ethics of the American Optometric Association as published by the American Optometric Association, 243 North Lindbergh Boulevard, St. Louis, Missouri 63141, modified June 2007.

**645—182.2(154,272C) Recordkeeping.** Optometrists will maintain patient records in a manner consistent with the protection of the welfare of the patient. Records will be permanent, timely, accurate, legible, and easily understandable.

**182.2(1)** Optometrists will maintain optometry records for each patient. The records will contain all of the following:

*a. Personal data.*

- (1) Name, date of birth, address and, if a minor, name of parent or guardian; and
- (2) Name and telephone number of emergency contact.

*b. Optometry and medical history.* Optometry records will include information from the patient or the patient's parent or guardian regarding the patient's optometric and medical history. The information will include sufficient data to support the recommended treatment plan.

*c. Patient's reason for visit.* Optometric records will include the patient's stated visual health care reasons for visiting the optometrist.

*d. Clinical examination progress notes.* Optometric records will include chronological dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;
- (2) Plan of intended treatment and treatment sequence;
- (3) Services rendered and any treatment complications;
- (4) All ancillary testing, if applicable;
- (5) Vision tests completed and visual acuity;
- (6) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and
- (7) Name of optometrist who performs any treatment or service or who may have contact with a patient regarding the patient's optometric health.

*e. Informed consent.* Optometric records will include documentation of informed consent for procedure(s) and treatment that have potential serious complications and known risks.

**182.2(2)** Retention of records. An optometrist will maintain a patient's record(s) for a minimum of five years after the date of last examination, prescription, or treatment. Records for minors will be maintained for, at minimum, one year after the patient reaches the age of majority (18) or five years after the date of last examination, prescription, or treatment, whichever is longer.

Proper safeguards will be maintained to ensure the safety of records from destructive elements.

**182.2(3)** Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, an optometrist will keep either a duplicate hard-copy record or a back-up unalterable electronic record.

**182.2(4)** Correction of records. Notations will be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by an optometric health care worker.

**182.2(5)** Confidentiality and transfer of records. Optometrists will preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or the patient's new optometrist, the optometrist will furnish such optometry records or copies of the records as will be beneficial for the future treatment of that patient. The optometrist may include a summary of the record(s) with the record(s) or copy of the record(s). The optometrist may

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. The optometrist may ask for a written request for the record(s).

**182.2(6)** Retirement or discontinuance of practice. A licensee, upon retirement, or upon discontinuation of the practice of optometry, or upon leaving a practice or moving from a community, will notify all active patients in writing, or by publication once a week for three consecutive weeks in a newspaper of general circulation in the community, that the licensee intends to discontinue the practice of optometry in the community, and will encourage patients to seek the services of another licensee. The licensee will make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee. "Active patient" means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to retirement, discontinuation of the practice of optometry, or leaving a practice or moving from a community.

**182.2(7)** Nothing stated in these rules will prohibit a licensee from conveying or transferring the licensee's patient records to another licensed optometrist who is assuming a practice, provided that written notice is furnished to all patients.

**645—182.3(154) Furnishing prescriptions.** Before a licensed optometrist provides a spectacle or contact lens prescription to a patient, the eye examination record will include best-corrected visual acuity with ophthalmic lenses or contact lenses in the lens powers determined by refraction. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet the requirements as listed below:

**182.3(1)** A contact lens prescription will contain the following information:

- a. Date of issuance;
- b. Name and date of birth of patient for whom the contact lens or lenses are prescribed;
- c. Name, address, and signature of the practitioner;
- d. All parameters required to duplicate properly the original contact lens;
- e. A specific date of expiration, not to exceed 18 months, the quantity of lenses allowed and the number of refills allowed; and
- f. At the option of the prescribing practitioner, the prescription may contain fitting and material guidelines and specific instructions for use by the patient.

**182.3(2)** Release of contact lens prescription.

a. After the contact lenses have been adequately adapted and the patient released from initial follow-up care by the prescribing practitioner, the prescribing practitioner will provide a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens. A licensed optometrist may refuse to provide a copy of the contact lens prescription if the patient has not paid the fees associated with the exam from which the prescription was generated including applicable contact lens fitting fees.

b. A practitioner choosing to issue an oral prescription will furnish the same information required for the written prescription except for the written signature and address of the practitioner. An oral prescription may be released by an O.D. to any dispensing person who is a licensed professional with the O.D., M.D., D.O., or R.Ph. degree or a person under direct supervision of those licensed under Iowa Code chapter 148, 154 or 155A.

c. The issuing of an oral prescription will be followed by a written copy to be kept by the dispenser of the contact lenses until the date of expiration.

**182.3(3)** An ophthalmic spectacle lens prescription will contain the following information:

- a. Date of issuance;
- b. Name and date of birth of the patient for whom the ophthalmic lens or lenses are prescribed;
- c. Name, address, and signature of the practitioner issuing the prescription;
- d. All parameters necessary to duplicate properly the ophthalmic lens prescription;
- e. A specific date of expiration not to exceed two years; and
- f. A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**182.3(4)** Release of ophthalmic lens prescription.

*a.* The ophthalmic lens prescription will be furnished upon request at no additional charge to the patient. A licensed optometrist may refuse to provide a copy of the ophthalmic lens prescription if the patient has not paid the fees associated with the exam from which the prescription was generated.

*b.* The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

*c.* Spectacle lens prescriptions will be in written format, according to Iowa Code section 147.109(1).

**645—182.4(155A) Prescription drug orders.** Each prescription drug order furnished by an optometrist in this state will meet the following requirements:

**182.4(1)** Written prescription drug orders will contain:

*a.* The date of issuance;

*b.* The name and date of birth of the patient for whom the drug is dispensed;

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

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

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

*f.* The federal drug enforcement administration number, if required under Iowa Code chapter 124.

**182.4(2)** The practitioner issuing oral prescription drug orders will furnish the same information required for a written prescription, except for the written signature and address of the practitioner.

**182.4(3)** Prior to prescribing any controlled substance, an optometrist will review the patient's information contained in the prescription monitoring program database, unless the patient is receiving inpatient hospice care or long-term residential facility care.

**182.4(4)** Beginning January 1, 2020, every prescription issued for a prescription drug will be transmitted electronically unless exempted pursuant to Iowa Code section 124.308 or 155A.27. Beginning January 1, 2020, a licensee who fails to comply with the electronic prescription mandate may be subject to a nondisciplinary administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year.

**645—182.5(154) Use of injectables.** A licensed optometrist shall not administer any injection prior to receiving approval from the board. A licensed optometrist may administer only the following injections:

**182.5(1)** Subconjunctival injections for the medical treatment of the eye.

**182.5(2)** Intralesional injections for the treatment of chalazia.

**182.5(3)** Botulinum toxin to the muscles of facial expression innervated by the facial nerve, including for cosmetic purposes.

**182.5(4)** Injections to counteract an anaphylactic reaction.

**182.5(5)** Local anesthetics prior to a minor surgical procedure authorized by this chapter.

**645—182.6(154) Education and training approval.**

**182.6(1)** The board will not approve the use of injections other than to counteract an anaphylactic reaction unless the licensed optometrist demonstrates to the board sufficient educational or clinical training from a college or university accredited by a regional or professional accreditation organization that is recognized or approved by the Council for Higher Education Accreditation or by the United States Department of Education, or clinical training equivalent to clinical training offered by such an institution.

**182.6(2)** A licensed optometrist who completes the requirements of rule 645—182.7(154) is deemed approved by the board for use of injectables as outlined in this chapter.

**645—182.7(154) Education and training.** In order to use injections, a licensed optometrist will be able to show proof of completion of the following requirements for board approval:

**182.7(1)** Be fully licensed and in good standing within the state of Iowa as a licensed optometrist.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**182.7(2)** Have completed a total of 24 hours of approved educational training pertaining to injections.

- a.* At least 4 hours of the 24 hours must be clinical training.
- b.* At least 5 hours of the 24 hours must pertain to the administration and side effects of injection treatment for botulinum toxin and chalazia.

These rules are intended to implement Iowa Code chapters 154 and 155A.

**ARC 7475C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to discipline  
and providing an opportunity for public comment**

The Board of Optometry hereby proposes to rescind Chapter 183, “Discipline for Optometrists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 154 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154 and 272C.

*Purpose and Summary*

This proposed rulemaking provides protection to Iowans because it publicly defines disciplinary options when an optometrist fails to provide the standard of care. This is important to both the public and the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the licensee’s license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This proposed chapter contains only those disciplinary grounds that are unique to the optometry professions and are therefore excluded from the general disciplinary chapter. The grounds for discipline required in this rulemaking related to opioid prescribing are required by Iowa Code section 147.162.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
 Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.281.6352  
 Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
 11:50 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: 1.904.330.1060  
 PIN: 744 558 427#

January 31, 2024  
 11:50 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: 1.904.330.1060  
 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 183 and adopt the following **new** chapter in lieu thereof:

CHAPTER 183  
 DISCIPLINE FOR OPTOMETRISTS

**645—183.1(154,272C) Grounds for discipline.**

**183.1(1)** The board may impose any of the disciplinary sanctions provided in rule 645—13.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645—Chapter 13.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**183.1(2)** Prescribing any controlled substance in dosage amounts that exceed what would be prescribed by a reasonably prudent licensee.

This rule is intended to implement Iowa Code chapters 147, 154 and 272C.

**ARC 7468C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to licensure of speech pathologists and audiologists and providing an opportunity for public comment**

The Board of Speech Pathology and Audiology hereby proposes to rescind Chapter 300, "Licensure of Speech Pathologists and Audiologists," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa chapter 154F and sections 272C.3, 272C.4, and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 154F, 147, 272C, and 17A.

*Purpose and Summary*

These proposed rules set minimum standards for entry into the speech pathology and audiology professions. Iowa residents, licensees and employers benefit from the rules because the rules articulate the processes by which individuals apply for licensure as speech pathologists or audiologists in the state of Iowa, as directed in statute. These processes include initial licensure, renewal, and reinstatement. The requirements for licensure assure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process and exam requirements.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Jessica O'Brien  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.281.6352  
 Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

<p>January 30, 2024            11:10 to 11:30 a.m.</p>	<p>6200 Park Avenue            Des Moines, Iowa            Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a>            Phone number: 904.330.1060            PIN: 744 558 427#</p>
<p>January 31, 2024            11:10 to 11:30 a.m.</p>	<p>6200 Park Avenue            Des Moines, Iowa            Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a>            Phone number: 904.330.1060            PIN: 744 558 427#</p>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 300 and adopt the following **new** chapter in lieu thereof:

*SPEECH PATHOLOGISTS AND AUDIOLOGISTS*

CHAPTER 300	LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 301	PRACTICE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 302	RESERVED
CHAPTER 303	CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 304	DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 300  
 LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—300.1(147) Definitions.** For purposes of these rules, the following definitions shall apply:

“*ASHA*” means the American Speech-Language Hearing Association.

“*Assistant*” means an unlicensed person who works under the supervision of an Iowa-licensed speech pathologist or audiologist and meets the minimum requirements set forth in these rules.

“*Audiologist*” means a person who engages in the application of principles, methods and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to hearing and disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination, selection and use of appropriate hearing devices.

“*Board*” means the board of speech pathology and audiology.

“*Full-time*” means a minimum of 30 hours per week.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a speech pathologist or audiologist in the state of Iowa.

“*License expiration date*” means December 31 of odd-numbered years.

“*On site*” means:

1. To be continuously on site and present in the department or facility where services are being provided;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—300.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions.

“*Speech pathologist*” means a person who engages in the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, swallowing, fluency, voice, or language for the purpose of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

**645—300.2(147) Requirements for licensure.** The following criteria will apply to licensure:

**300.2(1)** Applicants will submit a completed online licensure application and pay the required fee.

**300.2(2)** The application will include:

- a.* An official copy of a current ASHA certificate of clinical competence; or
- b.* Submission of the following:
  - (1) Official copies of academic transcripts sent directly from the school to the board showing proof of completion of not less than 400 hours of supervised clinical training;
  - (2) Verification of nine months of full-time clinical experience, or equivalent, completed after the master’s degree, under the supervision of a licensed speech pathologist or audiologist or as a part of the doctoral degree; and
  - (3) Results of the Praxis Examination.

**300.2(3)** An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**300.2(4)** An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least five years of an independent license as described in subrule 240.10(4), sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

**645—300.3(147) Educational qualifications.**

**300.3(1)** The applicant shall possess the following:

- a. A master's degree from an accredited school, college or university with a major in speech pathology; or
- b. A master's or doctoral degree from an accredited school, college or university with a major in audiology.

**300.3(2)** Foreign-trained speech pathologists and audiologists will provide an equivalency evaluation at the licensee's expense of their educational credentials by one of the following: International Education Research Foundation, Inc. Credentials Evaluation Service. The professional curriculum must be equivalent to that stated in these rules.

**645—300.4(147) Examination requirements.** The examination required by the board will be the Praxis Examination in speech pathology or audiology. This examination is administered by the Educational Testing Service. The applicant will make arrangements to take the Praxis Examination in speech pathology or audiology and pay all expenses associated with taking the examination. The applicant will have the examination scores sent directly to the board from the Educational Testing Service.

**645—300.5(147) Speech therapy and audiology compact.** The rules of the speech therapy and audiology compact commission are incorporated by reference to Iowa Code section 147F.1. A speech therapist or audiologist may practice speech therapy or audiology in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the speech pathology and audiology compact commission.

**645—300.6(147) Temporary clinical license.** A temporary clinical license for the purpose of obtaining clinical experience as a prerequisite for licensure is valid for one year and may be renewed at the discretion of the board. The license shall be designated "temporary clinical license in speech pathology" or "temporary clinical license in audiology."

**300.6(1)** A speech pathology applicant will submit the following to the board:

- a. Evidence of supervision by a speech pathologist with an active, current Iowa license in good standing;
- b. A completed application form and the temporary clinical license fee;
- c. An official copy of the transcript sent directly from the school to the board;
- d. Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university; and
- e. Results of the Praxis Examination.

**300.6(2)** An audiology applicant or an applicant completing a doctoral externship must submit the following to the board:

- a. Evidence of supervision by an audiologist with an active, current Iowa license in good standing. The applicant completing an audiology doctoral externship must show evidence of on-site supervision;
- b. A completed application form and the temporary clinical license fee;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- c. An official copy of the transcript, sent directly from the school to the board;
- d. Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university; and
- e. Results of the Praxis Examination.

**300.6(3)** The plan for supervised clinical experience must be approved by the board before the applicant starts practice and shall:

- a. Include at least nine months of full-time clinical experience, or equivalent;
- b. Include supervision by an Iowa-licensed speech pathologist or audiologist, as appropriate. If the applicant is being supervised by more than one individual, each supervisor must submit a supervised clinical experience plan for approval. If there is a change in the supervised clinical experience plan at any time during the supervised clinical experience, the licensee must contact the board for approval within 30 days of the change;
- c. Be kept by the supervisor for two years from the last date of the clinical experience; and
- d. Include a completed supervised clinical experience report form that shall be submitted to the board of speech pathology and audiology upon the applicant's successful completion of the nine months of full-time clinical experience. If the applicant was supervised by more than one individual, each supervisor must submit a supervised clinical experience report.

**645—300.7(147) Temporary permit.**

**300.7(1)** A nonresident may apply to the board for a temporary permit to practice speech pathology or audiology:

- a. For a period not to exceed three months;
- b. By submitting a letter to support the need for such a permit;
- c. By submitting documents to show that the applicant has substantially the same qualifications as required for licensure in Iowa;
- d. By submitting the documentation prior to the date the applicant intends to begin practice; and
- e. By submitting the temporary permit fee.

**300.7(2)** The applicant shall receive a final determination from the board regarding the application for a temporary permit.

**645—300.8(147) Use of assistants.** A licensee will, in the delivery of professional services, utilize assistants only to the extent provided in these rules. Such assistants will use the title provided by these rules.

**300.8(1) Duties.**

- a. *Speech pathology assistant I.* A speech pathology assistant I works with an individual for whom significant improvement is expected within a reasonable amount of time.
- b. *Speech pathology assistant II.* A speech pathology assistant II works with an individual for whom maintenance of present level of communication is the goal; or for whom, based on the history and diagnosis, only slow improvement is expected.
- c. *Audiology assistant I.* An audiology assistant I is more broadly trained and may be given a variety of duties depending upon the individual's training.
- d. *Audiology assistant II.* An audiology assistant II is trained specifically for a single task for screening.

**300.8(2) Minimum requirements.**

- a. A speech pathology assistant I or II or audiology assistant I will satisfy the following minimum requirements:
  - (1) Reach the age of majority;
  - (2) Complete a high school education, or its equivalent; and
  - (3) Complete one of the following:
    - 1. A three-semester-hour (or four-quarter-hour) course in introductory speech and language pathology for speech pathology assistants or in audiology for audiology assistants from an accredited

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

educational institution and 15 hours of instruction in the specific tasks that the assistant will be performing; or

2. A minimum training period comprised of 75 clock hours on instruction and practicum experience.

*b.* An audiology assistant II will satisfy the following requirements:

(1) Reach the age of majority.

(2) Complete a high school education, or its equivalent.

(3) Complete a minimum of 15 clock hours of instruction and practicum experience in the specific task that the assistant will be performing.

**300.8(3) Utilization.** Utilization of a speech pathology or audiology assistant requires that a plan be developed by the licensee desiring to utilize that assistant, consisting of the following information:

*a.* Documentation that the assistant meets minimum requirements;

*b.* A written plan of the activities and supervision that will be kept by the licensee supervising the assistant. This supervision will include direct on-site observation for a minimum of 20 percent of the assistant's direct patient care for level I speech pathology and level I audiology assistants and 10 percent for level II speech pathology assistants. Level II audiology assistants will be supervised 10 percent of the time. At least half of that time will be direct on-site observation with the other portion provided as time interpreting results;

*c.* A listing of the facilities where the assistant will be utilized; and

*d.* A statement, signed by the licensee and the assistant, acknowledging the licensee and the assistant have read the rules pertaining to assistants.

**300.8(4) Maximum number of assistants.** A licensee may not utilize more than three assistants unless a plan of supervision is filed and approved by the board.

**300.8(5) Supervisor responsibilities.** A licensee who utilizes an assistant will have the following responsibilities:

*a.* To be legally responsible for the actions of the assistant in assigned duties with a client;

*b.* To make all professional decisions relating to the management of a client;

*c.* To ensure that the assistant is assigned only those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform;

*d.* To ensure compliance of the assistant(s) under supervision with the provisions of these rules by providing direct observation and supervision of the activities of the assistant; and

*e.* To submit to the board of speech pathology and audiology upon request a copy of the plan of activities and supervision for each assistant and documentation of the dates each assistant was utilized by the licensee.

**645—300.9(147) Licensure by endorsement.**

**300.9(1)** The board may issue a license by endorsement to any applicant from the District of Columbia or another state, territory, province or foreign country who has been a licensed speech pathologist or audiologist under the laws of another jurisdiction.

**300.9(2)** Verification the applicant meets the requirements of rule 645—300.2(147).

**300.9(3)** A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—300.10(147) License renewal.**

**300.10(1)** The biennial license renewal period for a license to practice speech pathology or audiology will begin on January 1 of an even-numbered year and end on December 31 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration.

**300.10(2)** An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

**300.10(3)** A licensee seeking renewal will:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* Meet the continuing education requirements of rule 645—303.2(147) and the mandatory reporting requirements of subrule 300.10(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**300.10(4) Mandatory reporter training requirements.**

*a.* A licensee who examines, attends, counsels, or treats children and/or dependent adults in the scope of a licensee's professional practice will complete the applicable department of health and human services' training relating to the identification and reporting of child abuse and/or dependent adult abuse. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

*b.* The board may select licensees for audit of compliance with the requirements in paragraphs 300.11(4) "a" through "b."

**300.10(5)** A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**300.10(6)** The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

**300.10(7)** Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.20(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

**300.10(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

**645—300.11(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license:

**300.11(1)** Submit a completed reactivation application and pay the nonrefundable application fee.

**300.11(2)** Provide verification of current competence to practice speech pathology and audiology by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 30 hours of continuing education within two years of application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

4. Any disciplinary action taken against the license; and
  - (2) Verification of completion of 60 hours of continuing education within two years of application for reactivation; or
  - (3) Verification of passing the Praxis Examination in speech pathology or audiology within the last two years prior to application for reactivation.

**645—300.12(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing speech pathology and audiology in this state.

These rules are intended to implement Iowa Code chapters 17A, 147 and 272C.

**ARC 7469C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to practice of speech pathologists and audiologists and providing an opportunity for public comment**

The Board of Speech Pathology and Audiology hereby proposes to rescind Chapter 301, “Practice of Speech Pathologists and Audiologists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 154F, 272C, 147, and 17A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 154F, 272C, 147, and 17A.

*Purpose and Summary*

This proposed rule provides Iowans, licensees, and employers of licensees with definitions relevant to the practice of speech pathologists and audiologists and requirements for telehealth appointments. This rule articulates practice standards and provides a scope of practice for the profession.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11:10 to 11:30 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#
January 31, 2024 11:10 to 11:30 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 301 and adopt the following **new** chapter in lieu thereof:

CHAPTER 301  
PRACTICE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

**645—301.1(147) Telehealth visits.** A licensee may provide speech pathology or audiology services to a patient utilizing a telehealth visit if the services are provided in accordance with the following:

**301.1(1)** “Telehealth visit” means the provision of speech pathology or audiology services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location during the appointment.

**301.1(2)** A licensee engaged in a telehealth visit will utilize technology that is secure and HIPAA-compliant (Health Insurance Portability and Accountability Act of 1996, PL 104–191, August 21, 1996, 110 Stat 1936), and that includes, at a minimum, audio and video equipment that allows

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an appointment or to communicate with a patient between appointments.

**301.1(3)** A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person speech pathology or audiology services. A licensee will not utilize a telehealth visit if the standard of care for the particular speech pathology or audiology service cannot be met using technology.

**301.1(4)** Prior to the first telehealth visit, a licensee will obtain informed consent from the patient specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent will specifically inform the patient of the following:

*a.* The risks and limitations of the use of technology to provide speech pathology or audiology services;

*b.* The potential for unauthorized access to protected health information; and

*c.* The potential for disruption of technology during a telehealth visit.

**301.1(5)** A licensee will only provide speech pathology or audiology services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

**301.1(6)** A licensee will identify in the clinical record when speech pathology or audiology services are provided utilizing a telehealth visit.

**301.1(7)** Speech pathology or audiology services in Iowa through telephonic, electronic, or other means constitute the practice of speech pathology or audiology and require Iowa licensure, regardless of the location of the speech/language pathologist or audiologist.

This rule is intended to implement Iowa Code chapters 147 and 154F.

**ARC 7470C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to continuing education for speech pathologists and audiologists and providing an opportunity for public comment**

The Board of Speech Pathology and Audiology hereby proposes to rescind Chapter 303, "Continuing Education for Speech Pathologists and Audiologists," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 154F, 272C and 147.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 154F, 272C, 147 and 17A.

*Purpose and Summary*

These proposed rules set forth continuing education requirements for speech pathologists and audiologists. The rules include definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that speech pathologists and audiologists maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

*Fiscal Impact*



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11:10 to 11:30 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#
January 31, 2024 11:10 to 11:30 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 303 and adopt the following **new** chapter in lieu thereof:

CHAPTER 303  
CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS  
AND AUDIOLOGISTS

**645—303.1(147) Definitions.** For the purpose of these rules, the following definitions will apply:

“AAA” means the American Association of Audiology.

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“ASHA” means the American Speech-Language Hearing Association.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of speech pathology and audiology.

“Continuing education” means an approved program/activity that is directly related to the sciences or contemporary clinical practice of audiology, speech-language pathology and speech-language-hearing science and whose content and focus are beyond the basic preparation required for entry into the professions.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“License” means license to practice.

“Licensee” means any person licensed to practice speech pathology or audiology or both in the state of Iowa.

**645—303.2(147) Continuing education requirements.**

**303.2(1)** The biennial continuing education compliance period will run concurrently with each two-year period between January 1 of each even-numbered year and December 31 of each odd-numbered year. Each biennium, a person who is licensed to practice as a speech pathology or audiology licensee in this state will be required to complete a minimum of 30 hours of continuing education approved by the board. A person holding licensure in both speech pathology and audiology must meet the requirements for each profession. Continuing education hours do not carry over.

**303.2(2)** Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

**303.2(3)** Hours of continuing education credit may be obtained by participation in an approved program or activity. Such programs and activities may take place individually or in group settings including in-person conferences, journal readings, teleconferences, videoconferences and online programs or activities as long as such programs and activities meet the criteria specified in the definition of continuing education in rule 645—303.1(147).

**303.2(4)** No hours of continuing education will be carried over into the next biennium except as stated for second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**303.2(5)** The licensee is responsible for the cost of continuing education.

**645—303.3(147,272C) Standards.**

**303.3(1) General criteria.** A continuing education program or activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education program or activity:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- a. Meets the definition of continuing education as defined in rule 645—303.1(147);
- b. Is conducted by individuals who have specialized education, training and experience in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- c. Fulfills state program goals, objectives, or both; and
- d. Provides proof of attendance, including:
  - (1) Date(s), location, course title, presenter(s);
  - (2) Number of program contact hours; and
  - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**303.3(2) Specific criteria.**

a. Subject matters that integrally relate to the practice of speech pathology or audiology or both that will be considered for approval are:

(1) Basic communication processes. Information (beyond the basic licensure requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information that would enable expansion of knowledge in the basic communication processes.

(2) Professional areas. Information pertaining to disorders of speech, language, and hearing, i.e., various types of disorders of communication, their manifestations, classification and causes; evaluation skills, including procedures, techniques, and instrumentation for assessment; and management procedures and principles in habilitation and rehabilitation of communication disorders. The board will accept dysphagia courses provided by qualified instructors.

(3) Related areas. Study pertaining to the understanding of human behavior, both normal and abnormal, as well as services available from related professions that apply to the contemporary practice of speech-language pathology/audiology, e.g., theories of learning and behavior; services available from related professions that also deal with persons who have disorders of communication; information from these professions about the sensory, physical, emotional, social or intellectual states of child or adult; professional ethics; clinical supervision; counseling; and interviewing.

Unacceptable subject matter includes personal development, human relations, collective bargaining, and tours. A licensee may elect to take the Praxis Examination in speech pathology or audiology in lieu of earning continuing education credits. The licensee will have the results of the examination sent to the board by the agency administering the examination.

b. A licensee may present professional programs that meet the criteria in this rule. Two hours of credit will be allowed for each hour of newly developed presentation material. A maximum of 16 hours may be obtained per biennium. A course schedule or brochure must be maintained for audit.

c. A combined total of six hours per biennium may be used for the following activities:

- (1) Government regulations;
- (2) CPR, child abuse and dependent adult abuse; and
- (3) A maximum of two hours may be used for business-related topics.

d. An applicant will provide official transcripts indicating successful completion of academic courses that apply to the field of speech pathology and audiology in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

e. Continuing education credit may be earned by participation in continuing education programs and activities that meet the criteria in this rule and that are completed through journal readings, teleconference or videoconference participation, and online program participation. In addition, such programs and activities must include a posttest that the participant must pass in order to receive continuing education credit.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*f.* Continuing education will be obtained by attending a program that meets the criteria in subrule 303.3(1) including but not limited to continuing education programs offered by AAA and ASHA. Other individuals or groups may offer continuing education programs that meet the criteria in rule 645—303.3(147,272C) through one of the following organizations:

- (1) National, state or local associations of speech pathology and audiology;
- (2) Schools and institutes of speech pathology and audiology;
- (3) Universities, colleges or community colleges.

Continuing education must be offered by or approved in advance of delivery by the organizations stated above.

These rules are intended to implement Iowa Code section 272C.2 and chapter 147.

**ARC 7471C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to discipline for speech pathologists and audiologists and providing an opportunity for public comment**

The Board of Speech Pathology and Audiology hereby proposes to rescind Chapter 304, “Discipline for Speech Pathologists and Audiologists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 154F, 272C, 147, and 17A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 154F, 272C, 147, and 17A.

*Purpose and Summary*

This proposed rule provides protection to Iowans because it publicly defines disciplinary options when a speech pathologist or audiologist fails to provide the standard of care. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against a licensee’s license. Iowans have the ability to submit a complaint to the Board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Health and Human Services Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the speech pathologist and audiologist professions and are therefore excluded from the general disciplinary chapter. The grounds for discipline required in this rule are related to unethical conduct and are required by Iowa Code chapter 154F.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11:10 to 11:30 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#
January 31, 2024 11:10 to 11:30 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 304 and adopt the following **new** chapter in lieu thereof:

CHAPTER 304  
DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—304.1(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—13.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645—Chapter 13.

**304.1(1)** Violation of the following code of ethics:

*a.* Licensees will provide ethical, professional services, conduct research with honesty and compassion, and respect the dignity, worth and rights of those served.

*b.* Claims of expected clinical results will be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.

*c.* Records will be adequately maintained for the period of time required by applicable state and federal laws.

*d.* Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.

*e.* Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.

*f.* Licensees who engage in research will comply with all institutional, state, and federal regulations that address any aspects of research, including those that involve human participants and animals, such as those promulgated in the current Responsible Conduct of Research by the U.S. Office of Research Integrity.

*g.* Individuals in administrative or supervisory roles will not require or permit their professional staff to provide services or conduct clinical activities that compromise the staff members' independent and objective professional judgment.

*h.* Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, age, ethnicity, gender identity/gender expression, sexual orientation, national origin, disability, culture, language or dialect.

*i.* Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances will be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.

*j.* Licensees who dispense products to persons served professionally will provide clients with freedom of choice for the source of services and products.

*k.* Failure to comply with current Food and Drug Administration regulations 21 CFR §801.420 (2022), "Hearing aid devices; professional and patient labeling," and 21 CFR §801.421 (2022), "Hearing aid devices; conditions for sale."

*l.* Licensees will comply with universal newborn and infant hearing screening requirements within Iowa Code section 135.131 and 641—Chapter 3.

**304.1(2)** Reserved.

This rule is intended to implement Iowa Code chapters 147 and 272C.

**ARC 7487C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure of sign language interpreters and transliterators and providing an opportunity for public comment**

The Board of Sign Language Interpreters and Translitterators hereby proposes to rescind Chapter 361, "Licensure of Sign Language Interpreters and Translitterators," Iowa Administrative Code, and to adopt a new chapter with the same title.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 154E.3, 272C.3, 272C.4 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154E and 272C.

*Purpose and Summary*

These proposed rules set minimum standards for entry into the sign language interpreter and transliterator profession. Iowa residents, licensees and employers benefit from the rules because they articulate the processes by which individuals apply for licensure as a sign language interpreter or transliterator in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process and examinations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

January 30, 2024  
12:10 to 12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone: 1.904.330.1060  
PIN: 744 558 427#

January 31, 2024  
12:10 to 12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone: 1.904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 361 and adopt the following **new** chapter in lieu thereof:

*SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS*

- CHAPTER 361 LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
- CHAPTER 362 CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
- CHAPTER 363 DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361

LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

**645—361.1(154E) Definitions.** For purposes of these rules, the following definitions will apply:

*“Active interpreter or transliterator services”* means the actual time spent personally providing interpreting or transliterating services or providing interpreting or transliterating services through videoconferencing or remotely. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting will not be included in the time spent personally providing interpreting or transliterating services.

*“Active license”* means a license that is current and has not expired.

*“Board”* means the board of sign language interpreters and transliterators.

*“Direct supervision of a temporary license holder”* means monitoring of interpreting or transliterating services while personally observing the temporary license holder providing those services, as outlined in paragraphs 361.3(4)“b” and “c.”

*“Grace period”* means the 30-day period following expiration of a license when the license is still considered to be active.

*“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Licensee*” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is or has been licensed in another state.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—361.9(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions.

“*Supervisor*” means a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3 and subrule 361.2(1) who provides on-site evaluations and advisory sessions with a temporary license holder for the purpose of the professional development of that temporary license holder.

**645—361.2(154E) Requirements for licensure.**

**361.2(1)** The following criteria will apply to licensure:

*a.* Applicants will submit a completed online licensure application and pay the nonrefundable fee; and

*b.* Applicants will provide proof of one of the following:

(1) Passes the National Association of the Deaf/Registry of Interpreters for the Deaf (NAD/RID) National Interpreter Certification (NIC) examination after November 30, 2011; or

(2) Passes one of the following examinations administered by the Registry of Interpreters for the Deaf (RID):

1. Oral Transliteration Certificate (OTC); or

2. Certified Deaf Interpreter (CDI); or

(3) Passes the Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above after December 31, 1999; or

(4) Passes the Cued Language Transliterator National Certification Examination (CLTNCE) administered by The National Certifying Body for Cued Language Transl iterators; or

(5) Currently holds one of the following NAD/RID certifications awarded through November 30, 2011, by the National Council on Interpreting (NCI):

1. National Interpreter Certification (NIC); or

2. National Interpreter Certification Advanced (NIC Advanced); or

3. National Interpreter Certification Master (NIC Master); or

(6) Currently holds one of the following certifications previously awarded by the RID:

1. Certificate of Interpretation (CI); or

2. Certificate of Transliteration (CT); or

3. Certificate of Interpretation and Certificate of Transliteration (CI and CT); or

4. Interpretation Certificate/Transliteration Certificate (IC/TC); or

5. Comprehensive Skills Certificate (CSC); or

(7) Currently holds one of the following certifications previously awarded by the National Association of the Deaf (NAD):

1. NAD III (Generalist); or

2. NAD IV (Advanced); or

3. NAD V (Master); or

(8) Currently holds an advanced or master certification awarded by the Board for Evaluation of Interpreters (BEI).

**361.2(2)** Licensees who were issued their licenses within six months prior to the renewal will not be required to renew their licenses until the renewal cycle two years later.

*a.* An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*b.* An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

**645—361.3(154E) Requirements for temporary license.**

**361.3(1)** An applicant who has not successfully completed one of the board-approved examinations or does not hold an approved certification set forth in paragraph 361.2(1)“*d*” will provide verification the applicant has passed one of the following:

- a.* The written portion of the Registry of Interpreters for the Deaf (RID) examination;
- b.* The written portion of the Board for Evaluation of Interpreters (BEI) examination;
- c.* The written portion of the Educational Interpreter Performance Assessment (EIPA) examination;
- d.* The EIPA prehire examination at the highest recommended level;
- e.* An associate degree or higher from a formal interpreter training program (ITP) with a regionally accredited college or university;
- f.* The American Sign Language Proficiency Interview (ASLPI) at the 2+ level or higher; or
- g.* The Sign Language Proficiency Interview (SLPI) at the intermediate level or higher.

**361.3(2)** Submit a written supervisory agreement that complies with the requirements stated in subrule 361.3(4). The temporary license will be valid for two years from the initial issue date and may be renewed once for the immediately following two-year period.

**361.3(3)** A temporary license holder is only authorized to practice if the following direct supervision requirements are fulfilled:

*a.* Enter into a written agreement with a supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in paragraphs 361.3(4)“*b*” and “*c*.” The supervisor will possess a full, unrestricted sign language interpreter and transliterator license. The agreement will be signed and dated by the temporary license holder and the supervisor; will include the temporary license holder's and supervisor's names, addresses and contact information; and will be provided to the board with the application for a temporary license.

*b.* Have a supervisor observe the temporary license holder in active practice for no fewer than six bimonthly observation sessions per year for at least 30 minutes each, if the temporary license holder is working alone, or at least 60 minutes each, if the temporary license holder is working in a team interpreting situation.

*c.* Attend at least six bimonthly advisory sessions with the supervisor per year for the purpose of discussing the supervisor's suggestions for the temporary license holder's professional skill development based on the observation sessions.

*d.* Maintain an event log documenting the date, time, length and setting of each observation session and advisory session. This event log will be submitted with the temporary license holder's renewal application.

*e.* Ensure that the supervisor attends each of the observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.

*f.* If the replacement of a supervisor becomes necessary, the temporary license holder will develop a new written agreement with the new supervisor.

*g.* Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

**361.3(4)** As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subrule 361.3(4) is obligated to report

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

to the board an interpreter or transliterator temporary license holder who is not complying with direct supervision requirements or who is not practicing in compliance with Iowa law and rules including, but not limited to, Iowa Code chapter 154E and 645—Chapters 361 through 363.

**645—361.4(154E) Licensure by endorsement.**

**361.4(1)** An applicant who has been a licensed sign language interpreter or transliterator under the laws of another jurisdiction will file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

- a. Meets the requirements of rule 645—361.2(154E);
- b. Shows evidence of licensure requirements that are similar to those required in Iowa; and
- c. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board.

**361.4(2)** Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—361.5(154E) License renewal.**

**361.5(1)** The biennial license renewal period for a license to practice as a sign language interpreter or transliterator will begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration.

**361.5(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

**361.5(3)** A licensee applying for renewal will:

a. Meet the continuing education requirements as provided in 645—subrules 362.2(1) and 362.2(2) or, in lieu of meeting such requirements, provide proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) as evidence of meeting continuing education requirements. A licensee whose license was reactivated during the current biennial license period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee, and attach verification of completion of continuing education hours on the website before the license expiration date.

**361.5(4)** A two-year license will be issued after the requirements of the rule are met. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**361.5(5)** The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

**361.5(6)** Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.18(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

**361.5(7)** Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

**645—361.6(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee needs to:

**361.6(1)** Submit a completed online reactivation application and pay the nonrefundable fee.

**361.6(2)** If licensed in another jurisdiction, submit a license verification document that discloses disciplinary action taken against the license in the jurisdiction where the applicant was most recently licensed. The document should come directly from that jurisdiction.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**361.6(3)** Provide verification of current competence to practice sign language interpreting or transliterating by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation; and

(3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive; or

(4) Verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been licensed and has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; or

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation; and

(3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive; and

(4) Verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

**645—361.7(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing sign language interpreting or transliterating in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

**ARC 7488C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education  
and providing an opportunity for public comment**

The Board of Sign Language Interpreters and Transliterators hereby proposes to rescind Chapter 362, "Continuing Education for Sign Language Interpreters and Transliterators," Iowa Administrative Code, and to adopt a new chapter with the same title.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 147, 154E and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154E and 272C.

*Purpose and Summary*

These proposed rules set forth continuing education requirements for sign language interpreters and transliterators. The rules include definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rules, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that sign language interpreters and transliterators maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

January 30, 2024  
12:10 to 12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone: 1.904.330.1060  
PIN: 744 558 427#

January 31, 2024  
12:10 to 12:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone: 1.904.330.1060  
PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 362 and adopt the following **new** chapter in lieu thereof:

CHAPTER 362  
CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND  
TRANSLITERATORS

**645—362.1(154E,272C) Definitions.** For the purpose of these rules, the following definitions apply:

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of sign language interpreters and transliterators.

“Continuing education” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“License” means license to practice.

“Licensee” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—362.2(154E,272C) Continuing education requirements.**

**362.2(1)** Requirements for permanent licensees. The continuing education compliance period runs concurrently with each two-year renewal period beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year. Each person who is licensed to practice as a sign language interpreter or transliterator in this state will be required to complete a minimum of 40 hours of continuing education as specified in rule 645—362.3(154E,272C).

**362.2(2)** Exception for new permanent licensees. A person licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of the license. Thereafter, the new licensee will complete the continuing education requirements as set forth in rule 645—362.3(154E,272C). The licensee may use continuing education hours acquired anytime from the initial licensing until the second license renewal to meet the requirements.

**362.2(3)** National Interpret Certification (NIC) or Registry of Interpreters for the Deaf (RID) Certification. A licensee who provides proof of a current NIC or current RID Certification meets continuing education requirements for that biennium renewal cycle.

**362.2(4)** Requirements for temporary license holders. The continuing education compliance period runs concurrently with each two-year renewal period beginning on the date of initial licensure. Temporary license holders will be required to obtain 40 hours of continuing education as set forth in rule 645—362.3(154E,272C). The temporary license holder may use only continuing education hours acquired during the current renewal period. Proof of continuing education hours acquired will be submitted with a temporary license renewal application.

**362.2(5)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

**362.2(6)** No hours of continuing education will be carried over into the next renewal period.

**362.2(7)** The licensee is responsible for the cost of continuing education.

**645—362.3(154E,272C) Standards.**

**362.3(1)** *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Is an organized program of learning fundamental to the practice of the profession that contributes directly to the professional competency of the licensee;
- b. Is conducted by individuals who have specialized education and training in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- c. Fulfills stated program goals, objectives, or both; and
- d. Provides proof of attendance, including:
  - (1) Date, location, course title, and presenter(s);
  - (2) Number of program contact hours; and
  - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**362.3(2)** *Specific criteria.*

a. Continuing education will be obtained by attending programs relating to the practice of interpreting or transliterating for the deaf or hard of hearing and that are:

(1) Educational activities, including lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences;

(2) Obtained in content areas that conform to the content areas specified in the RID Certification Maintenance Program Standards and Criteria for Approved Sponsors, revised edition, June 2004, with the exception of the number of continuing education units (CEUs) required, which is defined in paragraph 362.3(2) "b." RID activity categories of independent study or teaching an academic class are not professional study categories that can be claimed for credit by temporary license holders.

b. Each renewal period, licensees will obtain 40 hours (4 CEUs) of continuing education, including no less than 30 hours (3 CEUs) of professional studies. The remaining 10 hours (1 CEU) may be in either professional or general studies. The board will accept proof of a current NIC or current RID Certification in lieu of proof of the 40 hours of continuing education.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

1 CEU = 10 continuing education hours

These rules are intended to implement Iowa Code section 272C.2 and chapter 154E.

**ARC 7489C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to discipline for sign language interpreters and transliterators and providing an opportunity for public comment**

The Board of Sign Language Interpreters and Transliterators hereby proposes to rescind Chapter 363, “Discipline for Sign Language Interpreters and Transliterators,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 154E and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154E and 272C.

*Purpose and Summary*

These proposed rules provide protection to Iowans because the rules publicly define disciplinary options when a sign language interpreter or transliterator fails to provide the standard of care. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the licensee’s license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Health and Human Services Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the sign language interpreter and transliterator professions and are therefore excluded from the general disciplinary chapter. The grounds for discipline required in these rules are related to unethical conduct and are required by Iowa Code chapter 154E.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A waiver provision is not included in this rulemaking because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Jessica O'Brien  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.6352  
Email: [jessica.o'brien@dia.iowa.gov](mailto:jessica.o'brien@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 12:10 to 12:30 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone: 1.904.330.1060 PIN: 744 558 427#
January 31, 2024 12:10 to 12:30 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone: 1.904.330.1060 PIN: 744 558 427#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at a hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 363 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 363

## DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

**645—363.1(154E) Definitions.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Consumer*” means an individual utilizing interpreting services who uses spoken English, American Sign Language, or a manual form of English, and in an interpreting situation or setting, the term “consumer” includes both the deaf or hard-of-hearing individual or individuals and the hearing individual or individuals present in such situation or setting.

**645—363.2(154E,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—363.2(154E,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

**363.2(1) Unethical conduct.** In accordance with Iowa Code section 147.55(3), behavior (e.g., acts, knowledge, and practices) that constitutes unethical conduct includes but is not limited to the following:

*a.* Engaging in sexual activities or sexual contact with a consumer when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter’s or transliterator’s objectivity, competence, or effectiveness.

*b.* Failure to decline or to withdraw from an interpreting or transliterating assignment when the interpreter or transliterator does not possess the professional skills and knowledge required for the specific interpreting or transliterating situation or setting.

*c.* Failure to refrain from providing advice or personal opinions or aligning with one person over another in the course of one’s professional duties.

*d.* Discriminating against a consumer on the basis of age, sex, race, creed, illness, marital status, political belief, religion, mental or physical disability or diagnosis, sexual orientation, or economic or social status.

*e.* Failure to inform a consumer when federal or state laws require disclosure of confidential information.

*f.* Failure to avoid a conflict of interest when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter’s objectivity, competence, or effectiveness; or failure to disclose to a consumer an actual or perceived conflict of interest.

*g.* Failure to present a professional appearance that is not visually distracting and is appropriate to the setting.

**363.2(2)** Failure by a temporary license holder to comply with the requirements of 645—subrule 361.2(6).

These rules are intended to implement Iowa Code chapters 147, 154E and 272C.

**ARC 7283C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to the practice of tattooing  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 22, “Practice of Tattooing,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 135.37 and 2023 Iowa Acts, Senate File 514.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and section 135.37; 2023 Iowa Acts, Senate Files 219 and 514; and Executive Order 10 (January 10, 2023).

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Purpose and Summary*

This proposed rulemaking proposes promulgation of a new Chapter 22. This rulemaking implements Iowa Code section 10A.531 as transferred by 2023 Iowa Acts, Senate File 514 (formerly Iowa Code section 135.37), “Tattooing—Permit Requirement—Penalty,” and Iowa Code chapter 17A in accordance with the goals and directives of Executive Order 10.

Iowa Code section 10A.531 provides that a “person shall not own, control and lease, act as an agent for, conduct, manage, or operate an establishment to practice the art of tattooing or engage in the practice of tattooing without first applying for and receiving a permit from the department [of inspections, appeals, and licensing].” The Department is required to adopt rules “pursuant to chapter 17A and establish and collect all fees necessary to administer [Iowa Code section 10A.531]” and “[e]stablish minimum safety and sanitation criteria for the operation of tattooing establishments.”

The proposed rules establish definitions; general provisions related to licensing, including permissible zoning and annual inspections; sanitation and infection control standards; equipment use and sanitation requirements; and proper tattooing procedures in order to prevent the spread of infection and disease. The proposed rules also provide various types of permits, including tattoo establishment permits, tattoo artist permits, temporary establishment permits, and mobile tattoo unit permits, and fees associated therewith. The goal of the multiple types of permits is to ensure the operators identify and control for public health hazards while accommodating variations in specific physical facilities depending on the scope or type of each operation. Finally, the proposed rules provide for tattoo inspector qualifications, enforcement procedures, and procedures for contesting adverse action.

A public hearing on the Regulatory Analysis for these proposed rules (IAB 11/1/2023) was held on November 21, 2023. No public comment was received. Notably, the proposed rules have been updated to correct erroneous citations, updating citations from Iowa Code chapter 135 to Iowa Code chapter 10A.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

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

January 30, 2024  
9:40 a.m.

6200 Park Avenue  
Des Moines, Iowa

January 31, 2024  
9:40 a.m.

6200 Park Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 22 and adopt the following **new** chapter in lieu thereof:

CHAPTER 22  
PRACTICE OF TATTOOING

**641—22.1** Reserved.

**641—22.2(10A) Definitions.** For the purpose of these rules, the following definitions apply:

*"Aftercare"* means written instructions given to a client, specific to the procedures rendered, on care for the tattoo and surrounding area and guidance on when to seek medical treatment.

*"Department"* means the same as defined in Iowa Code section 10A.101.

*"Director"* means the same as defined in Iowa Code section 10A.101.

*"Disinfectant"* means a U.S. Environmental Protection Agency (EPA)-registered antimicrobial product that is applied to surfaces to destroy microorganisms that are living on the surface but not necessarily bacterial spores.

*"Imminent health threat"* means a condition or conditions that exist in a tattoo establishment and need immediate action to prevent endangering the health of people.

*"Impervious"* means nonporous, impenetrable, smooth, and washable.

*"Inspection agency"* means the department or a city, county or district board of health that has executed an agreement with the department to inspect tattoo establishments and enforce these rules. The authority of a city, county or district board of health is limited to the geographic area defined in the agreement executed with the department. Within the defined geographic area, the city, county or district board of health is the "local inspection agency."

*"Mobile tattoo unit"* means a mobile establishment or unit that is self-propelled or otherwise movable from place to place; is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal; and operates at a fixed location where a permitted artist performs tattooing procedures for no more than 14 days in conjunction with a single event.

*"Residential dwelling"* is a place or structure intended to be occupied as a residence.

*"Single use"* means intended for one-time use and disposed of after use on a client. Single-use products or items include cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, disposable razors, tattoo needles, scalpel blades, stencils, ink cups, and protective gloves. Cloth towels and linens are not "single use" and are barred.

*"Sterilization"* means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores that demonstrate tuberculocidal activity.

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

“*Tattoo artist*” means any person, including a permanent color technologist, engaged in the practice of tattooing.

“*Tattoo establishment*” means the building or portion of the building designated by the owner where tattooing is practiced.

“*Tattooing*” means to puncture the skin of a person with a needle and insert indelible permanent colors through the puncture to leave permanent marks or designs. “Tattooing” includes permanent color technology that is the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into the dermis portion of the skin so as to form indelible marks for cosmetic purposes. “Tattooing” does not include applying a tattoo for radiological purposes.

“*Temporary establishment permit*” means a permit issued by the department to perform tattoo procedures at a temporary event.

“*Temporary event*” means any place or premises operating at a fixed location where a tattoo artist performs tattooing procedures for no more than 14 days consecutively in conjunction with a single event or celebration to which the general public is invited.

**641—22.3(10A) General provisions.**

**22.3(1)** Tattoo artists and tattoo establishments that fail to meet the criteria of Iowa Code section 10A.531 or these rules are guilty of a serious misdemeanor.

**22.3(2)** Compliance with Iowa Code section 10A.531 and these rules does not exempt tattoo artists and tattoo establishments from other applicable state or local laws.

**22.3(3)** Tattooing may only be practiced in facilities that have applied for and received a tattoo establishment permit pursuant to Iowa Code section 10A.531.

**22.3(4)** Notwithstanding local zoning codes, where zoning codes exist, tattooing shall not be practiced in a residential dwelling, inclusive of an attached garage. New tattoo establishments must be in commercial buildings where zoning ordinances exist. A waiver will be granted to any tattoo establishment in a residential dwelling if it has been operating continuously since being granted a permit prior to January 1, 2010.

**22.3(5)** Tattoo establishments are inspected annually.

**641—22.4(10A) Sanitation and infection control.** Tattoo establishments shall comply with the following:

**22.4(1)** Tables, chairs, and other general-use equipment in the tattoo area are constructed of impervious and easily cleanable material.

**22.4(2)** A sink for hand washing supplied with potable hot and cold running water under pressure to a mixing-type faucet is easily accessible in the tattooing area. Hand-washing facilities are supplied with liquid soap and single-use towels or hand dryer.

**22.4(3)** Easily accessible toilet facilities with a sink for hand washing are available for employee use and patron use.

**22.4(4)** The tattoo establishment has an area of at least 300 square feet and is adequately lighted and ventilated.

**22.4(5)** Floors in the tattoo area are finished with an impervious, washable surface.

**22.4(6)** The entire premises and all facilities used in connection therewith are maintained in a clean, sanitary, vermin-free condition and in good repair.

**22.4(7)** All refuse is stored in rigid containers with plastic liners that are emptied at least once each business day.

**22.4(8)** Closed cabinets or containers are exclusively used for the storage of instruments, dyes, pigments, stencils, tattoo machines, and other equipment.

**22.4(9)** Smoking is not allowed pursuant to Iowa Code chapter 142D.

**22.4(10)** Consumption of food or drink is not allowed in the tattoo area.

**22.4(11)** Intoxicating beverages or controlled substances will not be used, consumed, served, possessed, or distributed on the establishment’s premises.

**22.4(12)** Tattoo artists not currently permitted in the state of Iowa will not tattoo in the establishment.

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

**22.4(13)** No animals, except service animals, are permitted in a tattoo establishment. Aquariums containing fish are allowed in waiting rooms and non-tattoo areas.

**641—22.5(10A) Equipment.** Tattoo establishments shall maintain equipment in a clean and sanitary condition and comply with the following:

**22.5(1)** Cups to hold ink or dye are for single-patron use. Any ink or dye, once dispensed into an ink cup, is disposed of immediately following use.

**22.5(2)** Any dye or ink in which needles were dipped is not used on another person.

**22.5(3)** All tubes, tips and grips used for the tattoo procedure that are not sterile, not for single-patron use, and not disposable are physically cleaned with a detergent according to manufacturers' recommendations and then steam-sterilized or dry-heat sterilized before use on another person. Steam sterilization is at 250 degrees Fahrenheit (121 degrees Celsius) for 15 minutes at a minimum pressure of 15 pounds per square inch. Dry-heat sterilization is at 350 degrees Fahrenheit (170 degrees Celsius) for one hour. Steam sterilization is preferred.

**22.5(4)** All instruments needing sterilization are sterilized on site. All instruments to be sterilized are placed in closed pouches after sterilization is complete. The pouches are dated effective for 30 days, after which the instruments are resterilized and the pouches redated.

**22.5(5)** Sterilizers are monitored monthly for spores of *Bacillus subtilis*, and records of results are maintained for three years. Written procedures to follow in the event of positive spore tests are maintained and implemented, including:

*a.* In the event of a positive spore test, materials processed in that sterilizer, dating from the sterilization cycle having the positive biological indicator to the next cycle showing satisfactory biologic indicator challenge results, are considered nonsterile and are reprocessed before being used.

*b.* A sterilizer that has received a positive spore test is immediately removed from service.

*c.* Prior to putting a sterilizer that has received a positive spore test back into service, the owner ensures that there is evidence of one negative spore test.

*d.* The owner notifies the inspection agency of a positive spore test within 24 hours of receiving the test result.

**22.5(6)** Establishments are equipped with a puncture-resistant, leakproof container designated for disposal of used needles and other sharps. The container is red and labeled with the "biohazard" symbol and is closeable for handling, storage, transportation, and disposal. A written plan for disposal is maintained in the establishment.

**22.5(7)** Any bottles of solution are labeled as to contents and used according to manufacturers' directions.

**22.5(8)** Single-use razors for removal of unwanted hair are disposed of after use on one patron. Electric razors used to remove unwanted hair of a patron are cleaned with a brush and fungicidal/tuberculocidal disinfectant spray.

**22.5(9)** Topical ointments are prepared for single-patron use.

**641—22.6(10A) Procedures.** Tattoo establishments shall comply with the following:

**22.6(1)** Tattoo establishments will establish a written standard operating procedure (SOP) that includes the process for setup and tear down of tattoo procedures. The SOP focuses on procedures of hygiene and cross-contamination control.

**22.6(2)** For privacy purposes and at the patron's request, establishments have in place or readily available a nontransparent panel or other barrier of sufficient height and width to effectively separate the patron from any unwanted observers or waiting patrons.

**22.6(3)** Tattoo artists scrub their hands thoroughly before beginning the tattoo procedure. Tattoo artists dry their hands with individual single-use towels or hand dryer.

**22.6(4)** Tattoo artists wear clean garments and disposable latex, nitrile, chloroprene, or vinyl gloves during the tattoo procedure. Gloves are changed after each tattoo. Tattoo artists wash their hands before and after each tattoo procedure.

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

**22.6(5)** All items with which the gloved hands of the tattoo artist would normally come into contact during the tattooing procedure have appropriate barrier films covering them, including clip cords, squeeze bottles, seat adjustment controls, power control dials or buttons, and work lamps.

**22.6(6)** The skin area to be tattooed is first cleansed with soap and water. Single-use towels or sponges (gauze) are used during the cleansing procedure.

**22.6(7)** Before placing the tattoo design on the patron's skin, the tattoo artist prepares the skin with 70 percent ethyl or isopropyl alcohol solution or an equally effective antiseptic or antimicrobial.

**22.6(8)** Tattooing is not performed on any area where there is evidence of skin infection, irritation, or abnormalities.

**22.6(9)** After the tattooing is completed, the tattoo artist:

*a.* Applies an adequate dressing or bandage to the tattoo area.  
*b.* Provides to the persons tattooed printed aftercare instructions regarding tattoo care during the healing process.

*c.* Thoroughly cleans the machine head with an acceptable disinfectant and sprays an acceptable surface disinfectant over the work area during the clean-up procedures before the area is set up for the next tattoo procedure.

**641—22.7(10A) Permit issuance and renewal.** The following apply to applications for a permit to practice as a tattoo artist or as a tattoo establishment.

**22.7(1)** An applicant will complete either an online application or a paper application according to the instructions contained in the application. Paper applications are available to download at the department's website. Each application must be accompanied by the appropriate fee as set forth in subrule 22.8(2) to be processed. A paper application is accompanied by the appropriate fee payable by check or money order to the department. Online application fees are paid by credit card only. An application that includes insufficient or incorrect fees is considered incomplete. If the applicant is notified that the application is incomplete, the applicant should contact the department within 90 days. Incomplete applications are considered invalid and destroyed after 90 days.

**22.7(2)** Documentation of medical conditions and criminal convictions related to the practice of the profession shall include a full explanation from the applicant. No application is considered complete until the applicant responds to any program requests for additional information regarding the applicant's medical condition or criminal conviction.

**22.7(3)** All permits expire on December 31 for the year issued. An applicant will submit a completed application, supporting documentation, and renewal fee annually by December 1 for renewal. The permit holder has a current permit in possession before performing tattooing. An applicant who submits a renewal application after December 1 will be obligated to pay an additional \$25 for each month delinquent.

**22.7(4)** The permit holder is responsible for renewing the permit prior to its expiration.

**22.7(5)** A permit that has not been renewed within 90 days of the permit expiration date will automatically be deactivated. There will be a \$25 reinstatement fee charged for reactivating a permit in addition to the renewal fee.

**641—22.8(10A) Fees.**

**22.8(1)** All fees are nonrefundable.

**22.8(2)** Fees for all initial and renewal applications are as follows:

- a.* Tattoo artist: \$75.
- b.* Tattoo establishment: \$100.
- c.* Temporary tattoo establishment:
  - (1) 0 to 10 participating artists: \$100.
  - (2) 11 to 100 participating artists: \$200.
  - (3) 101 or more participating artists: \$300.
- d.* Mobile tattoo unit: \$100.
- e.* Mobile tattoo event: \$25 per event.

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

- f.* Tattoo establishment change of ownership: \$25.
- g.* Tattoo establishment change of location: \$25.
- h.* Mobile tattoo unit change of location: \$25.

**641—22.9(10A) Tattoo establishment permit criteria.**

**22.9(1)** No tattoo establishment may operate in the state without having a permit to operate issued by the department. Permits shall be posted in a conspicuous location in the tattoo establishment.

**22.9(2)** A person applying for a tattoo establishment permit will submit a floor plan of the establishment with the application.

**22.9(3)** A permit to operate is issued to a new establishment when the department or its representative has successfully completed an on-site inspection.

**22.9(4)** Tattoo establishment permits are nontransferable.

**22.9(5)** A tattoo establishment shall retain a record of all persons who have had tattoo procedures performed at the establishment. Records include the client's name and date of birth, copy of client's identification, date of the procedure, name of the tattoo artist who performed the procedure(s), and signature of client. Records shall be retained in a confidential manner for a minimum of three years and made available to the department or inspection agency upon request.

**22.9(6)** Change in ownership. Within 30 days of a change in ownership of a tattoo establishment, the new owner shall submit a change in ownership application and fee for a new permit. An on-site inspection will be completed before a permit to operate will be issued.

**22.9(7)** Within 30 days of a change of location of a tattoo establishment, the owner shall submit a change of location application and a fee for a new permit. An on-site inspection will be completed by the inspection agency before a permit to operate will be issued.

**641—22.10(10A) Tattoo artist permit criteria.**

**22.10(1)** No person may perform tattooing without a current permit to operate issued by the department.

**22.10(2)** Each permit issued is in effect solely for the tattoo artist named thereon and remains with the tattoo artist upon any change of employment. Tattoo artist permits are nontransferable.

**22.10(3)** An applicant for a tattoo artist permit must be at least 18 years of age and submit government-issued documentation to show proof of attaining the age of 18 years.

**22.10(4)** A tattoo artist must provide proof of current certification by the American Red Cross for blood-borne pathogens and standard first aid or other equivalent, nationally recognized certification.

**22.10(5)** Permits shall be posted in a conspicuous place in the tattoo establishment.

**641—22.11(10A) Temporary establishment permit criteria.**

**22.11(1)** A person must submit a temporary tattoo establishment application form, a floor plan of the facility, promotional documentation for the event, and the appropriate fee at least 30 days prior to the event to obtain a temporary establishment permit. Fees are based on the number of participating tattoo artists. The application will specify the following:

- a.* The purpose for which the permit is requested.
- b.* The period of time during which the permit is needed (not to exceed 14 calendar days per event).
- c.* The fulfillment of tattoo artist criteria as specified in rule 641—22.10(10A). A list of participating tattoo artists shall be sent to the tattoo program no later than one week prior to the event.
- d.* The location at which the temporary event will be held.

**22.11(2)** The temporary event must be inside a permanent building and comply with the following:

*a.* Conveniently located hand-washing facilities with liquid soap, single-use towels or hand dryers and potable hot and cold water under pressure to a mixing-type faucet are provided. Drainage in accordance with local plumbing codes are provided.

*b.* A minimum of 80 square feet of floor space is provided for each booth.

*c.* There is sufficient lighting where the tattoo procedure is being performed.



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

*d.* All tubes, tips and grips used for the tattoo procedure that are not single use are properly sterilized and dated 30 days or less prior to the date of the event. Evidence of a spore test performed on the sterilization equipment is dated 30 days or less prior to the date of the event. Single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers is allowed.

*e.* Tattoo artists properly clean and sanitize the area used for tattoo procedures.

*f.* Floors of the tattooing area(s) are smooth and impervious or covered with an impermeable barrier.

**22.11(3)** The facility where the temporary event will be held must be inspected by the designated inspection agency and issued a permit prior to the performance of any tattoo procedures. A \$50 inspection fee for each booth shall be made payable to the inspection agency.

**22.11(4)** No animals, except service animals, are allowed in the temporary establishment at any time.

**22.11(5)** Temporary establishment permits issued under the provisions of these rules may be suspended by the department for failure of the holder to comply with these rules.

**22.11(6)** Temporary establishment permits and tattoo artist permits shall be posted in a conspicuous place in the temporary establishment.

**641—22.12(10A) Mobile tattoo unit permit criteria.** No new mobile tattoo units will be permitted. Mobile tattoo units granted a permit prior to September 7, 2016, may continue to operate with a current permit provided they remain compliant with the rules of this chapter. Mobile tattoo units and tattoo artists working from mobile tattoo units shall comply with the following:

**22.12(1)** No mobile tattoo unit is operated in the state without having a permit to operate issued by the department.

**22.12(2)** All tattoo artists working in a mobile tattoo unit have a permit and comply with these rules. Artist permits are posted in a conspicuous location in the mobile tattoo unit.

**22.12(3)** Mobile tattoo unit permits are posted in a conspicuous place in the mobile tattoo unit.

**22.12(4)** Mobile tattoo unit permits are nontransferable.

**22.12(5)** Within 30 days of a change of address of where the mobile tattoo unit is housed, the owner submits a new application and a fee for a new permit.

**22.12(6)** Inspections will be conducted by the local jurisdiction in which the mobile tattoo unit is housed. Any out-of-state mobile tattoo units maintaining an Iowa mobile tattoo unit permit must be inspected annually.

**22.12(7)** Mobile tattoo units are permitted for use only at temporary events lasting 14 calendar days or less. Permits are obtained at least 14 days prior to the event, and no tattoo procedures are performed before a permit is issued. Promotional documentation of the event is included with the application. Permit holders are responsible for compliance with all other local regulations including but not limited to zoning and business license criteria.

**22.12(8)** The mobile tattoo unit is maintained in a clean and sanitary condition at all times. Doors are tight-fitting. Openable windows have tight-fitting screens.

**22.12(9)** Mobile tattoo units meet the sterilization criteria in accordance with rule 641—22.5(10A).

**22.12(10)** Mobile tattoo units are used only for the purpose of performing tattoo procedures. No habitation or food preparation is permitted inside the vehicle unless the tattoo work station is separated from such areas by an impervious floor-to-ceiling barrier.

**22.12(11)** Mobile tattoo units are equipped with a hand sink for use of the tattoo artist for hand washing and preparing the client for the tattoo procedures. The hand sink is supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels in dispensers or hand dryer. An adequate supply of potable water is maintained for the mobile tattoo unit at all times during operation. The source of the water and storage of the tank(s) is also identified.

**22.12(12)** All liquid wastes are stored in an adequate storage tank with a capacity at least 15 percent greater than the capacity of the on-board potable water supply. Liquid wastes are disposed of at a publicly owned treatment works site approved by the department of natural resources (DNR).

**22.12(13)** Restroom facilities are available at the temporary event or within the mobile tattoo unit. A hand sink is available within a reasonably acceptable distance from the restroom. The hand sink is

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

supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels or hand dryer.

**22.12(14)** All tattoo artists working in a mobile tattoo unit have a permit and comply with these rules. Permits are posted in a conspicuous location in the mobile tattoo unit.

**22.12(15)** No animals, except service animals, are allowed in the mobile tattoo unit at any time.

**641—22.13(10A) Inspections.**

**22.13(1)** An inspection fee of \$250 is due upon receipt of a notice of payment due, which will be billed by the inspection agency upon completion of an inspection.

**22.13(2)** Tattoo establishments are inspected annually and the reports of inspections maintained by the inspection agency for three years.

**22.13(3)** When the tattoo establishment is located within the jurisdiction of a local inspection agency, the local inspection agency may establish fees needed to defray the costs of inspection and enforcement under this chapter. Inspection fees billed by a local inspection agency are paid to the local inspection agency or its designee.

**22.13(4)** When an inspection agency determines that a special inspection is necessary, such as a follow-up inspection or an inspection generated by complaints, the inspection agency may charge a special inspection fee based on the actual cost of providing the inspection.

**22.13(5)** Unpaid inspection fees are delinquent 30 days after the date of the bill. A late fee of \$30 per month will be assessed to the establishment owner after a 30-day notice. If inspection fees remain unpaid after 60 days, an order to cease and desist operations will be issued by the department.

**22.13(6)** Failure to allow an inspection is grounds for denial or suspension of a tattoo establishment's permit.

**22.13(7)** If an imminent health threat exists, the inspection agency or the department may order the establishment to cease operation immediately pursuant to Iowa Code section 17A.18A. Operation shall not be resumed until authorized by the inspection agency or the department.

**22.13(8)** Safety data sheets (SDS) for the chemicals used at the tattoo establishment shall be maintained at the establishment and made available upon request.

**22.13(9)** The most recent routine inspection report, along with any reinspection reports, shall be posted in a location at the establishment that is readily visible to the public.

**641—22.14(10A) Tattoo inspector qualifications.** Tattoo inspectors shall have successfully completed a blood-borne pathogen certification course from the American Red Cross or an equivalent nationally recognized organization, documentation of which is maintained by the local inspection agency.

**641—22.15(10A) Enforcement.** The inspection agency may take the following steps when enforcement of these rules is necessary.

**22.15(1) Owner notification.** The inspection agency will provide written notification to the owner of the establishment that:

- a. Cites each section of the Iowa Code or rule of the Iowa Administrative Code violated.
- b. Specifies the manner in which the owner or operator failed to comply.
- c. Specifies the steps needed for correcting the violation.
- d. Requests a corrective action plan, including a time schedule for completion of the plan.
- e. Sets a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the owner of the establishment must respond.

**22.15(2) Corrective action plan review.** The inspection agency will review the corrective action plan and approve it or direct modifications.

**22.15(3) Failure to comply.** If the owner of a tattoo establishment, mobile tattoo unit, or temporary establishment fails to comply with conditions of the written notice, the inspection agency may take enforcement action in accordance with Iowa Code chapter 10A or local ordinances.

**641—22.16(10A) Adverse actions and appeals.**

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

**22.16(1)** Failure to abide by Iowa Code section 10A.531 or this chapter may result in adverse action, including the denial or revocation of a permit, or an order to cease operations until necessary corrective action has been taken. If the establishment continues to be operated in violation of the order of the department, the department may refer the matter to the county attorney or attorney general for injunction, criminal penalties, or other appropriate action.

**22.16(2)** The following are particular instances that may result in adverse action as set forth in subrule 22.16(1):

- a.* Any material misstatement in the application, renewal, or any supplementary statement.
- b.* Failure to pay fees in accordance with this chapter.
- c.* Operation without a current permit.
- d.* Falsification of records, qualifications, or other information related to permitting approval.
- e.* Failure to correct any violation identified during an inspection that jeopardizes public safety.
- f.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts that may constitute unethical conduct include:
  - (1) Verbally or physically abusing a patron.
  - (2) Improper sexual contact with, sexual harassment of, or improper sexual advances upon a patron. Sexual harassment includes sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
  - (3) Betrayal of a professional confidence.
  - (4) Engaging in a professional conflict of interest.
- g.* Failing to cooperate with an investigation or engaging in conduct attempting to subvert an investigation.
- h.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- i.* Knowingly aiding, assisting or advising a person to unlawfully practice tattooing.
- j.* Representing oneself as a tattoo artist when one's permit has been denied, suspended, revoked, lapsed, or placed on inactive status.
- k.* Mental or physical inability reasonably related to and adversely affecting the tattoo artist's ability to practice in a safe and competent manner.
- l.* Habitual intoxication or addiction to drugs, including habitual or excessive use of drugs or alcohol that impair a tattoo artist's ability to practice with reasonable skill or safety.
- m.* Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.
- n.* Violating a statute of this state or another jurisdiction relating to the provision of tattooing, including but not limited to crimes involving dishonesty, fraud, theft, embezzlement, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.
- o.* Having a certification or permit to practice tattooing suspended or revoked, or other disciplinary action taken by a licensing, certifying, or permitting authority in any jurisdiction. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.
- p.* Failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.
- q.* Failure to appropriately respond to written communication from the department sent by registered or certified mail.

**22.16(3)** Notice of issuance of a denial, revocation, or order to cease operations will be served by certified mail, return receipt requested, or by personal service.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**22.16(4)** An aggrieved party may request a contested case appeal in writing to the department within 20 days from the date of the aggrieved party's receipt of the department's order. 481—Chapters 9 and 10 are applicable to contested case appeals.

These rules are intended to implement Iowa Code section 10A.531 as transferred by 2023 Iowa Acts, Senate File 514, section 1711.

**ARC 7316C**

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to plumbing and mechanical systems licensee practice and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 23, "Plumbing and Mechanical Systems Board—Licensee Practice," Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 105.4(2), 105.5, 105.10 and 105.21.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 105.

#### *Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 23 and implements Iowa Code chapter 105 in accordance with the goals of Executive Order 10 (January 10, 2023). This rulemaking defines the various license types and establishes expectations and duties for licensure and supervision. It also establishes that inactive licenses and lapsed licenses are not valid for practice. This is important to the industry and the public because it creates an understanding of what is expected of licensed individuals and businesses. The public can be assured that licensed businesses have the appropriate bonding and insurance and that their employees are appropriately supervised. The industry can be assured that all licensed individuals and businesses are following the same standards throughout Iowa.

The Department did not receive any comments on the published Regulatory Analysis for this chapter (IAB 11/1/23). Only nonsubstantive changes were made to the proposed chapter from the Regulatory Analysis.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

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

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23  
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE PRACTICE

**641—23.1(105) Definitions.** The definitions set forth in Iowa Code section 105.2 are incorporated herein by reference. For purposes of these rules, the following additional definitions apply:

“*Inactive license*” means a license that is available for a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level. An inactive license must be renewed prior to its expiration date. An inactive license is not valid for practice until the license is reactivated by the board.

“*Lapsed license*” means a license that has expired. A lapsed license is no longer valid for practice.

“*Licensee*” means a person holding a license issued by the board, including an apprentice, journeyman, or master license in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronics trades; a combined license; a special, restricted sublicense; or a medical gas certificate.

“*Master of record*” means an individual possessing an active master license under Iowa Code chapter 105 who shall be responsible for the proper designing, installing, and repairing of plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems and who is actively in charge of the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic work of a contractor.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—23.2(105) Duties of all licensees, specialty licensees, and certificate holders.**

**23.2(1)** While conducting business or performing work covered under Iowa Code chapter 105, each licensee will keep a copy of the licensee's board-issued license on the licensee's person or in an easily retrievable area at the work site.

**23.2(2)** Each licensee will maintain a residential or business address on record with the board. In the event the licensee's residential or business address changes, the licensee will so notify the board.

**23.2(3)** Each licensee will apply for and obtain all applicable permits prior to performing any work covered under Iowa Code chapter 105 as may be mandated by any law, ordinance, or regulation of this state, or a political subdivision therein.

**23.2(4)** A licensee will present upon request a copy of the licensee's board-issued license issued under Iowa Code section 105.12(2).

**23.2(5)** A licensee possessing a lapsed license cannot operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a medical gas system installer or work in a specialty license discipline until the license is reinstated and renewed.

**23.2(6)** Each licensee will perform all Iowa Code chapter 105-covered work in conformity with the applicable professional code.

**23.2(7)** A licensee will not perform any Iowa Code chapter 105-covered work for which the licensee does not possess the requisite license.

**23.2(8)** A licensee will conform to the minimum standard of acceptable and prevailing practice and will exercise the degree of workmanlike care which is ordinarily exercised by the average licensee in the applicable trade acting in the same or similar circumstances.

**23.2(9)** A licensee who utilizes the services of an unlicensed person as a helper will be responsible for the work performed by the helper and shall ensure that such work conforms to the minimum standard of acceptable and prevailing practice.

**641—23.3(105) Contractor license.** A contractor licensed under Iowa Code chapter 105 will adhere to the following, the violation of which may give rise to disciplinary action:

**23.3(1) *Master license.*** A contractor will not engage in the business of designing, installing, or repairing plumbing, mechanical, HVAC-refrigeration, or hydronic systems unless at all times the contractor holds or employs at least one person holding an active master license issued by the board for each discipline in which the contractor conducts business. Without prior board approval, a contractor will not knowingly utilize a master licensee to meet this requirement if the master licensee is simultaneously associated with another contractor in that discipline.

*a.* Notwithstanding subrule 23.3(1), in the event a licensed master of record's employment with the contractor is terminated, or the master of record otherwise discontinues the master of record's relationship with the contractor, or the master of record's master license is lapsed, suspended, revoked, expired, or otherwise invalidated, the contractor may continue to provide plumbing, mechanical, HVAC-refrigeration, or hydronic systems services for a period of up to six months without identifying a new master of record.

*b.* To utilize the six-month grace period set forth in paragraph 23.3(1) "a," a contractor will notify the board of the contractor's loss of the master of record within 30 days from the date the master of record is no longer associated with the contractor, absent exigent circumstances.

**23.3(2) *Display of license.*** A person holding a contractor license will keep the current license certificate publicly displayed in the primary place in which the person practices.

**23.3(3) *Surety bond.*** A person or entity holding a contractor license must maintain during the licensing period a surety bond issued by an entity licensed to do business in Iowa in a minimum amount of \$5,000. If a person operates the contractor business as a sole proprietorship, the person must personally obtain and maintain the surety bond. If a person operates the contractor business as an employee or owner of a legal entity, the legal entity must obtain and maintain the surety bond, and the surety bond must cover all plumbing or mechanical work performed by the legal entity. The surety bond mandated under this subrule must contain a provision that requires the issuing entity to provide the board ten days' written notice before the surety bond can be canceled.

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

**23.3(4) *Public liability insurance.*** A person or entity holding a contractor license must maintain during the licensing period public liability insurance issued by an entity licensed to do business in Iowa in a minimum amount of \$500,000. If a person operates the contractor business as a sole proprietorship, the person must personally obtain and maintain the public liability insurance. If a person operates the contractor business as an employee or owner of a legal entity, the legal entity must obtain and maintain the public liability insurance, and the public liability insurance must cover all plumbing and mechanical work performed by the legal entity. The public liability insurance mandated under this subrule must contain a provision that requires the issuing entity to provide the board ten days' written notice before the public liability insurance can be canceled.

**23.3(5) *Contractor registration with the department.*** A contractor will maintain registration as a contractor with the director pursuant to Iowa Code chapter 91C by providing the board with the necessary information.

**23.3(6) *Permanent place of business.*** A contractor will maintain a permanent place of business, the address of which will be provided to the board. If a contractor changes the permanent place of business, the contractor will provide the board the new address within 30 days of the change.

**23.3(7) *Licensure.*** A contractor will not knowingly allow an employee to perform work covered under Iowa Code chapter 105 without the applicable license.

**23.3(8) *Supervision.*** A contractor will not knowingly allow an apprentice employed by the contractor to perform work covered under Iowa Code chapter 105 without supervision of the apprentice by a master or journeyman who is also employed by the contractor and who is licensed in the discipline in which the apprentice is performing such work.

**641—23.4(105) *Master license.*** A master licensed under Iowa Code chapter 105 will adhere to the following, the violation of which may give rise to disciplinary action:

**23.4(1) *Contractor relationship.*** A master may only be a master of record for one contractor in any particular discipline at any one time, except that a contractor or a master may seek prior board approval to serve as the master of record for more than one contractor in a particular discipline. An individual who possesses master licenses in multiple disciplines may be a master of record for multiple contractors so long as the individual is only a master of record for one contractor in any particular discipline at one time.

**23.4(2) *Contractor.*** A master will not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

**23.4(3) *Supervision.*** A master who superintends the design, installation, or repair of plumbing, mechanical, HVAC-refrigeration, or hydronic systems will be available to supervise journeymen or apprentices as needed and may only provide such supervision in the discipline or disciplines in which the master is licensed. A master will not knowingly supervise unlicensed persons who perform work covered under Iowa Code chapter 105 for which a board-issued license is required.

**23.4(4) *Master of record.*** A master who serves as a master of record for a contractor and who disassociates from the contractor will notify the board and the contractor of the disassociation, if notice was not previously provided, within 30 days from the date of disassociation, absent exigent circumstances.

**641—23.5(105) *Journeyman license.*** A journeyman licensed under Iowa Code chapter 105 will adhere to the following, the violation of which may give rise to disciplinary action:

**23.5(1) *Working under supervision.*** A journeyman will work under the supervision of a master licensed in the discipline of the work being performed in the design, installation, and repair of plumbing, mechanical, HVAC-refrigeration, or hydronic systems.

**23.5(2) *Contractor.*** A journeyman will not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

**23.5(3) *Supervision.*** A journeyman who superintends one or more apprentices may only provide such supervision in the discipline(s) in which the journeyman is licensed and only while performing work for the same contractor licensed under Iowa Code chapter 105. A journeyman shall not

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

knowingly supervise unlicensed persons who perform work covered under Iowa Code chapter 105 for which a board-issued license is required.

**641—23.6(105) Apprentice license.** An apprentice licensed under Iowa Code chapter 105 will adhere to the following mandates, the violation of which may give rise to disciplinary action:

**23.6(1) Working under supervision.** An apprentice may only perform work covered under Iowa Code chapter 105 under the supervision of a master or journey person.

**23.6(2) Contractor.** An apprentice will not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

**23.6(3) Dual licensure as an apprentice barred.** A licensee cannot simultaneously possess both an active apprentice license and an active specialty license.

**641—23.7(105) Specialty licenses and certifications.**

**23.7(1) Medical gas certification.**

*a.* A person who possesses a medical gas certification and who performs medical gas brazing will maintain the person's brazing continuity.

*b.* A person who possesses a medical gas certification will maintain the person's valid certification issued from the National Inspection Testing Certification Corporation (NITC) or an equivalent authority approved by the board.

**23.7(2) Hearth systems specialty license.**

*a.* A person who possesses a hearth systems specialty license will maintain the person's valid certification issued from the National Fireplace Institute or equivalent authority approved by the board.

*b.* A hearth systems specialty license allows a licensee to perform work in the installation of gas burning and solid fuel appliances that offer a decorative view of the flames, from the connector pipe to the shutoff valve located within three feet of the appliance. A hearth systems specialty license further allows for work in the venting systems associated with a hearth appliance, log lighters, gas log sets, fireplace inserts, and freestanding stoves. A hearth systems specialty license does not allow a licensee to install a shutoff valve or perform any other mechanical or HVAC-refrigeration work.

*c.* A person possessing a hearth systems specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

**23.7(3) Service technician HVAC specialty license.**

*a.* A licensee who holds a service technician HVAC specialty license by demonstrating the licensee possesses a valid certification from North American Technician Excellence, Inc. or an equivalent authority approved by the board will maintain valid certification from North American Technician Excellence, Inc. or an equivalent authority approved by the board.

*b.* A service technician HVAC specialty license allows a licensee to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than three feet from the appliance. A service technician HVAC specialty license does not allow a licensee to perform any other mechanical or HVAC-refrigeration work.

*c.* A person possessing a service technician HVAC specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

**23.7(4) Disconnect/reconnect plumbing technician specialty license.**

*a.* A disconnect/reconnect plumbing technician specialty license allows a licensee to perform work from the appliance shutoff valve or the fixture shutoff valve to the appliance or fixture and any part or component of the appliance or fixture, including the disconnection and reconnection of the existing appliance or fixture to the water or sewer piping and the installation of a shutoff valve no more than



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

three feet from the appliance or fixture. A disconnect/reconnect plumbing technician specialty license does not allow a licensee to perform any other plumbing work.

*b.* A person possessing a disconnect/reconnect plumbing technician specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

**23.7(5) Private school or college routine maintenance specialty license.**

*a.* A private school or college routine maintenance specialty license allows a licensee to perform routine maintenance within the scope of the licensee's employment with a private school or college. For purposes of this subrule, "routine maintenance" means the maintenance, repair, or replacement of existing fixtures or parts of plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers or water, gas, or steam piping permanent repairs except for traps and strainers. Routine maintenance includes emergency repairs. Routine maintenance does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than 100 gallons in size.

*b.* A person possessing a private school or college routine maintenance specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

**23.7(6) Dual licensure as an apprentice prohibited.** A licensee cannot simultaneously possess both an active apprentice license and an active specialty license.

**641—23.8(105) Inactive license.**

**23.8(1)** A person possessing an inactive license under 641—subrule 29.2(6) will not perform any plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic work for which licensure is mandated so long as the person's license is held in inactive status.

**23.8(2)** A person possessing an active journeyman/inactive master license under 641—subrule 29.2(5) will not perform any plumbing, mechanical, HVAC-refrigeration, or hydronic work for which a master license is mandated so long as the person's master license is held in inactive status.

**23.8(3) Inactive specialty license.**

*a.* A person possessing an active specialty license under rule 641—23.7(105) will submit a written request to place the specialty license on inactive status in order to obtain an active apprentice license. The licensee will acknowledge that the licensee is unable to perform any work covered under Iowa Code chapter 105 outside of the apprenticeship program.

*b.* Notwithstanding 641—subrule 28.1(3), a person possessing both an inactive specialty license and an active apprentice license need not pay a renewal fee for the inactive specialty license so long as the person remains actively licensed as an apprentice.

*c.* Notwithstanding 641—subrule 30.2(2), a person possessing an inactive specialty license and an active apprentice license need not obtain any continuing education hours for renewal so long as the person remains actively licensed as an apprentice.

*d.* A person possessing both an inactive specialty license and an active apprentice license may surrender the apprentice license and reactivate the specialty license upon written request and payment of the fee for an active specialty license in the amount specified in 641—Chapter 28.

These rules are intended to implement Iowa Code chapter 105.

**ARC 7284C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to backflow prevention assembly tester registration and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 26, “Backflow Prevention Assembly Tester Registration,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 135K.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 135K; 2023 Iowa Acts, Senate File 514; and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 26. This rulemaking implements Iowa Code chapter 135K and 2023 Iowa Acts, Senate File 514, in accordance with the goals and directives of Executive Order 10.

Iowa Code section 135K.3 provides that a “person shall not test or repair backflow prevention assemblies without first having registered with and having been approved by the department.” The Department is required to adopt rules providing for the establishment of minimum qualifications for registered backflow prevention assembly testers, minimum standards for approved courses, establishment and collection of fees to defray the cost of administering Iowa Code chapter 135K, provision of a listing of registered backflow prevention assembly testers to local health officials, and the administration and enforcement of Iowa Code chapter 135K.

The proposed rules establish pertinent definitions related to backflow prevention assembly testing; standards related to training, including procedures and for the approval of tester training courses, continuing education requirements, and approval of third-party certification agencies; general provisions related to initial and renewal registrations, including setting fees; standards of conduct for registered testers, including record retention and the verification of equipment accuracy; and penalties and standards for denial, probation, suspension, or revocation of registration, training course approval, or third-party certification approval.

Public comments were received from the International Association of Plumbing and Mechanical Officials (IAPMO) in response to the published Regulatory Analysis (IAB 11/1/23). IAPMO requested that the definition of “ASSE” be updated to mean “ASSE International”; the definition of “certified” be updated to include “ASSE”; and the definition of “backflow prevention assembly” be updated to include “ASSE” and that product standard references in the backflow prevention assembly table be updated. These proposed revisions have been incorporated.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

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

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:40 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:40 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 26 and adopt the following new chapter in lieu thereof:

CHAPTER 26  
BACKFLOW PREVENTION ASSEMBLY TESTER REGISTRATION

**641—26.1(135K) Definitions.**

“*ABPA*” means the American Backflow Prevention Association.

“*Administrative authority*” means an individual, board, department, or agency employed by a city, county or other political subdivision of the state and authorized by local ordinance to administer and enforce the provisions of the plumbing code.

“*Approved continuing education course*” means a department-approved course designed to supplement or refresh the knowledge of a registered tester and to meet the requirements of subparagraph 26.5(2) “a”(2).

“*Approved training course*” means a department-approved course designed to train individuals to test and repair backflow prevention assemblies.

“*ASSE*” means ASSE International.

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

“*AWWA*” means the American Water Works Association.

“*Backflow prevention assembly*,” for the purposes of this chapter, means a device or means to prevent backflow into a potable water system for which a method of testing the device in-line has been published by the Foundation for Cross-Connection Control and Hydraulic Research at the University of Southern California or by ASSE.

NOTE: The following assemblies are included under this definition. This is not intended to be an exclusive list. If new devices and test methods are introduced that meet the definition, they are included under the rules.

Backflow Prevention Assembly	Product Standards
Double Check Valve Assembly	ASSE 1015-2021, AWWA C510-07
Double Check Detector Assembly	ASSE 1048-2021
Pressure Vacuum Breaker	ASSE 1020-2021
Reduced Pressure Principle Backflow Preventer	ASSE 1013-2021, AWWA 511-07
Reduced Pressure Detector Assembly	ASSE 1047-2021
Spill Resistant Pressure Vacuum Breaker	ASSE 1056-2013-R2021

“*Certified*” means certified as a backflow prevention assembly tester under the requirements of ABPA, ASSE, or another third-party certification agency.

“*Department*” means the same as defined in Iowa Code section 135K.1(3).

“*Proctor*” means an individual designated by a third-party certification agency to conduct certification examinations of backflow prevention assembly testers.

“*Registered backflow prevention assembly tester*” or “*registered tester*” means the same as defined in Iowa Code section 135K.1(4).

“*Third-party certification agency*” means ABPA, ASSE or another agency approved by the department to certify the knowledge and skills of backflow prevention assembly testers.

**641—26.2(135K) Registration.** No person shall test or repair a backflow prevention assembly unless the person is a registered backflow prevention assembly tester.

**641—26.3(135K) Returned checks.** Any person who submits a check to the department that is returned for insufficient funds will incur a \$15 fee.

**641—26.4(135K) Backflow prevention assembly tester training.**

**26.4(1) Tester training.**

*a.* A person or organization that plans to conduct or sponsor a backflow prevention assembly tester training course in Iowa shall apply to the department for approval of the course at least 15 days before the first time the course is held, using an application form provided by the department and submitting a \$200 nonrefundable fee.

*b.* The department will review the application and respond to the applicant within ten business days after receipt.

*c.* The person or organization responsible for the course content shall submit to the department any changes in the information set forth in paragraph 26.4(1) “*a*” every five years, no later than 30 calendar days before the end of the fifth year.

*d.* The course sponsor shall notify the department at least 15 days before an approved training course begins. The notification will include:

(1) Sponsoring organization name and website, contact person, mailing address, email address, and telephone number.

(2) Course dates and times.

(3) Course location, including street address.

(4) A \$50 nonrefundable fee.

*e.* A training course shall:

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

- (1) Be at least 32 instructional hours and cover the following minimum subjects:
  1. Backflow definitions, causes and examples.
  2. Description of backflow prevention assemblies, their proper application and installation, and their operational characteristics.
  3. Description and operational characteristics of test equipment.
  4. Techniques for testing backflow prevention assemblies.
  5. Troubleshooting of backflow prevention assemblies.
  6. Record keeping and the responsibilities of regulatory agencies and the registered tester.
- (2) Conclude with a written examination of at least 100 questions and a practical examination of testing techniques on all types of testable backflow prevention assemblies. The time for testing is in addition to the instructional hours. A score of at least 70 percent on the written examination and demonstration of proficiency in testing and troubleshooting procedures constitutes successful completion of the course. Approved third-party certification agency testing may be substituted for the course test.
  - f. The lead course instructor shall have documentation of successfully completing an approved training course or be certified, and have at least three years of experience in cross connection control.
  - g. The testing laboratory for a training course shall be equipped with the following:
    - (1) Examples of each of the backflow prevention assemblies from at least three different manufacturers. If fewer than three manufacturers make a type of backflow prevention assembly, at least one example of that type of backflow prevention assembly.
    - (2) At least one double check valve assembly and one reduced pressure principle assembly larger than two inches.
    - (3) At least one test station per three students.

**26.4(2) Continuing education training.**

- a. A person or organization that plans to conduct or sponsor a continuing education course for registered testers in Iowa shall apply to the department for approval of the course at least 15 days before the course is scheduled to begin, using an application form provided by the department and submitted with a \$50 nonrefundable fee.
- b. The department will review the application and respond to the applicant within ten business days after receipt.
- c. A continuing education course will address cross connection control theory and practice; backflow prevention devices and methods; backflow prevention assembly installation, testing, troubleshooting and repair; codes and rules affecting cross connection control; safety issues related to installation and testing of backflow prevention assemblies; or related subjects approved by the department.

**26.4(3) Third-party certification agencies.**

- a. Third-party certification agencies seeking approval in Iowa shall submit a written request to the department, on agency letterhead and signed by an authorized representative of the agency, that includes at least the following:
  - (1) Agency name and website, contact person, mailing address, email address, and telephone number.
  - (2) A description of the written examination, whether it is open- or closed-book, and information about the arrangements for administration of the examination.
  - (3) A copy of the testing procedures that are the basis for the practical examination.
  - (4) A description of the procedures for the practical examination and the criteria for evaluating performance.
  - (5) Proctor qualifications and training.
  - (6) Procedures and criteria for renewing the certification. The renewal of certification will be completed at least every five years and include knowledge and skills testing.
  - (7) A history of the development and implementation of the program, as applicable.
  - (8) A list of other jurisdictions where the certification is allowed and regulatory contacts in those jurisdictions.
  - (9) A nonrefundable fee of \$200.

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

b. A third-party certification agency will not certify an individual who was trained by the agency. An individual proctor will not certify individuals who have taken a course at which the proctor was an instructor.

c. A third-party certification agency shall submit to the department any changes to the information set forth in paragraph 26.4(3)“a” every five years, no later than 30 days before the end of the fifth year.

**641—26.5(135K) Registration.****26.5(1) Initial registration.**

a. A person who has successfully completed an approved training course may register with the department within one year of course completion. A person who is certified may register with the department. The applicant must submit:

- (1) A completed application form provided by the department.
- (2) Documentation of successful completion of an approved training course or certification.
- (3) A nonrefundable fee of \$72.

b. A person who has completed a course of training in another state may be registered in Iowa.

The person will submit:

- (1) A completed Iowa application form provided by the department.
- (2) Documentation that:

1. The person has successfully completed a training course meeting the hour and subject requirements for an approved training course (if the person completed the training course more than 12 months before the date of the application, provide documentation that the person has attended an average of at least 2.5 hours of continuing education training per year since completing the course), or

2. The person is certified, or

3. The person is registered as a backflow prevention assembly tester in a jurisdiction that has similar or greater requirements for training and continuing education than Iowa.

- (3) A nonrefundable fee of \$72.

c. Registration expires two years after it is issued.

**26.5(2) Renewal registration.**

a. Registered testers may renew 60 days prior to registration expiration and include:

- (1) A completed registration renewal application form provided by the department.
- (2) Documentation that the registered tester has completed at least five hours of approved continuing education courses during the registration period or documentation that the registered tester is certified.
- (3) A nonrefundable fee of \$72.

- (4) Registration renewal applications received after expiration will incur a \$10 penalty per month, to a maximum \$50 penalty.

b. If a registration has lapsed greater than 24 months, the person applying for renewal shall demonstrate that one of the following is true:

- (1) The person has successfully completed an approved training course within the 12 months before applying for registration renewal, or

- (2) The person is certified, or

- (3) The person is registered as a backflow prevention assembly tester in a jurisdiction that has similar or greater requirements for training and continuing education than does the state of Iowa.

**641—26.6(135K) Standards of conduct.**

**26.6(1)** A registered tester shall comply with these rules and any ordinances, rules and policies of the administrative authority in jurisdictions where the registered tester tests or repairs a backflow prevention assembly.

**26.6(2)** A registered tester shall maintain a record for each backflow prevention assembly tested for at least five years after the date on which the assembly was tested. Registered testers will complete an administrative authority's test report form if required by ordinance. Records may be reviewed during

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

normal business hours by an authorized representative of the department or administrative authority of the jurisdiction in which the assembly is located. The assembly record will include at least:

- a. The name, address and telephone number of the assembly owner.
- b. The location of the facility in which the assembly is located.
- c. The location of the assembly within the facility.
- d. The type, brand, model, size, and serial number of the assembly.
- e. The date and time of the test.
- f. Results of the test.
- g. Any assembly repairs or maintenance.

**26.6(3)** To field test a backflow prevention assembly, a registered tester shall use a differential pressure gauge, the accuracy of which is verified no less than every 13 months with results traceable to the National Institute of Standards and Technology (NIST). Any differential pressure gauge with an error of more than plus or minus 0.2 psi cannot be used to test a backflow prevention assembly. Methods of testing that use other types of equipment, including dual pressure gauges, water columns, or single pressure gauges, are not acceptable. For every test report record retained in accordance with subrule 26.6(2), the prior most recent accuracy verification for the differential pressure gauge shall be retained and made available to an authorized representative of the department or administrative authority of the jurisdiction in which the assembly is located.

**641—26.7(135K) Penalty.** In addition to other sanctions provided herein, a person who violates a provision of this chapter is guilty of a simple misdemeanor pursuant to Iowa Code section 135K.5.

**641—26.8(135K) Denial, probation, suspension or revocation.**

**26.8(1)** *Denial, probation, suspension or revocation of registration.* The department may deny an application for registration or renewal, place a registration on probation, suspend or revoke a registration, or order a registered tester not to test or repair backflow prevention assemblies when the department finds that the applicant or registered tester has committed any of the following acts:

- a. Negligence or incompetence in the testing of a backflow prevention assembly, including failure to report improper application or installation of a backflow prevention assembly to the facility owner and the administrative authority.
- b. Knowingly submitting a false report of a test of a backflow prevention assembly to the owner of the facility, the local administrative authority, or the department.
- c. Fraud in obtaining registration or renewal including, but not limited to:
  - (1) Intentionally submitting false information on an application for registration or renewal;
  - (2) Submitting a false or forged certificate or other record of training or certification.
- d. Falsification of the assembly records set forth in subrule 26.6(2).
- e. Failure to comply with these rules or the ordinances of an administrative authority in whose jurisdiction the registered tester tests a backflow prevention assembly.
- f. Failure to pay registration, renewal or late fees.
- g. Habitual intoxication or addiction to drugs.
- h. Violating a statute of this state or another jurisdiction relating to backflow prevention assembly testing, including but not limited to crimes involving dishonesty, fraud, theft, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.
- i. Suspension, revocation, or other disciplinary action pertaining to backflow prevention assembly testing in another jurisdiction. A copy of the record or order of suspension, revocation or disciplinary action is conclusive evidence.
- j. Knowingly making misleading, deceptive, untrue, or fraudulent representations regarding the testing of backflow prevention assemblies, or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts that may constitute unethical conduct include:
  - (1) Verbally or physically abusing a client or coworker.

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

(2) Improper sexual contact with, sexual harassment of, or improper sexual advances upon a client or coworker. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

*k.* Failing to cooperate with an investigation or engaging in conduct attempting to subvert an investigation.

*l.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

*m.* Knowingly aiding, assisting or advising a person to unlawfully practice as a backflow prevention assembly tester.

*n.* Representing oneself as a registered backflow prevention assembly tester when one's registration has been suspended, revoked, lapsed, or placed on inactive status.

*o.* Acceptance of any fee by fraud or misrepresentation.

*p.* Failure to appropriately respond to written communication from the department sent by registered or certified mail.

**26.8(2)** *Denial or revocation of training course approval.* The department may deny or revoke the approval for a training course or a continuing education course when it finds:

*a.* The lead instructor for a training course is not qualified in accordance with paragraph 26.4(1) "f."

*b.* The training course did not comply with paragraph 26.4(1) "e."

*c.* The training course testing laboratory did not comply with paragraph 26.4(1) "g."

*d.* The organization or person applying for approval of a training or continuing education course intentionally submitted false information to the department in support of such approval.

*e.* The organization or person conducting or sponsoring training has falsified training or continuing education records, including issuance of a certificate or other record of training to a person who did not successfully complete a training course or who did not attend continuing education training.

*f.* The organization or person responsible for a training or continuing education course has permitted physical or verbal abuse or sexual harassment of a student or instructor. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

*g.* The organization or person responsible for training courses and continuing education courses consistently fails to notify the department of such courses in a timely fashion as set forth in paragraphs 26.4(1) "d" and 26.4(2) "a," or fails to pay its fees.

*h.* Failure to comply with these rules.

**26.8(3)** *Denial or revocation of approval as a third-party certification agency.* The department may deny or revoke the approval for a third-party certification agency when it finds:

*a.* The application for approval contains material misinformation regarding the conduct and standards of the certification program or its acceptance in other jurisdictions.

*b.* Failure to adhere to the standards and procedures stated in the application for approval in the process of certifying or renewing the certification of testers.

*c.* Violations of paragraph 26.4(3) "b" or other failure to comply with these rules.

**26.8(4)** *Complaints.* Complaints regarding a registered tester, an approved training course, or a third-party certification agency may be sent to the department. The complainant should provide as much pertinent and specific information as to a potential violation as they are able to.

**26.8(5)** *Appeals.* Notice of denial, probation, suspension or revocation of registration; denial, probation or revocation of course approval; or denial, probation or revocation of third-party certification agency approval will be sent to the affected individual or organization by certified mail, return receipt requested, or by personal service. The affected individual or organization may appeal the denial, probation, suspension or revocation by requesting a contested case hearing within 20 days of receipt of the department's order. The notice of denial, probation, suspension or revocation is deemed to be suspended during the appeal. Prior to or at the contested case hearing, the department may rescind the



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

notice upon satisfaction that the reason for the denial, probation, suspension or revocation has been or will be removed. 481—Chapters 9 and 10 are applicable to contested case appeals.

These rules are intended to implement Iowa Code chapter 135K.

**ARC 7317C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to the plumbing and mechanical systems board and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 27, “Plumbing and Mechanical Systems Board—Administrative and Regulatory Authority,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 105.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 21 and 105.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 27 and implements Iowa Code chapter 105 in accordance with the goals of Executive Order 10 (January 10, 2023). The rulemaking sets forth the purpose of the Plumbing and Mechanical Systems Board (Board), which is to administer and enforce Iowa Code chapters 105 and 17A. The rulemaking outlines the organizational structure of the Board, when the Board meets, and how it conducts its business. The rulemaking outlines how to communicate with the Board and when licensees must notify the Board of address changes. This is important to the industry and the public because it provides transparency as to who is on the Board and how and when the Board conducts business.

No public comments were received on the published Regulatory Analysis for this chapter (IAB 11/1/23). Accordingly, no changes have been made to the proposed chapter from the Regulatory Analysis.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27  
PLUMBING AND MECHANICAL SYSTEMS BOARD—ADMINISTRATIVE AND  
REGULATORY AUTHORITY

**641—27.1(17A,105) Definitions.** The definitions set forth in Iowa Code section 105.2 are incorporated herein by reference. For purposes of this chapter, the following definitions also apply:

“*Board office*” means the office of the administrative staff.

“*Disciplinary proceeding*” means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

“*License*” means a license to operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

“*Licensee*” means a person or entity licensed to operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

**641—27.2(17A,105) Purpose of board.** The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A and 105 with regard to the licensing and regulation of plumbers, mechanical professionals, and contractors. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and regulations of the licensure board. Responsibilities include, but are not limited to:

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

**27.2(1)** Licensing of qualified applicants to operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board by examination, renewal, endorsement, and reciprocity.

**27.2(2)** Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

**27.2(3)** Imposing discipline on licensees as provided by statute or rule.

**641—27.3(17A,105) Organization of board and proceedings.**

**27.3(1)** Membership of the board is as provided in Iowa Code section 105.3.

**27.3(2)** The board will elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

**27.3(3)** The board will hold at least four meetings annually.

**27.3(4)** A majority of the members of the board shall constitute a quorum.

**27.3(5)** Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings will be conducted in accordance with Robert's Rules of Order, Revised.

**27.3(6)** The department will furnish the board with the necessary facilities and employees to perform the duties mandated by this chapter but shall be reimbursed for all costs incurred from funds appropriated to the board and subsequent fees from licensing activities.

**27.3(7)** The board has the authority to:

*a.* Develop and implement a program of continuing education to ensure the continued competency of individuals licensed by the board.

*b.* Establish fees.

*c.* Establish committees of the board, the members of which are appointed by the board chairperson and do not constitute a quorum of the board. The board chairperson appoints committee chairpersons.

*d.* Hold a closed session pursuant to Iowa Code section 21.5.

*e.* Investigate alleged violations of statutes or rules that relate to operation as a contractor; work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines; work as a certified medical gas system installer; or work in the specialty license disciplines developed by the board upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

*f.* Initiate and impose licensee discipline.

*g.* Monitor licensees that are limited by a board order.

*h.* Perform any other functions authorized by a provision of law.

**641—27.4(17A,105) Official communications.**

**27.4(1)** All official communications, including submissions and requests, should be addressed to the Plumbing and Mechanical Systems Board at its current address.

**27.4(2)** Notice of change of name or address. Each licensee and licensed entity shall notify the board in writing of a change of name or change of current mailing address within 30 days after the occurrence.

**641—27.5(21) Public meetings.** Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained through the board's website or directly from the board office.

**27.5(1)** At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Any additional time allowances will be at the discretion of the chairperson or acting chairperson.

**27.5(2)** Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**27.5(3)** The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

**27.5(4)** Cameras and recording devices may be used at open meetings, provided the cameras or recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, and 105.

**ARC 7318C**

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to plumbing and mechanical systems licensure fees and providing an opportunity for public comment**

The Department of Inspection, Appeals, and Licensing hereby proposes to rescind Chapter 28, “Plumbing and Mechanical Systems Board—Licensure Fees,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 105.4 and 105.9.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 105.

#### *Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 28 and implements Iowa Code chapter 105 in accordance with the goals of Executive Order 10 (January 10, 2023). The rulemaking establishes the fee schedule for all the various licenses, examinations, and other miscellaneous fees related to licensing. The rulemaking outlines when the licensing fees are prorated and establishes when the fees can be waived. This rulemaking is required by Iowa Code section 105.9 and is important to the industry because it ensures that the costs of obtaining and maintaining licensure are transparent.

No public comments were received on the published Regulatory Analysis for this chapter (IAB 11/1/23). Accordingly, only nonsubstantive changes have been made to the proposed chapter from the Regulatory Analysis.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

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

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 28 and adopt the following **new** chapter in lieu thereof:

CHAPTER 28  
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE FEES

**641—28.1(105) Fees.** All fees are nonrefundable.

**28.1(1)** Fees for three-year initial licenses are as follows:

- a. An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b. A journey license as defined in 641—subrule 29.2(2) is \$180.
- c. A master license as defined in 641—subrule 29.2(3) is \$240.
- d. A medical gas pipe certificate as defined in rule 641—29.3(105) is \$75.
- e. An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50.
- f. A contractor license as defined in 641—subrule 29.2(4) is \$250.
- g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), and 29.2(10) is \$50.
- h. Fees for all initial licenses issued for a period of less than three years will be prorated using a one-sixth deduction for each six-month period.

**28.1(2)** Fees for three-year reciprocal licenses or three-year licenses obtained by verification in accordance with 641—Chapter 35 are as follows:

- a. An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b. A journey license as defined in 641—subrule 29.2(2) is \$180.
- c. A master license as defined in 641—subrule 29.2(3) is \$240.

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

*d.* Fees for all reciprocal licenses or three-year licenses obtained by verification in accordance with 641—Chapter 35 issued for a period of less than three years will be prorated using a one-sixth deduction for each six-month period.

**28.1(3)** Fees for renewal of licenses are as follows:

*a.* An apprentice license as defined in 641—subrule 29.2(1) is \$50.  
*b.* A journey license as defined in 641—subrule 29.2(2) is \$180.  
*c.* A master license as defined in 641—subrule 29.2(3) is \$240.  
*d.* A medical gas pipe certificate as defined in rule 641—29.3(105) is \$75.  
*e.* An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50. However, no fee is necessary for an inactive specialty license as defined in 641—subrule 23.8(3) so long as the person possessing the inactive specialty license remains actively licensed as an apprentice.

*f.* A contractor license as defined in 641—subrule 29.2(4) is \$250.

*g.* A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), and 29.2(10) is \$50. However, no fee is necessary for an inactive specialty license as defined in 641—subrule 23.8(3) so long as the person possessing the inactive specialty license remains actively licensed as an apprentice.

**28.1(4)** The examination application fee is \$35.

**28.1(5)** A late fee for failure to renew before expiration is determined as follows:

*a.* A licensee who does not timely renew but renews a license on or before the following July 31 may reinstate and renew the license upon payment of the appropriate renewal fee and without payment of a late fee.

*b.* A licensee who does not timely renew but renews a license between the following August 1 and August 31 may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee.

*c.* A licensee who does not timely renew but renews a license after the following August 31 and on or before the following June 30 may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee.

**28.1(6)** Reserved.

**28.1(7)** The fee for written verification of licensee status is \$20.

**28.1(8)** The returned check fee is \$25.

**28.1(9)** The disciplinary hearing fee is a maximum of \$75.

**28.1(10)** The paper application fee is \$25 plus the appropriate license fee.

**28.1(11)** Combined license.

*a.* For purposes of this subrule, “combined license” means more than one active master, contractor, or journey person license in one or multiple disciplines held by the same individual.

*b.* A license fee for a combined license is the sum total of each of the separate license fees as set forth in subrules 28.1(1) through 28.1(3) reduced by 30 percent.

*c.* Only individual licenses purchased in a single transaction are eligible for the combined licensee fee reduction.

**28.1(12)** The fee for combining an HVAC-refrigeration or hydronics license to a mechanical license is \$50. This fee does not apply at the time of reissue.

**28.1(13)** The fee for submitting a petition for eligibility determination as defined in 641—subrule 29.13(2) is \$25.

**641—28.2(105) Annual review of fee schedule.** Within 60 days following the end of each fiscal year, the board will submit a report to the general assembly in accordance with Iowa Code section 105.9(5) “a.”

**641—28.3(105) Waiver of fees.** Fee waivers are available under the following circumstances:

**28.3(1)** The board will waive any fee charged to an applicant for a license if the applicant’s household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**28.3(2)** For an applicant who has been honorably or generally discharged from federal active duty or national guard duty, the board will waive an initial application fee and one renewal fee if those fees would otherwise be charged within five years of the discharge.

These rules are intended to implement Iowa Code section 105.9.

**ARC 7329C**

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to plumbing and mechanical systems application, licensure, and examination and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 29, “Plumbing and Mechanical Systems Board—Application, Licensure, and Examination,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 105.4 and 272C.3.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 105 and 272C.

#### *Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 29 and implements Iowa Code chapters 105 and 272C in accordance with the goals of Executive Order 10 (January 10, 2023). This rulemaking implements the requirements set forth in Iowa Code chapter 105 related to application for license, licensure, and examination requirements. The intended benefit of this chapter is to establish license types that are available, the general requirements and minimum qualifications for the licenses, and a procedure to obtain a license. The rules set forth the minimum qualifications needed to pass examination prior to licensing. The rules create steps on when and how to renew, reinstate or reactivate a license, detail when a license may be denied, and set forth the process for determining eligibility prior to the license application.

A public comment on the published Regulatory Analysis (IAB 11/1/23) was received from the International Association of Plumbing and Mechanical Officials requesting that paragraph 29.6(2)“a” be revised to clarify that the examination referenced therein is conducted either in person or online. The requested revision has been incorporated into the proposed rules.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

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

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 29 and adopt the following **new** chapter in lieu thereof:

CHAPTER 29  
PLUMBING AND MECHANICAL SYSTEMS BOARD—APPLICATION,  
LICENSURE, AND EXAMINATION

**641—29.1(105) Definitions.** The definitions set forth in Iowa Code section 105.2 are incorporated herein by reference. For purposes of these rules, the following definitions also apply:

“*Complete criminal record*” means the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Corresponding*” means the same discipline.

“*Directly relates*” or “*directly related*” means the same as Iowa Code section 272C.1(8) “a” and “b.”

“*Disconnect/reconnect plumbing technician specialty license*” means a sublicense under a plumbing license to perform work from the appliance shutoff valve or fixture shutoff valve to the appliance or fixture and any part or component of the appliance or fixture, including the disconnection



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

and reconnection of the existing appliance or fixture to the water or sewer piping and the installation of a shutoff valve no more than three feet from the appliance or fixture.

“*Disqualifying conviction*” or “*disqualifying offense*” means a conviction directly related to the practice of the profession.

“*Eligibility determination*” means the process by which a person who has not yet submitted a completed license application may request that the board determine whether one or more of the person’s convictions are disqualifying offenses that would prevent the individual from receiving a license or certification.

“*Emergency repairs*” means the repair of water pipes to prevent imminent damage to property.

“*Hearth systems specialty license*” means a sublicense under an HVAC-refrigeration or mechanical license to perform work in the installation of gas burning and solid fuel appliances that offer a decorative view of the flames, from the connector pipe to the shutoff valve located within three feet of the appliance. This sublicense is further allowed to perform work in the venting systems, log lighters, gas log sets, fireplace inserts, and freestanding stoves.

“*Inactive license*” means a license that is available for a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level. An inactive license must be renewed prior to its expiration date. An inactive license is not valid for practice until the license is reactivated by the board.

“*Lapsed license*” means a license that expired prior to June 30, 2017, and was not renewed within 60 days following its expiration date or a license that expired on or after June 30, 2017, and was not renewed by the following August 31. A lapsed license is no longer valid for practice.

“*Licensee*” means any person licensed to practice pursuant to Iowa Code chapter 105.

“*Reactivated license*” means a license that is changed from inactive status to active status pursuant to rule 641—29.8(105).

“*Reissued license*” means a refrigeration or HVAC license that was changed to an HVAC-refrigeration license pursuant to rule 641—29.8(105). “Reissued license” also means an HVAC or refrigeration license and a hydronic license that was changed to a mechanical license pursuant to rule 641—29.8(105).

“*Service technician HVAC specialty license*” means a sublicense under an HVAC-refrigeration or mechanical license to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than three feet away from the appliance.

“*Surety bond*” means a performance bond written by an entity licensed to do business in this state that guarantees that a contractor will fully perform the contract and which guarantees against breach of that contract.

**641—29.2(105) Available licenses and general requirements.** All licenses issued by the board will be for a three-year period, except where a shorter or longer period is required or allowed by statute. Subject to the general requirements set forth herein and the minimum qualifications for licensure set forth in rule 641—29.4(105), the following licenses are available:

**29.2(1) Apprentice license.** An applicant for an apprentice license will submit an application that provides evidence of meeting the qualifications specified in Iowa Code section 105.18. If the applicant currently holds an active specialty license, place the specialty license on inactive status as specified in 641—subrule 23.8(3).

**29.2(2) Journeyman license.** An applicant for a journeyman license will submit an application that provides evidence of meeting the qualifications specified in Iowa Code section 105.18, including an applicant who possesses a master-level license and who seeks a journeyman license in the same discipline.

**29.2(3) Master license.** An applicant for a master license will submit an application that provides evidence of meeting the qualifications specified in Iowa Code section 105.18. Applicants previously

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

licensed as a journey person will provide evidence of at least two years of journey person experience in the applicable discipline.

**29.2(4) Contractor license.** An applicant for a contractor license will submit an application that provides evidence of meeting the qualifications specified in Iowa Code section 105.18, and the insurance and surety bond requirements specified in Iowa Code section 105.19.

**29.2(5) Active journey person license/inactive master license combination.** An applicant for an active journey person license and an inactive master license in the same discipline will submit an application approved by the department, and pay the fees for both an active journey person license and an inactive master license in accordance with subrule 29.2(3) and rule 641—29.5(105).

**29.2(6) Inactive license.** An applicant for an inactive license that does not fall within subrule 29.2(5) will submit an application approved by the department and pay the fee for an inactive license in accordance with rule 641—29.5(105).

**29.2(7) Service technician HVAC specialty license.** An applicant for a service technician HVAC specialty license will submit an application approved by the department and pay the fee for a specialty license in accordance with rule 641—29.5(105). It will also provide the board with evidence that:

*a.* The applicant possesses a valid certification from North American Technician Excellence, Inc. or an equivalent authority approved by the board, or

*b.* The applicant completed a Service Technician Associate degree or equivalent educational or similar training approved by the board.

**29.2(8) Disconnect/reconnect plumbing technician specialty license.** An applicant for a disconnect/reconnect plumbing technician specialty license will submit an application approved by the department and pay the fee for a specialty license in accordance with rule 641—29.5(105). It will also provide the board with evidence that:

*a.* The applicant is receiving or has previously received industry training to perform work covered under this specialty license, or

*b.* The applicant completed a Service Technician Associate degree or equivalent educational or similar training approved by the board.

**29.2(9) Private school or college routine maintenance specialty license.** An applicant for a private school or college routine maintenance specialty license will submit an application approved by the department and pay the fee for a specialty license in accordance with rule 641—29.5(105) and:

*a.* Provide the board with evidence that the applicant is currently employed by a private school or college.

*b.* Provide the board with evidence that the applicant is performing routine maintenance within the scope of employment with the private school or college.

**29.2(10) Hearth systems specialty license.** An applicant for a hearth systems specialty license will submit an application approved by the department and pay the fee for a specialty license in accordance with rule 641—29.5(105) and provide the board with evidence that the applicant possesses a valid certification issued by the National Fireplace Institute or equivalent authority approved by the board.

**641—29.3(105) Medical gas piping certification.** The following certification is required for a person who performs work as a medical gas system installer. An applicant for a medical gas certificate will submit an application approved by the department and pay the fee for a medical gas piping certification in accordance with rule 641—29.5(105) and possess valid certification from the National Inspection Testing Certification (NITC) Corporation, or an equivalent authority approved by the board. Documentation must be submitted on a form provided by the board.

**641—29.4(105) Minimum qualifications for licensure.** An applicant for any type of license must be at least 18 years old. All apprentice applicants must have completed a high school education or attained GED equivalent.

**641—29.5(105) General requirements for application for licensure.** The following criteria apply to application for licensure.

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

**29.5(1) Application.** An applicant will complete an application online or on a paper application approved by the board.

**29.5(2) Fees.** An application must be accompanied by the appropriate fees. All fees are nonrefundable. Fees for online applications are by credit card only. A check or money order may accompany a paper application.

**29.5(3) Applicant responsibilities.** An applicant for an initial license or license renewal bears full responsibility for each of the following:

*a.* Paying all fees charged by regulatory authorities, state or national testing or credentialing organizations, and educational institutions providing the information necessary to complete a license, certification, or renewal application;

*b.* Providing accurate, up-to-date, and truthful information on the application including, but not limited to, prior professional experience, education, training, criminal history, and disciplinary history; and

*c.* Submitting complete application materials. An application for a license or certification or renewal of a license or certification will be considered active for 90 days from the date the application is received. For purposes of establishing timely filing, the postmark on a paper submittal or the date of the electronic time stamp for online renewals will be used. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license or certification, the application will be considered incomplete and will be destroyed.

**29.5(4) Verifiable documentation.** No application will be considered by the board without the appropriate verifiable documentation, including:

*a.* A passing score for a discipline-appropriate examination provided by the testing vendor under contract with the board, when testing is required for a license.

*b.* Verification that the applicant has met the minimum requirements as defined in rule 641—29.4(105) and the established employment experience criteria for each type of license.

*c.* Documentation of the applicant's complete criminal record, including the applicant's personal statement regarding whether each offense directly relates to the practice of the profession. No application will be considered complete unless and until the applicant responds to board requests for additional information regarding the applicant's complete criminal record.

**641—29.6(105) Examination.**

**29.6(1) General.** An applicant for licensure as a plumbing or mechanical system professional must successfully pass the licensing examination for the discipline. The examination will be specific to each license type, approved by the board, and administered by the board-approved vendor.

**29.6(2) Examination.**

*a.* The examination will be written and proctored by a testing agency selected by the board and conducted either in person or online.

*b.* The examination will be offered periodically during the year. The time and location will rotate between multiple sites in the state of Iowa, as determined by the department, with approval of the board.

*c.* The examination will not be subject to review by applicants. Upon request from an applicant, the testing vendor will provide information about the sections that the applicant failed, but shall not provide an applicant access to actual examination questions or answers. Any fees associated with the review process will be assessed by and payable to the testing vendor. The applicant is responsible for paying all associated examination fees.

*d.* A score of 75 percent or better is considered passing.

**29.6(3) Examination application.**

*a.* An applicant will complete and submit a board-approved examination application either on-line or on a paper application a minimum of 15 business days prior to taking an examination.

*b.* An application must be accompanied by the appropriate fees. All fees are nonrefundable. Fees for online applications are by credit card only. A check or money order may accompany a paper application.

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

c. No application will be considered by the board without the appropriate verifiable documentation.

d. The applicant will be notified and issued an examination entrance letter upon approval of the examination application.

e. If the applicant is notified that the application is incomplete, the applicant must contact the board office within 90 days. Incomplete applications will be considered invalid and after 90 days will be destroyed.

f. Examination fees are payable directly to the board-approved testing vendor. All transactions are the responsibility of the applicant and testing vendor. The board is not responsible for refunds from the testing vendor.

g. An applicant shall present current photo identification in order to sit for the examination.

h. An applicant for licensure by examination who does not pass the examination within one year from the original application date has to submit a new application.

i. A master examination applicant will not receive permission to sit for a master examination unless the applicant establishes that the applicant:

(1) Has previously been licensed as a master in the applicable discipline; or

(2) Has previously been licensed as a journeyman in the applicable discipline and has at least two years of journeyman experience in the applicable discipline.

j. A journeyman examination applicant may apply to sit for the examination up to 12 months prior to completion of the 48 months of required apprentice credit, which include the granting of advanced standing or credit for previously acquired experience, training, or skills.

**29.6(4) Expiration of passing examination score.** An applicant who successfully passes an examination must apply for licensure in the applicable discipline at the applicable discipline level within two years of notification that the applicant successfully passed the examination. A passing examination score will expire if the applicant fails to apply for licensure within the two-year period as set forth herein, and the applicant will be required to successfully retake said examination to become licensed.

**641—29.7(105) License renewal.**

**29.7(1) Renewal period.** The period of licensure to operate as a contractor or work as a master, journeyman or apprentice in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board is a period of three years. All licenses issued will expire on June 30 every three years, beginning with June 30, 2026. Fees for new licenses issued after the July 1 beginning of each three-year renewal cycle will be prorated using a one-sixth deduction for each six-month period of the renewal cycle.

**29.7(2) Renewal notification.** The licensee is responsible for renewing the license prior to its expiration.

**29.7(3) Specific renewal requirements.**

a. *Active and inactive apprentice, specialty, journeyman, and master licenses.* An apprentice, specialty, journeyman, or master licensee seeking renewal shall:

(1) Submit an application for renewal online or on the forms provided by the board office.

(2) Meet the continuing education requirements as set forth in rule 641—30.2(105), unless no continuing education is necessary as specified in 641—subrule 23.8(3), 30.2(2), or 30.6(1).

(3) Include the appropriate fee as specified in 641—Chapter 28. A penalty will be assessed by the board for late renewal, as specified in 641—Chapter 28.

b. *Medical gas piping certification holders.* A medical gas piping certification holder seeking renewal shall:

(1) Submit an application for renewal either electronically or on the forms provided by the board office.

(2) Provide evidence that the person has maintained valid certification issued from the National Inspection Testing Certification (NITC) Corporation or an equivalent authority approved by the board.

(3) Include the appropriate fee as specified in 641—Chapter 28.

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

*c. Contractor licenses.* Renewal of the contractor license constitutes registration as a contractor under Iowa Code chapter 91C. A contractor licensee seeking renewal shall:

(1) Submit an application for renewal on the forms provided by the board office. Licensees may renew their licenses online or via paper application.

(2) Include evidence of professional liability insurance and a surety bond mandated by subrule 29.2(4).

(3) As specified in 875—Chapter 150, include proof of workers' compensation insurance coverage, proof of unemployment insurance compliance and, for out-of-state contractors, a bond as described in Iowa Code chapter 91C.

(4) Include the appropriate license fee as specified in 641—Chapter 28. A penalty will be assessed by the board for late renewal, as specified in 641—Chapter 28.

(5) Include the fee for a three-year contractor registration as specified in 875—Chapter 150.

**29.7(4) Complete and timely filed application.** Renewal applications are due 30 days prior to expiration per Iowa Code section 105.20(2). No renewal application is considered timely and sufficient until received by the board office and accompanied by all material necessary for renewal, including applicable renewal and late fees. Incomplete applications will not be accepted. For purposes of establishing timely filing, the postmark on a paper submittal or the date of the electronic time stamp for online renewals will be used.

**29.7(5) Late renewal.** A licensee has a one-month grace period after the expiration date of the license to renew without payment of a late fee.

*a.* A licensee who seeks to renew more than one month but less than two months after the license expiration date may renew upon payment of the late fee in the amount specified in 641—Chapter 28 in addition to the renewal fee.

*b.* A license remains valid for practice for up to two months past the expiration date of the license. After two months, the license lapses and becomes invalid for practice until the license is reinstated.

**29.7(6) Reinstatement.** A person seeking reinstatement of a lapsed license must submit an application for reinstatement electronically or on the forms provided by the board office and include all mandated documentation and fees.

*a.* A licensee who allows a license to lapse for more than two months but not more than 365 days may reinstate and renew the license upon payment of the late penalty fee in the amount specified in 641—Chapter 28 in addition to the renewal fee. A specialty, journey person or master licensee must also meet the continuing education requirements as set forth in rule 641—30.2(105), unless no continuing education is mandated as specified in 641—subrule 23.8(3), 30.2(2), or 30.6(1).

*b.* A person holding a specialty, journey person or master license who allows the license to lapse for more than one year may reinstate and renew the license by providing evidence of one of the following:

(1) For a journey person or master licensee, retaking and successfully passing the applicable licensing examination; or

(2) Retaking and successfully completing all continuing education requirements as set forth in rule 641—30.2(105) for each renewal period in which the license was not timely renewed.

*c.* A contractor licensee seeking reinstatement of a license that has been lapsed for more than one year may reinstate and renew the license by submitting evidence of meeting the requirements specified in subrule 29.7(3) and payment of any mandated fees.

*d.* A licensee who reinstates and renews a lapsed license is not entitled to a prorated renewal fee.

**641—29.8(105) Waiver from examination for military service.** The written examination requirements and prior experience requirements set forth in Iowa Code sections 105.18(2)“b”(1) and 105.18(2)“c” are waived for a journey person license or master license if the applicant meets the requirements set forth in Iowa Code section 105.18(4).

**641—29.9(105) Reactivation of an inactive license.**

**29.9(1)** An inactive license is not valid for practice but must be renewed in accordance with rule 641—29.7(105). If an inactive license has not been timely renewed and becomes lapsed, the

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

requirements for reinstatement of the license will have to be met. A person with an inactive license that is not lapsed who is seeking to reactivate the license shall:

- a. Submit a written request to the board office for active license status; and
- b. Pay the fee for an active license in the amount specified in 641—Chapter 28.

**29.9(2)** A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal period following reactivation.

**641—29.10(105) Review of applications.**

**29.10(1)** Upon receipt of a completed application, the board executive officer or designee has discretion to:

- a. Authorize the issuance of the license, certification, or examination application.
- b. Refer the application to a committee of the board for review and consideration when the board executive officer determines that matters raised in or revealed by the application are relevant in determining the applicant's qualifications for a license, certification, or examination. Matters that may justify referral to a committee of the board include, but are not limited to:

- (1) Prior criminal history, which is reviewed and considered in accordance with Iowa Code chapter 272C and rule 641—29.13(105).
- (2) Chemical dependence.
- (3) Competency.
- (4) Physical or psychological illness or disability.
- (5) Judgments entered on, or settlements of, claims, lawsuits, or other legal actions related to the profession.
- (6) Professional disciplinary history.
- (7) Education or experience.

**29.10(2)** Following review and consideration of an application referred by the board executive officer, the committee may at its discretion:

- a. Authorize the issuance of the license, certification, or examination application.
- b. Recommend to the board denial of the license, certification, or examination application.
- c. Recommend to the board issuance of the license or certification under certain terms and conditions or with certain limitations.
- d. Refer the license, certification, or examination application to the board for review and consideration without recommendation.

**29.10(3)** Following review and consideration of a license, certification, or examination application referred by the committee, the board will:

- a. Authorize the issuance of the license, certification, or examination application;
- b. Deny the issuance of the license, certification, or examination application; or
- c. Authorize the issuance of the license or certification under certain terms and conditions or with certain limitations.

**29.10(4)** The committee or board may require an applicant to appear for an interview before the committee or the full board as part of the application process.

**641—29.11(105) Grounds for denial of an application.** The board may deny an application for license, certification, or examination for any of the following reasons:

1. Failure to meet the requirements for license, certification, or examination as specified in these rules.
2. Failure to provide accurate and truthful information, or the omission of material information.
3. Pursuant to Iowa Code section 105.22, upon any of the grounds for which licensure may be revoked or suspended.

**641—29.12(105) Use of criminal convictions in eligibility determinations and initial licensing decisions.**

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

**29.12(1) License application.** Unless an applicant for licensure petitions the board for an eligibility determination, the applicant's convictions will be reviewed when the board receives a completed license application.

*a. Full disclosure.* An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

*b. Documentation and personal statement.* An applicant with one or more convictions must submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

*c. Rehabilitation.* As part of the license application, an applicant will submit all evidence of rehabilitation that the applicant wishes to be considered by the board. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15. An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

*d. Nonrefundable fees.* Any application fees will not be refunded if the license is denied.

**29.12(2) Eligibility determination.** An individual who has not yet submitted a completed license application may petition the board for an eligibility determination. An individual with a conviction does not have to petition the board for an eligibility determination before applying for a license. To petition the board for an eligibility determination, a petitioner must submit all of the following:

*a.* A completed eligibility determination form, which is available on the board's website;

*b.* The complete criminal record for each of the petitioner's convictions;

*c.* A personal statement regarding whether each conviction directly relates to the practice of the profession and why the board should find the petitioner is rehabilitated;

*d.* All evidence of rehabilitation that the petitioner wants the board to consider; and

*e.* Payment of a nonrefundable fee in the amount of \$25.

**29.12(3) Appeal.** A petitioner found ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing nondisciplinary contested case proceedings apply unless otherwise specified in this rule. If the petitioner fails to timely appeal, the board's written decision will become a final order.

*a. Presiding officer.* The presiding officer will be the board. However, any party to an appeal of a license denial or ineligibility determination may file a written request, in accordance with rule 641—33.10(17A), that the presiding officer be an administrative law judge. Additionally, the board may, on its own motion, request that an administrative law judge be assigned to act as presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered will be a proposed decision.

*b. Burden.* The office of the attorney general will represent the board's initial ineligibility determination or license denial and has the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shifts to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

*c. Judicial review.* A petitioner or applicant must appeal an ineligibility determination or a license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding is in accordance with Iowa Code chapter 17A.

**29.12(4) Future petitions or applications.** If a final order determines a petitioner is ineligible, the petitioner cannot submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant

PUBLIC HEALTH DEPARTMENT[641](cont'd)

cannot submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code chapters 105 and 272C.

**ARC 7286C**

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to plumbing and mechanical systems continuing education and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 30, “Continuing Education for Plumbing and Mechanical Systems Professionals,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 105.4 and 272C.3.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 105 and 272C.

#### *Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 30 and implements Iowa Code chapters 105 and 272C in accordance with the goals of Executive Order 10 (January 10, 2023). This rulemaking sets forth continuing education requirements for plumbing and mechanical systems professionals. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards licensees need to meet to comply, the types of courses that are permissible, and procedures for applying for an exemption or extension to complete the requirements.

No public comments were received on the published Regulatory Analysis for this chapter (IAB 11/1/23). Only a technical revision to a citation and two grammatical changes were made to the proposed chapter from the Regulatory Analysis.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:



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

Ashleigh Hackel  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 30 and adopt the following **new** chapter in lieu thereof:

CHAPTER 30  
 CONTINUING EDUCATION FOR PLUMBING AND  
 MECHANICAL SYSTEMS PROFESSIONALS

**641—30.1(105) Definitions.** The definitions set forth in Iowa Code section 105.2 are incorporated herein by reference. For the purpose of these rules, the following definitions apply:

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Compliance review*” means the selection by the board of licensees for verification of satisfactory completion of continuing education requirements during a specified continuing education compliance period.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Continuing education compliance period*” means the period between renewals during which a licensee must obtain the requisite amount of continuing education in order to renew the licensee’s license.

“*Hour of continuing education*” means at least 50 minutes spent in one sitting by a licensee in actual attendance at and in completion of an approved continuing education activity.

“*Iowa mechanical code*” means the most current version of the International Mechanical Code, as adopted and amended by the board.

“*Iowa plumbing code*” means the most current version of the Uniform Plumbing Code, as adopted and amended by the board.

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

“License” means a license to practice pursuant to Iowa Code chapter 105.

“Licensee” means any person licensed to work in a specific discipline covered under Iowa Code chapter 105.

**641—30.2(105) Continuing education requirements.**

**30.2(1)** The continuing education compliance period begins on the license issue date and ends on the license expiration date.

**30.2(2)** During each continuing education compliance period, each active or inactive master and journey person licensee shall obtain the following continuing education:

*a.* Safety education. Two hours of continuing education in the content area of the Iowa Occupational Safety and Health Act if holding a single license and four hours if holding multiple licenses.

*b.* Code education.

(1) Two hours of continuing education in the content area of the Iowa mechanical code if holding one or more licenses or sublicenses in a mechanical discipline.

(2) Two hours of continuing education in the content area of the Iowa plumbing code if holding a plumbing license or sublicense.

*c.* Discipline education.

(1) Four hours of continuing education in the discipline in which the licensee holds a license if the licensee holds a single plumbing license or sublicense, or a single license or sublicense in a mechanical discipline.

(2) Eight hours of continuing education in the relevant disciplines if holding multiple licenses or sublicenses.

*d.* Private school or college maintenance specialty license. For the purposes of this subrule, a private school or college routine maintenance specialty license is considered to be a sublicense of whatever discipline(s) in which the licensee actually practices.

*e.* An individual possessing one or more inactive special restricted licenses under 641—subrule 23.8(3) does not have to complete any continuing education hours for the special restricted license so long as the person remains actively licensed as an apprentice.

**30.2(3)** For up to one-half of board-approved continuing education mandated by subrule 30.2(2), each continuing education compliance period may be obtained through completion of computer-based, including online, continuing education programs/activities approved by the board.

**30.2(4)** It is each licensee’s responsibility to maintain a record of all continuing education courses attended and retain proof of compliance with the continuing education requirements. Licensees may attend a continuing education course more than once during a continuing education compliance period. However, licensees who attend a course more than once cannot count the approved hours for that course toward the applicable continuing education requirement more than once during the continuing education compliance period.

**30.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**30.2(6)** A licensee who is a presenter of a board-approved continuing education program may receive credit once per continuing education compliance period for the presentation of the program. The licensee may receive the same number of hours granted the attendees.

**641—30.3(105) Continuing education programs/activities.**

**30.3(1)** *Standards for continuing education programs/activities.* A program/activity is appropriate for continuing education credit if the program/activity meets all of the following criteria:

*a.* Is board-approved;

*b.* Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

*c.* Pertains to subject matters that integrally relate to the practice of the discipline;

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

*d.* Is conducted by individuals who have obtained board approval as set forth in subrule 30.4(1). This criterion is not needed for computer-based continuing education programs/activities conducted pursuant to subrule 30.2(3);

*e.* Fulfills stated program goals, objectives, or both; and

*f.* Covers product knowledge, methods, and systems of one or more of the following:

- (1) The theory and technique for a specific discipline;
- (2) The current Iowa plumbing code, Iowa mechanical code, or both;
- (3) The standards comprising the current Iowa Occupational Safety and Health Act.

**30.3(2) Board approval.** Board approval for specific programs/activities under paragraph 30.3(1) “a” will be valid for three years.

**30.3(3) Procedure and standards for board approval of continuing education programs/activities.**

*a.* For non-computer-based continuing education programs/activities, an individual or entity seeking board approval shall:

(1) File an application in the form prescribed by the board without alteration at least 60 days prior to the first scheduled course date;

(2) Attach a copy of the course or activity outline or syllabus which, at a minimum, specifically identifies the course content and a breakdown of the student contact hours; and

(3) Attach a schedule of courses, if known, indicating the course’s or activity’s proposed scheduled locations, dates, and times.

*b.* For computer-based continuing education programs/activities, an individual or entity seeking board approval shall:

(1) File an application in the form prescribed by the board without alteration;

(2) Attach a copy of the course or activity outline or syllabus which, at a minimum, specifically identifies the course content and a breakdown of the student contact hours;

(3) Attach a schedule of courses, if known, indicating the course’s or activity’s proposed scheduled locations, dates, and times;

(4) Provide a brief summary of the training product;

(5) Provide a copy of the visual aids, or other materials included with the course or activity; and

(6) Provide the names, contact information, and qualifications or résumés of the training designers.

**30.3(4) Board member attendance.** With board approval, board members may attend any board-approved continuing education program/activity for purposes of determining whether the continuing education program/activity complies with these rules. In the event a board member attends a board-approved continuing education program/activity with the purpose of determining whether the continuing education program/activity complies with these rules, the board member cannot receive any continuing education credit for those hours in attendance.

**641—30.4(105) Course instructor(s).**

**30.4(1) Procedure and standards for board approval of instructors.** An individual seeking board approval to instruct continuing education programs/activities will:

*a.* File an application in the form prescribed by the board without alteration;

*b.* Attach copies of documents, licensures, degrees, and other materials demonstrating compliance with the requirements for the type of continuing education program/activity as set forth below.

(1) If seeking approval to instruct in the content area of the Iowa Occupational Safety and Health Act, an individual must either possess and maintain a current Occupational Safety and Health Act 500, 501, 502, or 503 card or completion certificate, or both, or possess a current train-the-trainer or instructor card or other certification or safety-related degree or diploma issued by the American Heart Association, American Red Cross, National Safety Council, Board of Certified Safety Professionals, or board-approved equivalent.

(2) If seeking approval to instruct in the content area of the Iowa plumbing code or Iowa mechanical code, or both, an individual must:

1. Possess a current license issued by the board at the journey or master level in the applicable discipline under that code,

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

2. Possess a current license as a professional engineer under Iowa Code chapter 542B,
  3. Present evidence of having taught at least eight contact hours in the applicable code within the last three years,
  4. Possess a current inspector or plans examiner certificate issued by a code body in the discipline,
- or
5. Demonstrate equivalent specialized education or training.
- (3) If seeking approval to instruct in the content area of a practice discipline, an individual must:
1. Possess a current license issued by the board at the journey or master level in the applicable discipline,
  2. Possess a current license as a professional engineer under Iowa Code chapter 542B,
  3. Provide evidence of employment as a product representative with manufacturer training,
  4. Present evidence of having taught at least eight contact hours in the applicable discipline within the last year, or
  5. Demonstrate equivalent specialized education or training.

**30.4(2) Board approval.** Board approval for an instructor under subrule 30.4(1) will be valid for three years.

**641—30.5(105) Compliance review of continuing education requirements.** The board may conduct a review of a licensee's license renewal application to determine compliance with continuing education requirements.

**30.5(1)** Upon board request, the licensee must submit to the board an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor or course instructor containing the course title, date(s), contact hours, sponsor's name, and licensee's name. In some instances, licensees will be requested to provide to the board additional information including, but not limited to, program content, objectives, presenters, location, and schedule. An inclusive brochure may be acceptable.

**30.5(2)** A licensee must submit all information set forth in subrule 30.5(1) within 30 calendar days following the board's request. The board may grant extensions on an individual basis.

**30.5(3)** If the submitted materials are incomplete or unsatisfactory and the board determines that the deficiency was the result of good faith conduct on the part of the licensee, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. A licensee must complete the continuing education hours and submit documentation establishing completion of the required make-up continuing education hours to the board within 120 calendar days from the date of the board's finding of good-faith conduct.

**30.5(4)** A licensee's failure to provide the board with an accurate mailing address is not an excuse for noncompliance with this rule.

**641—30.6(105) Continuing education exemptions.**

**30.6(1) Automatic exemptions.** A licensee will be exempt from the continuing education requirement during the continuing education compliance period when that person:

- a. Served honorably on active duty in the military service;
- b. Resided in another state or district having continuing education requirements for the discipline and met all mandates of that state or district for practice therein;
- c. Was a government employee working in the licensee's specialty and assigned to duty outside the United States;
- d. Was absent from the state but engaged in active practice under circumstances which are approved by the board;
- e. Obtained a journey person license by examination provided that the licensee maintains the same renewal date as the licensee's apprentice license. This automatic exemption only applies to the licensee's first renewal of the journey person license;
- f. Obtained a specialty, journey person, or master license with less than one year remaining in the continuing education compliance period. This exemption applies only to the licensee's first renewal of

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

that license and only to each license that was issued with less than one year remaining in the continuing education compliance period; or

g. Possesses an inactive specialty license under 641—subrule 23.8(3) and is also actively licensed as an apprentice.

**30.6(2) Permissive exemptions.** The board may, in cases involving exceptional hardship or extenuating circumstances, grant an exemption from some or all of the continuing education requirements.

a. A licensee seeking a permissive exemption will apply to the board, in such form as the board may prescribe.

b. A licensee seeking a permissive exemption will provide all such documentary evidence as the board may request to establish the exceptional hardship or extenuating circumstances.

c. In the event of a claimed physical or mental disability or illness, the board may request information from a licensed health care professional who can attest to the existence of any such disability or illness.

d. A licensee who applies for a permissive exemption will be notified in writing of the board's decision.

e. In granting an exemption, the board may impose any such additional conditions on the exemption including, but not limited to, the requirement that the licensee make up a portion of the continuing education requirements.

f. In lieu of granting a full or partial exemption, the board may grant the licensee an extension of time in which to complete the continuing education requirements.

g. The granting of an exemption will not keep a licensee from seeking, or the board from granting, an exemption in a subsequent biennial continuing education compliance period(s).

h. Permissive exemptions will only be granted in the most exceptional and extraordinary of circumstances.

**641—30.7(105) Continuing education extensions.** The board may, in individual cases involving hardship or extenuating circumstances, grant an extension of time within which to fulfill the minimum continuing education requirements if the request for extension is made prior to the license expiration date. Hardship or extenuating circumstances include documented circumstances beyond the control of the licensee which prevent attendance at necessary activities.

**641—30.8(105) Continuing education reporting requirements.**

**30.8(1) Non-computer-based continuing education programs/activities.** For non-computer-based continuing education programs/activities, at the conclusion of each continuing education course, the course instructor will:

a. Inform each attending licensee that a survey of the course and instructor may be completed and submitted by the licensee to the board through either a board-approved written or online evaluation form.

b. Provide a certificate of completion to each licensee who attends the course. The certificate of completion will include the following information:

- (1) The licensee's full name and board-issued license number;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date of the course;
- (5) The number of program contact hours;
- (6) The instructor's full name and board-approved identification number; and
- (7) The instructor's signature.

c. Submit to the board a typed or electronic course completion roster within 30 days following the completion of the course. The course completion roster will contain the following information:

- (1) The full name and board-issued license number of each attending licensee;
- (2) The course name or title;
- (3) The board-approved course identification number;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- (4) The date of the course;
- (5) The location of the course;
- (6) The number of program contact hours;
- (7) The instructor's full name and board-approved identification number; and
- (8) The instructor's signature.

**30.8(2) Computer-based continuing education programs/activities.** For computer-based continuing education programs/activities under subrule 30.2(3), at the conclusion of each computer-based continuing education course, the person authorized to monitor and verify attendance/course completion will:

*a.* Provide a certificate of completion to each licensee who completes the course. The certificate of completion will include the following information:

- (1) The licensee's full name and board-issued license number;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date the course was completed; and
- (5) The number of program contact hours.

*b.* Submit to the board a typed or electronic course completion roster within 30 days following a licensee's completion of a computer-based continuing education course. The course completion roster will contain the following information:

- (1) The full name and board-issued license number of each attending licensee;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date of the course;
- (5) The location of the course; and
- (6) The number of program contact hours.

These rules are intended to implement Iowa Code chapters 105 and 272C.

**ARC 7321C**

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to plumbing and mechanical systems waivers and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to rescind Chapter 31, "Plumbing and Mechanical Systems Board—Waivers from Administrative Rules," Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 105 and 272C.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 105 and 272C and Executive Order 10 (January 10, 2023).

#### *Purpose and Summary*

This rulemaking proposes to rescind Chapter 31 in accordance with the goals and directives of Executive Order 10. Chapter 31 contains standard provisions that are uniform across many boards and agencies. In light of the Plumbing and Mechanical Systems Board's realignment with DIAL resulting from 2023 Iowa Acts, Senate File 514, it is unnecessary and unreasonably duplicative to repromulgate

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

this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, “Uniform Waiver Rules,” which is substantially similar to 641—Chapter 31.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 31**.

**ARC 7285C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to plumbing and mechanical systems licensee discipline and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 32, “Plumbing and Mechanical Systems Board—Licensee Discipline,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 105.4 and 272C.3.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 105 and 272C.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 32 and implements Iowa Code chapters 105 and 272C in accordance with the goals of Executive Order 10 (January 10, 2023). This rulemaking sets forth the grounds for discipline, sets forth methods of discipline and factors the Board of Plumbing and Mechanical Systems may consider in determining the nature and severity of the disciplinary sanction to be imposed, provides for the imposition of civil penalties, and sets forth procedures for the appeal of disciplinary action and collection of civil penalties. This is important to both the public and licensees because it creates a shared understanding of what is and is not appropriate for these licensed individuals and procedures upon the identification of noncompliance.

No public comments were received on the published Regulatory Analysis for this chapter (IAB 11/1/23). Only technical citation revisions were made to the proposed chapter after publication of the Regulatory Analysis.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:



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

Ashleigh Hackel  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 32 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 32

## PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE DISCIPLINE

**641—32.1(105,272C) Definitions.** The definitions set forth in Iowa Code section 105.2 are incorporated herein by reference. For purposes of this chapter, the following definitions also apply:

“*Conviction*” means the same as defined in 641—Chapter 29.

“*Directly relates*” or “*directly related*” means the same as Iowa Code section 272C.1(8) “a” and “b.”

“*Discipline*” means any sanction the board may impose upon licensees.

“*Disqualifying conviction*” or “*disqualifying offense*” means the same as in 641—Chapter 29.

“*Lapsed license*” means a license that has expired. A lapsed license is no longer valid for practice.

“*Licensee*” means any person licensed to practice pursuant to Iowa Code chapter 105.

**641—32.2(105,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 641—32.3(105,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

**32.2(1)** Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

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

*b.* Attempting to file or filing with the board or the department of inspections, appeals, and licensing any false or forged diploma, certificate, affidavit, identification or qualification in making an application for a license in this state.

**32.2(2)** Professional incompetence. Professional incompetence includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of the applicable licensed trade.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by others licensed in the applicable trade in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average licensee in the applicable trade acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a licensee in the applicable trade in this state.

*e.* Inability to practice in the trade with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

*f.* Being adjudged mentally incompetent by a court of competent jurisdiction.

**32.2(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**32.2(4)** Habitual intoxication or addiction to the use of drugs.

**32.2(5)** Conviction of a disqualifying offense in the courts of this state or another state, territory, or country. A file-stamped copy of the final order or judgment or conviction or plea of guilty in this state or another state, territory, or country constitutes conclusive evidence of the conviction.

**32.2(6)** Fraud in representations as to skill or ability.

**32.2(7)** Use of untruthful or improbable statements in advertisements.

**32.2(8)** Willful or repeated violations of Iowa Code chapter 105 or 272C.

**32.2(9)** Violation of a board rule.

**32.2(10)** Nonpayment of a state debt as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 272D and 481—Chapter 8.

**32.2(11)** Permitting another person to use the licensee's wall certificate, wallet card, or license number for any purpose.

**32.2(12)** Failure to timely submit the requested materials in response to a compliance review conducted pursuant to 641—30.5(105).

**32.2(13)** Failure to meet the continuing education requirements for licensure.

**32.2(14)** Submission of a false report of continuing education.

**32.2(15)** Failure to pay any outstanding fees or costs owed to the board.

**32.2(16)** Acceptance of any fee by fraud or misrepresentation.

**32.2(17)** Negligence by the licensee in the practice of the trade. Negligence by the licensee in the practice of the trade includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice, or conditions which impair the ability to safely and skillfully practice the trade.

**32.2(18)** Violation of a law, ordinance, or regulation of this state, or a political subdivision therein, another state, or the United States, which relates to the practice of the profession.

**32.2(19)** Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court does not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report will be expunged from the records of the board.

**32.2(20)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice in the trade in another state, district, territory, or country.

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

**32.2(21)** Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

**32.2(22)** Failure to notify the board within 30 days after the occurrence of any judgment entered on or settlement of a claim or action related to the profession.

**32.2(23)** Engaging in any conduct that subverts or attempts to subvert a board investigation.

**32.2(24)** Failure to comply with a subpoena issued by the board or otherwise fail to cooperate with an investigation of the board.

**32.2(25)** Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

**32.2(26)** Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

**32.2(27)** Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice a trade included in Iowa Code chapter 105.

**32.2(28)** Failure to report a change in name or address within 30 days after it occurs.

**32.2(29)** Representing oneself as a licensed tradesperson when one's license has been suspended or revoked or when the license is on inactive status.

**32.2(30)** Permitting another person to use the licensee's license for any purpose.

**32.2(31)** Permitting an unlicensed employee or person under the licensee's control to perform activities necessitating a license.

**32.2(32)** Failure to apply and obtain a permit prior to performing work, if mandated by the state or a political subdivision therein.

**32.2(33)** Failure to pay all inspection fees, if required by the state or a political subdivision therein.

**32.2(34)** Failure to pay a permit fee, if required by the state or a political subdivision therein.

**32.2(35)** Practice outside the scope of the license, which includes, but is not limited to:

- a. Practicing as a journeyman without the supervision of a master.
- b. Practicing in a trade for which the licensee does not hold a board-issued license.
- c. Contracting for plumbing or mechanical work in the state of Iowa without a board-issued contractor license.

**32.2(36)** Practicing on a lapsed license.

**32.2(37)** Practicing as a contractor without valid bonding or insurance, as mandated by Iowa Code section 105.19.

**641—32.3(105,272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board or for a specific period, the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Mandate additional education or training.
6. Mandate a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$5,000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

**641—32.4(272C) Discretion of board.** The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;

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

3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

**641—32.5(105) Civil penalties—unlicensed penalties.** The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 105.27(1). In addition to the procedures set forth in Iowa Code chapters 105 and 272C, this chapter applies.

**32.5(1) *Unlawful practices.*** Practices by an unlicensed person which are subject to civil penalties include, but are not limited to:

- a.* Acts or practices by unlicensed persons which necessitate licensure to install or repair plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems under Iowa Code chapter 105.
- b.* Acts or practices by unlicensed persons which necessitate certification to install or repair medical gas piping systems under Iowa Code chapter 105.
- c.* Engaging in the business of designing, installing, or repairing plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems without employing a licensed master.
- d.* Providing plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems services on a contractual basis.
- e.* Use or attempted use of a licensee's certificate or wallet card or use or attempted use of an expired, suspended, revoked, or nonexistent certificate.
- f.* Falsely impersonating a person licensed under Iowa Code chapter 105.
- g.* Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.
- h.* Other violations of Iowa Code chapter 105.
- i.* Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.

**32.5(2) *Investigations.*** The board is authorized by Iowa Code section 17A.13(1) and chapters 105 and 272C to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

**32.5(3) *Subpoenas.*** Pursuant to Iowa Code section 17A.13(1) and chapter 105, the board is authorized in connection with an investigation of an unlicensed person to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in rule 641—34.5(105).

**32.5(4) *Notice of intent to impose civil penalties.*** Notice of the board's intent to order compliance with Iowa Code chapter 105 and impose a civil penalty will be served upon the nonlicensee by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice will include the following:

- a.* A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b.* Reference to the particular sections of the statutes and rules involved.
- c.* A short, plain statement of the alleged unlawful practices.
- d.* The dollar amount of the proposed civil penalty and the nature of the intended order.
- e.* Notice of the nonlicensee's right to a hearing and the time frame in which the hearing must be requested.

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

*f.* The address to which written request for hearing must be made.

**32.5(5) Requests for hearings.**

*a.* Nonlicensees must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa Rule of Civil Procedure 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

*b.* If a request for hearing is not timely made, or if the nonlicensee waives in writing the right to hearing and agrees to pay the penalty, the board chairperson, the chairperson's designee, or the board executive may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 105, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

*c.* If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees.

*d.* Subsequent to the issuance of a notice of hearing under this subrule, the settlement agreement provisions of 641—33.23(272C) apply.

*e.* The notice of intent to issue an order and the order are public records pursuant to Iowa Code chapter 22. Copies may be published. Hearings are open to the public.

**32.5(6) Factors for board consideration.** The board may consider the following when determining the amount of civil penalty to impose, if any:

*a.* Whether the amount imposed will be a substantial economic deterrent to the violation.

*b.* The circumstances leading to or resulting in the violation.

*c.* The severity of the violation and the risk of harm to the public.

*d.* The economic benefits gained by the violator as a result of noncompliance.

*e.* The welfare or best interest of the public.

**32.5(7) Enforcement options.** In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent agreement.

**32.5(8) Judicial review.**

*a.* A person aggrieved by the imposition of a civil penalty under this rule may seek a judicial review in accordance with Iowa Code section 17A.19.

*b.* The board will notify the attorney general of the failure to pay a civil penalty within 30 days after entry of an order or within 10 days following final judgment in favor of the board if an order has been stayed pending appeal.

*c.* The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

*d.* An action to enforce an order under this rule may be joined with an action for an injunction pursuant to Iowa Code section 105.27(4).

**641—32.6(105,272C) Collection of delinquent civil penalties and discipline-related debts.**

**32.6(1)** The board may participate in an income setoff program administered by the department of revenue in accordance with Iowa Code section 421.65 and rules promulgated thereunder.

**32.6(2) Definitions.** For purposes of this rule, the following definitions apply:

“*Debtor*” means any person who owes a debt to the board as a result of a proceeding in which notice and opportunity to be heard was afforded.

“*Income offset program*” means the program established in Iowa Code section 421.65 and any rules promulgated thereunder through which the department of revenue coordinates with state agencies to satisfy liabilities owed to those state agencies.

**32.6(3)** The board office may provide the department of administrative services a liability file containing pertinent information for the identification of the debtor and liability, including if the status of a debt changes due to payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

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

**32.6(4)** Due diligence.

*a.* Before submitting debtor information to the outstanding liability file, the board office will make a good faith attempt to collect from the debtor. Such attempt will include at least all of the following:

- (1) A telephone call requesting payment.
- (2) An initial letter to the debtor's last discernible address requesting payment within 15 days.
- (3) A second letter to the debtor's last discernible address requesting payment within ten days.

*b.* The board office will document due diligence and retain such documentation.

**32.6(5)** Notification of offset. Within ten calendar days of receiving notification from the department of revenue that the debtor is entitled to a payment subject to the setoff program, the board office will:

*a.* Send a preoffset notice to the debtor. The preoffset notice will inform the debtor of the amount the department intends to claim, including all of the following information:

- (1) The board's right to the payment in question.
- (2) The board's right to recover the payment through the setoff procedure.
- (3) The basis of the board's case in regard to the debt.
- (4) The right of the debtor to request, in accordance with subrule 32.6(6) and within 15 days of the mailing of the preoffset notice, a split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.

(5) The debtor's right to appeal the offset, in accordance with subrule 32.6(7) and within 15 days of the mailing of the preoffset notice, and the procedure to follow in that appeal.

(6) The board office's contact information in case of questions.

*b.* Notify the department of revenue that the preoffset notice has been sent to the debtor, and supply a copy of the preoffset notice to the department of revenue.

**32.6(6)** Request to divide a jointly or commonly owned right to payment.

*a.* A debtor who receives a preoffset notice may request release of a joint or common owner's share, if the request is received by the board within 15 days of the date the preoffset notice is mailed.

*b.* In conjunction with such a request, the debtor shall provide to the board the full name and social security number of any joint or common owner.

*c.* Upon receipt of such a request, the board office will notify the department of revenue of the request.

**32.6(7)** Appeal process. A debtor who receives a preoffset notice may request an appeal of the underlying debt within 15 days of the date the preoffset notice is mailed. A contested case appeal will be conducted pursuant to 641—Chapter 33. The board will notify the department of revenue within 45 days of the notification of setoff. The board will hold a payment in abeyance until the final disposition of the contested liability or setoff.

**32.6(8)** Once any setoff has been completed, the board office will notify the debtor of the action taken and what balance, if any, remains owing to the board.

These rules are intended to implement Iowa Code chapters 105 and 272C.

**ARC 7319C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to plumbing and mechanical systems board contested cases and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 33, "Plumbing and Mechanical Systems Board—Contested Cases," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 105.4.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 105 and 272C; 2023 Iowa Acts, Senate File 514; and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 33 and implements Iowa Code chapters 17A, 105, and 272C and 2023 Iowa Acts, Senate File 514, in accordance with the goals of Executive Order 10. This proposed rulemaking addresses contested case hearings, including time requirements for taking action on a contested case; direction on the service of the statement of charges and notice of hearing, as well as the required contents of the statement of charges and notice of hearing; the discovery process, including issuance of subpoenas; the handling of pretrial motions and conferences; and procedures for the hearings and post-hearing motions and appeals. The purpose of this proposed rulemaking is to provide licensees with an outline of how a contested case proceeding is initiated and the rights and responsibilities of the licensee during that process. The proposed rules ensure the licensee is aware of how a contested case begins, how the licensee can gather information to prepare for the hearing, and the potential result of the hearing.

No public comments were received on the published Regulatory Analysis for this chapter (IAB 11/1/23). Accordingly, no substantive changes have been made to the proposed chapter from the Regulatory Analysis.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

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

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 33 and adopt the following **new** chapter in lieu thereof:

CHAPTER 33

PLUMBING AND MECHANICAL SYSTEMS BOARD—CONTESTED CASES

**641—33.1(17A,105,272C) Scope and applicability.** This chapter applies to contested case proceedings conducted by the plumbing and mechanical systems board.

**641—33.2(17A,105,272C) Definitions.** Except where otherwise specifically defined by law:

“*Board*” means the plumbing and mechanical systems board as established pursuant to Iowa Code section 105.3.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*Executive officer*” means the executive officer for the plumbing and mechanical systems board.

“*Issuance*” means the date of mailing of a decision or order, or date of delivery if service is by other means, unless another date is specified by rule or in the order.

“*License*” means a license, registration, certificate, permit or other form of practice permission required by Iowa Code chapter 105.

“*Party*” means the state of Iowa, as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent, or an intervenor.

“*Presiding officer*” means the board, a panel of board members, or a panel of nonboard member specialists as provided in Iowa Code sections 272C.6(1) and (2) in a disciplinary contested case.

**641—33.3(17A) Time requirements.**

**33.3(1)** Time will be computed as provided in Iowa Code section 4.1(34).

**33.3(2)** For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

**641—33.4(17A,272C) Probable cause.** If the board finds there is probable cause for taking disciplinary action against a licensee, the board will order a contested case hearing commenced by the filing and service of a statement of charges and notice of hearing.

**641—33.5(17A,272C) Informal settlement.** The board, its staff or agent, or a board committee may attempt to informally settle a disciplinary case before filing a statement of charges and notice of hearing. If the board and the licensee agree to a settlement of the case, a statement of charges will be filed simultaneously with a consent order, whether as separate or combined documents. By electing to sign a consent order, the licensee waives all rights to a hearing and all attendant rights. The consent order



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

has the force and effect of a final disciplinary order entered in a contested case and is an open record. Matters not involving licensee discipline that culminate in a contested case may also be settled through consent order. Procedures governing settlement after notice of hearing is served are described in rule 641—33.23(272C).

**641—33.6(17A) Statement of charges.**

**33.6(1) *Legal review.*** Every statement of charges and notice of hearing prepared by the board will be reviewed by the office of the attorney general before it is filed.

**33.6(2) *Delivery.*** Delivery of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by personal service or publication as provided in the Iowa Rules of Civil Procedure or by certified mail, return receipt requested.

**33.6(3) *Contents.*** The statement of charges and notice of hearing will contain the following information:

- a. A statement by the board showing that there is probable cause to file the statement of charges;
- b. A statement of the time, place, and nature of the hearing;
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- d. A reference to the particular sections of the statutes and rules involved;
- e. A short and plain statement of the matters asserted containing sufficient detail to give the respondent fair notice of the allegations so the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;
- f. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the board or the state and of parties' counsel where known;
- g. Reference to the procedural rules governing conduct of the contested case proceeding;
- h. Reference to the procedural rules governing informal settlement;
- i. Identification of the presiding officer as the board, a panel of board members, or a panel of nonboard member specialists as provided in Iowa Code sections 272C.6(1) and (2); and
- j. A statement requiring the respondent to submit an answer pursuant to subrule 33.13(2) within 20 days after service of the statement of charges.

**641—33.7(17A) Requests for contested case proceeding.** Any person seeking or claiming entitlement to a contested case hearing shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the board action in question.

**33.7(1) *Contents of request.*** The request for a contested case proceeding should:

- a. State the name and address of the requester;
- b. Identify the specific board action that is disputed;
- c. Describe issues of material fact in dispute; and
- d. Where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved.

**33.7(2) *Board action on request.*** If the board grants the request, the board will issue a notice of hearing. If the board denies the request, the board will issue a written order specifying the basis for the denial.

**641—33.8(105) Legal representation.** Following the filing of a statement of charges and notice of hearing, the office of the attorney general is responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest. Other parties to a proceeding before the board may have counsel at their own expense.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—33.9(17A,105,272C) Presiding officer in a disciplinary contested case.** The presiding officer in a disciplinary contested case will be the board, a panel of not fewer than three board members who are licensed under Iowa Code chapter 105, or a panel of nonboard member specialists as provided in Iowa Code sections 272C.6(1) and (2). The board or a panel of board members when acting as presiding officer may request that an administrative law judge perform certain functions as an aid to the board or board panel, including ruling on prehearing motions, conducting the prehearing conference, ruling on evidentiary objections at hearing, assisting in deliberation, or drafting the written decision for review by the board or board panel. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 641—33.29(17A).

**641—33.10(17A) Presiding officer in a nondisciplinary contested case.**

**33.10(1)** A nondisciplinary contested case includes license denial proceedings. Any party in a nondisciplinary contested case may request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing by filing a written request within 20 days after service of a notice of hearing identifying or describing the presiding officer as the board.

**33.10(2)** The board may only deny the request if:

- a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- b. An administrative law judge with the qualifications identified in subrule 33.10(4) is unavailable to hear the case within a reasonable time.
- c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- d. The demeanor of the witnesses is not likely to be dispositive in resolving the disputed factual issues.
- e. The request was not timely filed.
- f. The request is not consistent with a specified statute.

**33.10(3)** The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 33.10(4), the parties will be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

**33.10(4)** Except as otherwise provided by a provision or law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. Such appeals must be filed within ten days of the date of the issuance of the challenged ruling but no later than the time for compliance with the order or the date of the hearing, whichever occurs first.

**33.10(5)** Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon appeal, the board possesses the powers and complies with the provisions of this chapter applicable to presiding officers.

**641—33.11(17A) Disqualification.**

**33.11(1)** A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted, or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated, in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

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

- e.* Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f.* Has a spouse or relative within the third degree of relationship who:
  - (1) Is a party to the case, or an officer, director or trustee of a party;
  - (2) Is a lawyer in the case;
  - (3) Is known to have an interest that could be substantially affected by the outcome of the case; or
  - (4) Is likely to be a material witness in the case; or
- g.* Has any other legally sufficient cause to withdraw from participation.

**33.11(2)** The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include:

- a.* General direction and supervision of assigned investigators;
- b.* Unsolicited receipt of information that is relayed to assigned investigators;
- c.* Review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or
- d.* Exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter that culminates in a contested case.

**33.11(3)** Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3) and subrule 33.27(9).

**33.11(4)** By electing to participate in an appearance before the board pursuant to rule 641—34.7(17A), the licensee waives any objection to a board member’s participating as a decision maker in a contested case proceeding on the grounds that the board member “personally investigated” the matter under this provision.

**33.11(5)** If a presiding officer or other person knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information from the records by affidavit including a statement of the reasons for the determination that withdrawal is unnecessary.

**641—33.12(17A) Consolidation—severance.**

**33.12(1)** *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested cases where:

- a.* The matters involve common parties or common questions of fact or law;
- b.* Consolidation would expedite and simplify consideration of the issues involved; and
- c.* Consolidation would not adversely affect the rights of any of the parties to those proceedings.

**33.12(2)** *Severance.* The presiding officer may, for good cause shown, order any contested case proceeding or portions thereof severed.

**641—33.13(17A) Pleadings.**

**33.13(1)** *Pleadings.* Pleadings may be required by rule, by the statement of charges, or by order of the presiding officer.

**33.13(2)** *Answer.*

*a.* An answer shall be filed within 20 days of service of the statement of charges and notice of hearing that:

- (1) Identifies on whose behalf it is filed;
- (2) Sets forth the name, address and telephone number of the person filing the answer, the person on whose behalf it is filed, and the attorney, if any, representing that person;
- (3) Specifically admits, denies or otherwise answers all material allegations of the statement of charges; and
- (4) Sets forth any facts deemed necessary to show an affirmative defense and contain as many additional defenses as the respondent may claim.

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

*b.* The presiding officer may refuse to consider any defense not raised in the answer that could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

**33.13(3) Amendments.** Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Otherwise, a party may amend a pleading only with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

**641—33.14(17A) Service and filing.**

**33.14(1) Service—when required.** Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as prosecutor for the state, simultaneously with its filing. Except for the original statement of charges and notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**33.14(2) Service—how made.** Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is completed upon mailing, except where otherwise specifically provided by statute, rule, or order.

**33.14(3) Filing—when required.** After the statement of charges and notice of hearing, all documents in a contested case proceeding will be filed with the board. All documents that are required to be served upon a party will be filed simultaneously with the board.

**33.14(4) Filing—when made.** Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for immediate delivery to the board; or mailed by first-class or state interoffice mail to the board, so long as there is proof of mailing.

**33.14(5) Proof of mailing.** Proof of mailing includes:

- a.* A legible United States Postal Service postmark on the envelope, or
- b.* A certificate of service, or
- c.* A notarized affidavit, or
- d.* A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the board and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

**641—33.15(17A) Discovery.**

**33.15(1)** Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules, by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery will be as provided in the Iowa Rules of Civil Procedure.

**33.15(2)** Any motion relating to discovery shall allege that the moving party has previously made a good faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 33.15(1). The presiding officer may rule on the basis of the written motion and any response, or may order oral argument.

**33.15(3)** Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

**641—33.16(17A,272C) Subpoenas in a contested case.**

**33.16(1)** Subpoenas issued in a contested case may compel the attendance of witnesses at deposition or hearing and may compel the production of books, papers, records, or other real evidence. A command

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

to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing or may be issued separately. Subpoenas will be issued by the executive officer or designee upon written request. In the case of a request for a subpoena of mental health records, the request must confirm the conditions described in 641—subrule 34.5(1) prior to the issuance of the subpoena.

**33.16(2)** A request for a subpoena should include the following information, as applicable, unless the subpoena is requested in order to compel testimony or documents for rebuttal or impeachment purposes:

- a.* The name, address, and telephone number of the person requesting the subpoena;
- b.* The name and address of the person to whom the subpoena shall be directed;
- c.* The date, time, and location at which the person shall be commanded to attend and give testimony;
- d.* Whether the testimony is requested in connection with a deposition or hearing;
- e.* A description of the books, papers, records, or other real evidence requested;
- f.* The date, time, and location for production, or inspection and copying; and
- g.* In the case of a subpoena request for mental health records, confirmation that the conditions described in 641—subrule 34.5(1) have been satisfied.

**33.16(3)** Each subpoena shall contain, as applicable:

- a.* The caption of the case;
- b.* The name, address, and telephone number of the person who requested the subpoena;
- c.* The name and address of the person to whom the subpoena is directed;
- d.* The date, time, and location at which the person is commanded to appear;
- e.* Whether testimony is commanded in connection with a deposition or hearing;
- f.* A description of the books, papers, records, or other real evidence the person is commanded to produce;
- g.* The date, time, and location for production, or inspection and copying;
- h.* The time within which a motion to quash or modify the subpoena must be filed;
- i.* The signature, address, and telephone number of the board executive officer or designee;
- j.* The date of issuance; and
- k.* A return of service.

**33.16(4)** Unless a subpoena is requested in order to compel testimony or documents for rebuttal or impeachment purposes, the executive officer or designee will mail the subpoena to the requesting party, with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

**33.16(5)** Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case, who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena describing the legal reasons why the subpoena should be quashed or modified. It may be accompanied by legal briefs or factual affidavits.

**33.16(6)** Upon receipt of a timely motion to quash or modify a subpoena, the presiding officer hold a hearing and issue a decision. Oral argument may be scheduled at the discretion of the presiding officer. The presiding officer may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

**33.16(7)** A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving on the board's executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision.

**33.16(8)** If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

**641—33.17(17A) Motions.**

**33.17(1)** Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

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

**33.17(2)** Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on the motion.

**33.17(3)** The presiding officer may schedule oral argument on any motion. If the board requests that an administrative law judge issue a ruling on a prehearing motion, the ruling is subject to interlocutory appeal pursuant to rule 641—33.29(17A).

**33.17(4)** Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least five days prior to the date of the hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

**33.17(5)** Motions for summary judgment shall comply with Iowa Rule of Civil Procedure 1.981 and will be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

*a.* Motions for summary judgment must be filed and served at least 20 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within ten days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served.

*b.* The time fixed for hearing or nonoral submission will be not less than 15 days after the filing of the motion, unless a shorter time is ordered by the presiding officer.

*c.* A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 641—33.32(17A,272C) and appeal pursuant to rule 641—33.30(17A,272C).

**641—33.18(17A) Withdrawals.** A party requesting a contested case proceeding may withdraw that request prior to the hearing upon written notice filed with the board and served on all parties. Unless otherwise ordered by the board, a withdrawal is with prejudice.

**641—33.19(17A) Intervention.**

**33.19(1) Motion.** A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

**33.19(2) When filed.** Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor will be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances that would delay the proceeding will ordinarily be denied.

**33.19(3) Grounds for intervention.** The movant shall demonstrate that:

*a.* Intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties;

*b.* The movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and

*c.* The interests of the movant are not adequately represented by existing parties.

**33.19(4) Effect of intervention.** If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may limit the issues raised by the intervenor or otherwise condition the intervenor's participation.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—33.20(17A) Telephone proceedings.** The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Disciplinary hearings will generally not be held by telephone or electronic means in the absence of consent by all parties, but the presiding officer may permit any witness to testify by telephone. Parties shall disclose at or before the prehearing conference if any witness will be testifying by telephone. Objections, if any, shall be filed with the board and served on all parties at least three business days in advance of hearing.

**641—33.21(17A) Prehearing conferences.**

**33.21(1)** Any party may request a prehearing conference. Prehearing conferences will be conducted by the executive officer or designee, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the executive officer's own motion shall be filed not less than ten days prior to the hearing date. A prehearing conference will be scheduled not less than five business days prior to the hearing date. The executive officer shall set a prehearing conference in all licensee disciplinary cases and provide notice of the date and time in the notice of hearing. Written notice of the prehearing conference will be given by the executive officer to all parties. For good cause the executive officer may permit variances from this rule.

**33.21(2)** The parties at a prehearing conference will be prepared to discuss the following subjects, and the executive officer or administrative law judge may issue appropriate orders concerning:

- a. The possibility of settlement.
- b. The entry of a scheduling order to include deadlines for completion of discovery.
- c. Stipulations of law or fact.
- d. Stipulations on the admissibility of evidence.
- e. Submission of expert or other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the executive officer or administrative law judge at the prehearing conference. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.
- f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Other than rebuttal exhibits, exhibits that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.
- g. Stipulations for waiver of any provision of law.
- h. Identification of matters that the parties intend to request to be officially noticed.
- i. Consideration of any additional matters that will expedite the hearing.

**33.21(3)** Prehearing conferences may be conducted by telephone unless otherwise ordered.

**641—33.22(17A) Continuances.**

**33.22(1)** Unless otherwise provided, applications for continuance shall be filed with the board at least seven days before the date scheduled for hearing. If the application for continuance is not contested, the executive officer or designee will issue the appropriate order. If the application for continuance is contested, the matter will be heard by the board or delegated to an administrative law judge.

**33.22(2)** A written application for continuance will:

- a. Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;
- b. State the specific reasons for the request for continuance; and
- c. Be signed by the requesting party or the party's representative.

**33.22(3)** An oral application for continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance

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

must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer.

**33.22(4)** No application for continuance will be made or granted without notice to all parties except in an emergency where notice is not feasible. The board may waive notice of such requests for a particular case or an entire class of cases.

**33.22(5)** The presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider any relevant factors, including prior continuances; the interests of all parties; the public interest; the likelihood of informal settlement; the existence of an emergency; any objection; any applicable time requirements; the existence of a conflict in the schedules of counsel, parties, or witnesses; and the timeliness of the request.

**641—33.23(272C) Settlement agreements.**

**33.23(1)** Settlement negotiations after the notice of hearing may be initiated by the licensee or other respondent, the prosecuting attorney, the board's executive officer, or the board chair or chair's designee.

**33.23(2)** The board chair or chair's designee may negotiate on behalf of the board but does not have the authority to bind the board to a particular term of settlement.

**33.23(3)** The respondent is not obligated to participate in settlement negotiations. The respondent's initiation or consent to settlement negotiations constitutes a waiver of notice and opportunity to be heard during the settlement negotiation pursuant to Iowa Code section 17A.17 and rule 641—33.27(17A). Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board chair or chair's designee, and the designated board member is not disqualified from participating in the adjudication of the contested case.

**33.23(4)** Unless designated to negotiate, no member of the board shall be involved in settlement negotiation until a written consent order is submitted to the full board for approval. No informal settlement will be submitted to the full board unless it is in final written form executed by the respondent. By signing the proposed consent order, the respondent authorizes the prosecuting attorney or executive officer to have ex parte communications with the board related to the terms of the settlement. If the board fails to approve the consent order, it shall be of no force and effect to either party and shall not be admissible at hearing. Upon rejecting a proposed consent order, the board may suggest alternative terms of settlement, which the respondent is free to accept or reject.

**33.23(5)** If the board and respondent agree to a consent order, the consent order constitutes the final decision of the board. By electing to resolve a contested case through consent order, the respondent waives all rights to a hearing and attendant rights. A consent order in a licensee disciplinary case has the force and effect of a final disciplinary order entered in a contested case and may be published as provided in subrule 33.30(1).

**641—33.24(17A) Hearing procedures.** The presiding officer will be in control of the proceedings and will have the authority to administer oaths, admit or exclude testimony or other evidence, and rule on all motions and objections.

**33.24(1) Examination of witnesses.** All witnesses shall be sworn or affirmed by the presiding officer or the court reporter and be subject to cross-examination. Board members and the administrative law judge have the right to examine witnesses at any stage of a witness's testimony. The presiding officer may limit questioning in a manner consistent with law.

**33.24(2) Public hearing.** The hearing will be open to the public unless a licensee or licensee's attorney requests in writing that a licensee disciplinary hearing be closed to the public.

**33.24(3) Record of proceedings.** Oral proceedings will be recorded either by mechanical or electronic means or by certified shorthand reporters. Oral proceedings or any part thereof will be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription will be filed with and maintained by the board for at least five years from the date of decision.

**33.24(4) Order of proceedings.** Before testimony is presented, the record will show the identities of any board members present, the identity of the administrative law judge, the identities of the primary



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

parties and their representatives, and the fact that all testimony is being recorded. In contested cases initiated by the board, such as licensee discipline, hearings will generally be conducted in the following order, subject to modification at the discretion of the board:

*a.* The presiding officer or designee may read a summary of the charges and answers thereto and other responsive pleadings filed by the respondent prior to the hearing.

*b.* The assistant attorney general representing the state's interest before the board may make a brief opening statement, which may include a summary of charges and the names of any witnesses and documents to support such charges.

*c.* Each respondent shall be offered the opportunity to make an opening statement, including the names of any witnesses the respondent(s) desires to call in defense. A respondent may elect to make the opening statement just prior to the presentation of evidence by the respondent(s).

*d.* The presentation of evidence on behalf of the state.

*e.* The presentation of evidence on behalf of the respondent(s).

*f.* Rebuttal evidence on behalf of the state, if any.

*g.* Rebuttal evidence on behalf of the respondent(s), if any.

*h.* Closing arguments first on behalf of the state, then on behalf of the respondent(s), and then on behalf of the state, if any. The order of proceedings will be tailored to the nature of the contested case. In license reinstatement hearings, for example, the respondent will generally present evidence first because the respondent is obligated to present evidence in support of the respondent's application for reinstatement pursuant to rule 641—33.40(17A,272C). In license denial hearings, the state will generally first establish the basis for the board's denial of licensure, but thereafter the applicant has the burden of establishing the conditions for licensure pursuant to rule 641—33.36(17A,105,272C).

**33.24(5) Decorum.** The presiding officer will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

**33.24(6) Immunity.** The presiding officer has authority to grant immunity from disciplinary action to a witness, as provided by Iowa Code section 272C.6(3), but only upon the unanimous vote of all members of the board hearing the case. The official record of the hearing shall include the reasons for granting the immunity.

**33.24(7) Sequestering witnesses.** The presiding officer, on the officer's own motion or upon the request of a party, may sequester witnesses.

**641—33.25(17A) Evidence.**

**33.25(1)** The presiding officer will rule on the admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

**33.25(2)** Stipulation of facts is encouraged.

**33.25(3)** Evidence in the proceeding will be confined to the issues as to which the parties received notice prior to the hearing unless a party waives the party's right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer admits evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

**33.25(4)** The party seeking admission of an exhibit must provide the opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents shall be provided to opposing parties. All exhibits admitted into evidence will be appropriately marked and be made part of the record.

**33.25(5)** Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection must be timely and will be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

**33.25(6)** Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record by briefly summarizing the testimony or, with permission of the presiding

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

officer, presenting the testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record.

**33.25(7)** Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to relying for the conduct of their serious affairs, and may be based on hearsay or other types of evidence that may or would be inadmissible in a jury trial.

**641—33.26(17A) Default.**

**33.26(1)** If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

**33.26(2)** Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

**33.26(3)** Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by subrule 33.30(2). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

**33.26(4)** The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

**33.26(5)** Properly substantiated and timely filed motions to vacate will be granted only for good cause shown, with burden of proof as to good cause on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties will be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

**33.26(6)** "Good cause" for purposes of this rule has the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

**33.26(7)** A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 641—33.29(17A).

**33.26(8)** If a motion to vacate is granted and no interlocutory appeal has been taken, the presiding officer will issue another statement of charges and notice of hearing and the contested case will proceed accordingly.

**33.26(9)** A default decision may provide either that the default is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 641—33.33(17A).

**641—33.27(17A) Ex parte communication.**

**33.27(1)** Unless requested for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges and notice of hearing there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 33.11(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a

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

type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

**33.27(2)** Prohibitions on ex parte communications commence with the issuance of the statement of charges and notice of hearing in a contested case and continue for as long as the case is pending before the board.

**33.27(3)** Written, oral, or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

**33.27(4)** To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 641—33.14(17A) and may be supplemented by telephone, facsimile, electronic mail, or other means of notification. When permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

**33.27(5)** Persons who jointly act as a presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

**33.27(6)** The executive officer or other persons may be present during deliberations as long as the executive officer or other person is not disqualified from participating pursuant to rule 641—33.11(17A).

**33.27(7)** Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 641—33.22(17A).

**33.27(8)** A presiding officer who receives a prohibited ex parte communication during the contested case process must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

*a.* If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order.

*b.* If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

**33.27(9)** Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

**33.27(10)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the board. Violation of ex parte communications prohibitions by board personnel will be reported to the board and the board’s executive officer for possible sanctions, including censure, suspension, dismissal, or other disciplinary action.

**641—33.28(17A) Recording costs.** Upon request, the board will provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record will be paid by the requesting party.

**641—33.29(17A) Interlocutory appeals.** Upon written request of a party or on its own motion, the board may review an interlocutory order of the executive officer, administrative law judge, or hearing panel. Any request for interlocutory review must be filed within 14 days of issuance of the challenged

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

order, but no later than the time for compliance with the order or the date of the hearing, whichever is first. In determining whether to do so, the board will consider:

1. The extent to which granting the interlocutory appeal would expedite final resolution of the case; and
2. The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

**641—33.30(17A,272C) Decisions.**

**33.30(1) Final decisions.** When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision. A majority of the members constitutes a quorum. Final decisions will be served on the parties in accordance with subrule 33.14(2). Final decisions of the board, including consent agreements and consent orders, are public documents pursuant to Iowa Code chapter 22.

**33.30(2) Proposed panel decisions.**

*a. Panel of specialists.* When a panel of three specialists presides over the hearing, the panel will issue a proposed decision that will include findings of fact but will not include conclusions of law or any recommendation for or against the licensee discipline. A proposed decision of a panel of specialists, together with a transcript of the proceedings and the exhibits presented, will be reviewed by the board within 30 days of the date the proposed decision was issued.

*b. Panel of board members.* When a panel of three or more board members presides over the hearing, the panel will issue a proposed decision that will include proposed findings of fact, conclusions of law, and the order. A proposed panel decision will be reviewed by the board within 30 days of the date the proposed panel decision was issued. A proposed panel decision becomes a final decision without further proceedings unless appealed in accordance with paragraph 33.30(2)“c.”

*c. Appeal of proposed panel decisions.* A proposed panel decision pursuant to paragraph 33.30(2)“a” or 33.30(2)“b” may be appealed to the full board by either party by serving on the executive officer, either in person or by certified mail, a notice of appeal within 30 days after service of the proposed decision on the appealing party. The notice of appeal shall specify the party initiating the appeal, the proposed decision or order appealed from, the specific findings or conclusions to which exception is taken and any other exceptions to the decision or order, the relief sought, and the grounds for relief.

(1) Following receipt of a notice of appeal, the board will enter an order establishing a schedule for submission of briefs and oral argument. The parties shall serve their briefs on the board and shall furnish an additional copy to each party by first-class mail. Briefs will cite any applicable legal authority and specify relevant portions of the record in that proceeding.

(2) Oral argument will be heard by the board unless waived by both parties. The time granted each party for oral argument will be established by the board.

(3) The record on appeal will be the entire record made before the hearing panel or administrative law judge.

*d. Confidentiality.* At no time prior to the release of the final decision by the board shall a proposed decision be made public or distributed to any person other than the parties.

*e. Requests to present additional evidence.* A party may request the taking of additional evidence after the issuance of a proposed decision only by establishing that:

- (1) The evidence is material; and
- (2) The evidence arose after the completion of the original hearing; or
- (3) Good cause exists for failure to present the evidence at the original hearing; and
- (4) The party has not waived the right to present additional evidence.

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

A written request to present additional evidence must be filed with the notice of appeal or by a nonappealing party within 14 days of service of the notice of appeal. The board may remand a case to the hearing panel for further hearing or may itself preside at the taking of additional evidence.

**641—33.31(17A,272C) Client notification.** Within 15 days (or such other time period specifically ordered by the board) of the licensee's receipt of the board's final decision, whether entered by consent or following hearing, which suspends or revokes a license or accepts a voluntary surrender of a license to resolve a disciplinary case, the licensee shall notify in writing all current clients of the fact that the license has been suspended, revoked or voluntarily surrendered. Such notice shall advise clients to obtain alternative professional services. Within 30 days of receipt of the board's final order, the licensee shall file with the board copies of the notices sent. Compliance with this requirement is a condition for an application for reinstatement.

**641—33.32(17A,272C) Application for rehearing.**

**33.32(1)** Any party to a contested case proceeding may file an application for rehearing from a final order. The filing of an application for rehearing is not necessary to exhaust administrative remedies for purposes of judicial review.

**33.32(2)** The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, the relief sought, whether the applicant desires reconsideration of all or part of the board decision on the existing record, and whether, on the basis of grounds enumerated in paragraph 33.30(2) "e" and rule 641—33.31(17A,272C), the applicant requests an opportunity to submit additional evidence.

**33.32(3)** The application shall be filed with the board within 20 days after issuance of the final decision.

**33.32(4)** A copy of the application shall be timely mailed by the applicant to all parties of record.

**33.32(5)** A request that additional evidence be considered on rehearing is governed by paragraph 33.30(2) "e."

**33.32(6)** Any application for rehearing is deemed denied unless the board grants the application within 20 days after its filing.

**33.32(7)** Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

**33.32(8)** If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

**641—33.33(17A) Stays of board actions.**

**33.33(1)** Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The board may rule on the stay or authorize the administrative law judge to do so. Any party to a contested case proceeding may petition the board for a stay or other temporary remedies, pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

**33.33(2)** In determining whether to grant a stay, the presiding officer or board will consider the factors listed in Iowa Code section 17A.19(5) "c."

**33.33(3)** A stay may be vacated by the issuing authority upon application of the board or any other party.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—33.34(17A) No factual dispute contested cases.** If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

**641—33.35(17A) Emergency adjudicative proceedings.**

**33.35(1) 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 board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order, the board will consider factors including, but not limited to, the following:

- a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;
- b. Whether the specific circumstances which pose immediate danger to the public health, safety, or welfare have been identified and determined to be continuing;
- c. Whether the person 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;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

**33.35(2) Issuance of order.**

- a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger and the board's decision to take immediate action. The order is an open record.
- b. The written emergency adjudicative order will be immediately delivered to the person who 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 board;
  - (3) Certified mail to the last address on file with the board;
  - (4) Facsimile, which may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by facsimile and has provided a facsimile number for that purpose.
- c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

**33.35(3) Oral notice.** Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order is issued, the board will make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

**33.35(4) Completion of proceedings.** After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

- a. Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for hearing.
- b. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon written application unless the person required to comply with the order is the party requesting the continuance.

**641—33.36(17A,105,272C) License denial.** If the board denies an application for a license, the board or its staff shall send written notice to the applicant by regular first-class mail identifying the factual and

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

legal basis for denying the application. If the board denies an application to renew an existing license, the provisions of rule 641—33.37(17A,105,272C) shall apply.

**33.36(1)** An applicant who is aggrieved by the denial of an application for licensure and who desires to contest the denial must request a hearing before the board within 30 calendar days of the date the notice of denial is mailed. A request for hearing must be in writing and is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service to the board office. The request for hearing shall specify the factual or legal errors that the applicant contends were made by the board, must identify any factual disputes upon which the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure. If a request for hearing is timely made, the board shall promptly issue a notice of hearing on the grounds asserted by the applicant.

**33.36(2)** Subject to subrule 33.10(1), the board may act as presiding officer at the contested case hearing, may hold the hearing before a panel of three board members, or may request that an administrative law judge act as the presiding officer and render a proposed decision. A proposed decision by a panel of board members or an administrative law judge is subject to appeal or review by the board pursuant to subrule 33.30(2).

**33.36(3)** License denial hearings are contested cases open to the public. Evidence supporting the denial of the license may be presented by an assistant attorney general. While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure.

**33.36(4)** The presiding officer, after a hearing on the license denial, may grant or deny the application for licensure. If denied, the presiding officer shall state the reasons for denial of the license and may state conditions under which the application for licensure might be granted, if applicable.

**33.36(5)** The notice of license denial, request for hearing, notice of hearing, record at hearing, and order are open records and available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, collateral organizations, and other persons or entities.

**33.36(6)** Judicial review of a final order of the board denying licensure may be sought in accordance with the provisions of Iowa Code section 17A.19 that are applicable to judicial review of any agency's final decision in a contested case.

**641—33.37(17A,105,272C) Denial of application to renew license.** If the board denies a timely and sufficient application to renew a license, a notice of hearing will be issued to commence a contested case proceeding.

**33.37(1)** Hearings on denial of an application to renew a license will be conducted according to the procedural rules applicable to contested cases. Evidence supporting the denial of the license may be presented by an assistant attorney general. The provisions of subrules 33.36(2) and 33.36(4) to 33.36(6) will generally apply, although license denial hearings that are in the nature of disciplinary actions will be subject to all laws and rules applicable to such hearings.

**33.37(2)** Pursuant to Iowa Code section 17A.18(2), an existing license does not terminate or expire if the licensee has made timely and sufficient application for renewal until the last day for seeking judicial review of the board's final order denying the application, or a later date fixed by order of the board or the reviewing court.

**33.37(3)** Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application is:

- a. Received by the board in paper or electronic form, or postmarked with a nonmetered United States Postal Service postmark on or before the date the license is set to expire or lapse;
- b. Signed by the licensee if the application is submitted in paper form or certified as accurate if submitted electronically;
- c. Fully completed; and
- d. Accompanied with the required fee. The fee will be deemed unacceptable if the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant

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

is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds.

**33.37(4)** The administrative processing of an application to renew an existing license will not prevent the board from subsequently commencing a contested case to challenge the licensee's qualifications for continued licensure if grounds exist to do so.

**641—33.38(105,272C) Recovery of hearing fees and expenses.** The board may assess the licensee certain fees and expenses relating to a disciplinary hearing only if the board finds that the licensee has violated a statute or rule enforced by the board. Payment shall be made directly to the board.

**33.38(1)** The board may assess the following costs under this rule:

*a.* For conducting a disciplinary hearing, an amount not to exceed \$75.

*b.* All applicable costs involved in the transcript of the hearing or other proceedings in the contested case including, but not limited to, the services of the court reporter at the hearing, transcription, duplication, and postage or delivery costs. In the event of an appeal to the full board from a proposed decision, the appealing party shall timely request and pay for the transcript necessary for use in the board appeal process. The board may assess the transcript cost against the licensee pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7), as the board deems equitable under the circumstances.

*c.* All normally accepted witness expenses and fees for a hearing or the taking of depositions, as incurred by the state of Iowa. These costs include, but are not limited to, the cost of an expert witness and the cost involved in telephone testimony. The costs for lay witnesses are guided by Iowa Code section 622.69. The cost for expert witnesses is guided by Iowa Code section 622.72. Mileage costs are not guided by Iowa Code section 625.2. The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to any witness who is subpoenaed by either party to testify at hearing. Additionally, the board may assess travel and lodging expenses for witnesses at a rate not to exceed the rate applicable to state employees on the date the expense is incurred.

*d.* All normally applicable costs incurred by the state of Iowa involved in depositions including, but not limited to, the service of the court reporter who records the deposition, transcription, duplication, and postage or delivery costs. When a deposition of an expert witness is taken, the deposition cost shall include a reasonable expert witness fee. The expert witness fee shall not exceed the expert's customary hourly or daily rate, and shall include the time spent in travel to and from the deposition but exclude time spent in preparation for the deposition.

**33.38(2)** When imposed at the board's discretion, hearing fees (not exceeding \$75) will be assessed in the final disciplinary order. Costs and expenses assessed pursuant to this rule will be calculated and, when possible, entered into the final disciplinary order specifying the amount to be reimbursed and the time period in which the amount assessed must be paid by the licensee.

*a.* When it is impractical or not possible to include in the disciplinary order the exact amount of the assessment and time period in which to pay in a timely manner, or if the expenditures occur after the disciplinary order is issued, the board, by majority vote of the members present, may assess through separate order the amount to be reimbursed and the time period in which payment is to be made by the licensee.

*b.* If the assessment and the time period are not included in the disciplinary order, the board will have until the end of the sixth month after the date the state of Iowa paid the expenditures to assess the licensee for such expenditures. In order for the board to rely on this provision, however, the final disciplinary order must notify the licensee that fees and expenses will be assessed once known.

**33.38(3)** Any party may object to the fees, costs, or expenses assessed by the board by filing a written objection within 20 days of the issuance of the final disciplinary decision, or within 10 days of any subsequent order establishing the amount of the assessment. A party's failure to timely object is deemed a failure to exhaust administrative remedies. Orders imposing fees, costs, or expenses will notify the licensee of the time frame in which objections must be filed in order to exhaust administrative remedies.



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

**33.38(4)** Fees, costs, and expenses assessed by the board pursuant to this rule are allocated to the expenditure category in which the disciplinary procedure or hearing was incurred. The fees, costs, and expenses are considered repayment of receipts as defined in Iowa Code section 8.2.

**33.38(5)** The failure to comply with payment of the assessed costs, fees, and expenses within the time specified by the board constitutes a violation of an order of the board, is grounds for discipline, and is considered prima facie evidence of a violation of Iowa Code section 272C.3(2)“a.” However, no action may be taken against the licensee without the opportunity for hearing as provided in this chapter.

**641—33.39(17A) Judicial review.** Judicial review of the board’s decision may be sought in accordance with the terms of Iowa Code chapter 17A.

**641—33.40(17A,272C) Reinstatement.**

**33.40(1)** The term “reinstatement,” as used in this rule, includes both the reinstatement of a suspended license and the issuance of a new license following the revocation or voluntary surrender of a license.

**33.40(2)** Any person whose license has been revoked or suspended by the board, or who voluntarily surrendered a license in a disciplinary proceeding, may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension, or order accepting the voluntary surrender, unless the order of revocation provides that the license is permanently revoked.

**33.40(3)** Unless otherwise provided by law, if the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement cannot be made until at least one year has elapsed from the date of the order or the date the board accepted the voluntary surrender of a license.

**33.40(4)** All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the respondent’s license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement will be subject to the same rules of procedure as other cases before the board.

**33.40(5)** An application for reinstatement will allege facts which, if established, are sufficient to enable the board to determine that the basis of revocation, suspension or voluntary surrender of the respondent’s license no longer exists and that it will be in the public interest for the license to be reinstated. Compliance with rule 641—33.31(17A,272C) must also be established. The burden of proof to establish such facts is on the respondent.

**33.40(6)** An order of reinstatement will incorporate findings of fact and conclusions of law and be based upon the affirmative vote of no fewer than a majority of the board. This order will be published as provided for in subrule 33.30(1).

These rules are intended to implement Iowa Code chapters 17A, 105 and 272C.

**ARC 7320C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to plumbing and mechanical systems complaints and investigations and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 34, “Plumbing and Mechanical Systems Board—Complaints and Investigations,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 105.4 and 272C.3.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 105 and 272C.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 34 and implements Iowa Code chapters 105 and 272C in accordance with the goals of Executive Order 10 (January 10, 2023). The intended benefit of this chapter is to ensure that the public and licensees are aware of the complaint and investigation process and understand their rights and responsibilities during this process. It provides information regarding the processes for submitting a complaint; requires licensees to report malpractice, disciplinary actions, or regulatory infractions of other licensees; and describes the investigative process, including the issuance of investigatory subpoenas, peer review committees, and Plumbing and Mechanical Systems Board appearances.

No public comments were received on the published Regulatory Analysis for this chapter (IAB 11/1/23). One nonsubstantive change has been made to the proposed chapter from the Regulatory Analysis.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 34 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 34

## PLUMBING AND MECHANICAL SYSTEMS BOARD—COMPLAINTS AND INVESTIGATIONS

**641—34.1(272C) Complaints.**

**34.1(1)** Complaints can be submitted online, in writing, or verbally and should include the name and contact information of the complainant, the name of the licensee, and a concise statement of the allegations against the licensee. A complaint may also be initiated by the board.

**34.1(2)** A person is not civilly liable for filing a complaint in good faith with the board, or for cooperating with a board investigation per Iowa Code section 272C.8.

**641—34.2(272C) Report of malpractice claims or actions or disciplinary actions.** The licensee will submit any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state or jurisdiction to the board within 30 days of the date of occurrence.

**641—34.3(272C) Report of acts or omissions.** A licensee having knowledge of rules violations committed by another licensee will file a report to the board. The report will include the name and contact information of the licensee and the date, time, and place of the incident.

**641—34.4(272C) Investigation of complaints or reports.** Board staff may request additional information, solicit a response from the licensee, subpoena records, conduct interviews, gather evidence, and perform other investigatory duties as necessary to inform the board.

**641—34.5(17A,272C) Issuance of investigatory subpoenas.**

**34.5(1)** The board executive officer or designee may, upon the written request of a board investigator or on the executive officer's own initiative, subpoena books, papers, records, and other real evidence that are necessary for the board to decide whether to initiate a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

**34.5(2)** Each subpoena will contain:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production or inspection and copying;
- d. The deadline for filing a motion to quash or modify the subpoena;
- e. The signature, address and telephone number of the board executive officer or designee;
- f. The date of issuance;
- g. A return of service.

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

**34.5(3)** A person can challenge the subpoena by filing a motion to quash describing the legal justification for the motion within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days.

**34.5(4)** Upon receipt of a timely motion to quash or modify a subpoena, an administrative law judge will issue a decision. The administrative law judge may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

**34.5(5)** A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving the board executive officer, either in person, by email, or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

**34.5(6)** If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either (1) the person is notified the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

**641—34.6(272C) Peer review.**

**34.6(1)** A complaint may be assigned to a peer reviewer for review and report to the board.

**34.6(2)** The board determines what complaints or other matters are referred to a peer reviewer.

**34.6(3)** Peer reviewers are not liable for acts, omissions, or decisions made in connection with service made in good faith.

**34.6(4)** The peer reviewer shall maintain confidentiality pursuant to Iowa Code section 272C.6.

**641—34.7(17A) Appearance.** The board may request that a licensee appear before a committee of the board to discuss a pending investigation. By electing to participate in the committee appearance, the licensee waives any objection to a board member both participating in the appearance and later participating as a decision maker in a contested case proceeding. By electing to participate in the committee appearance, the licensee further waives any objection to the board executive officer assisting the board in the contested case proceeding.

These rules are intended to implement Iowa Code chapters 17A, 105, and 272C.

**ARC 7322C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to plumbing and mechanical systems alternative licensure pathways and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 35, "Plumbing and Mechanical Systems Board—Alternative Licensure Pathways," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 105.4 and 272C.3.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 105 and 272C.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 35 and implements Iowa Code chapters 105 and 272C in accordance with the goals of Executive Order 10 (January 10, 2023). This rulemaking

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

establishes procedures for the Plumbing and Mechanical Systems Board to issue licenses by alternative methods. The rulemaking sets forth a checklist for applicants to follow when seeking a reciprocal license and the circumstances under which the Board may deny a reciprocal license. The rulemaking also sets forth a checklist for applicants to follow when seeking license by verification and explains how the Board will approach applications for applicants with prior discipline. The rulemaking sets forth a checklist for applicants to follow when seeking licensure via work experience upon an applicant's relocation from another jurisdiction that did not require a license.

No public comments were received on the published Regulatory Analysis for this chapter (IAB 11/1/23). One nonsubstantive change has been made to the proposed chapter from the Regulatory Analysis.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's

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

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 35 and adopt the following new chapter in lieu thereof:

CHAPTER 35  
PLUMBING AND MECHANICAL SYSTEMS BOARD—ALTERNATIVE  
LICENSURE PATHWAYS

**641—35.1(105) Definitions.** For purposes of this chapter, the following definitions apply:

“*Board*” means the same as defined in Iowa Code section 105.2(2).

“*Full time*” means a minimum of 1,700 hours of work in a one-year period.

“*Issuing jurisdiction*” means the same as defined in Iowa Code section 272C.12(5).

“*Transferring jurisdiction*” means the specific issuing jurisdiction on which an applicant relies to seek licensure in Iowa by verification under this chapter.

**641—35.2(105) Reciprocity agreements.** The board may enter into licensing reciprocity agreements with other states in accordance with Iowa Code section 105.21.

**641—35.3(105) Licensure by reciprocity.** A nonresident of Iowa seeking a reciprocal license under Iowa Code chapter 105 applies on forms provided by the board.

**35.3(1) Reciprocity criteria.** The board may issue a reciprocal license if the following criteria are met:

- a. The applicant is a nonresident of Iowa;
- b. The applicant possesses a valid plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic license from an issuing jurisdiction with which the board has entered into a reciprocity agreement;
- c. The applicant has paid the appropriate fee or fees set forth in 641—Chapter 28;
- d. The applicant meets the minimum qualifications for licensure set forth in rule 641—29.4(105); and
- e. The applicant agrees to comply with all provisions of Iowa law and applicable administrative rules.

**35.3(2) Denial of reciprocal license.** The board may refuse to issue a reciprocal license to an applicant otherwise qualified based upon a suspension, revocation, or other disciplinary action taken against the applicant by a licensing authority in this or another jurisdiction. For purposes of this subrule, a “disciplinary action” includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding.

**641—35.4(105) Licensure by verification.** Licensure by verification is available under the following circumstances.

**35.4(1) Eligibility.** A person may seek licensure by verification if the criteria in Iowa Code section 272C.12(1) are satisfied.

**35.4(2) Board application.** The applicant submits all of the following:

- a. A completed application for licensure by verification.
- b. Payment of the appropriate fee or fees set forth in 641—Chapter 28.
- c. A verification form completed by the transferring jurisdiction and sent directly from the transferring jurisdiction to the board, verifying that the applicant’s license, certificate, or registration in that jurisdiction complies with the conditions set forth in Iowa Code section 272C.12.
- d. Proof of residency in the state of Iowa or proof of military member’s official permanent change of station. Proof of residency may include:
  - (1) A residential mortgage, lease, or rental agreement;

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

- (2) A utility bill;
- (3) A bank statement;
- (4) A paycheck or pay stub;
- (5) A property tax statement;
- (6) A document issued by the federal or state government; or
- (7) Any other board-approved document that reliably confirms Iowa residency.

*e.* Proof of passing the applicable Iowa licensing examination.

*f.* Documentation of the applicant's complete criminal record in accordance with 641—paragraph 29.5(4) "c," including the applicant's personal statement regarding whether each offense directly relates to the practice of the profession.

*g.* Copies of any relevant disciplinary documents, if another issuing jurisdiction has taken disciplinary action against the applicant.

**35.4(3) *Applicants with prior discipline.*** If another issuing jurisdiction has taken disciplinary action against an applicant or if the applicant has a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will proceed according to Iowa Code section 272C.12(1) "f" and "g." A person whose license was revoked, or a person who voluntarily surrendered a license, in another issuing jurisdiction is ineligible for licensure by verification.

**35.4(4) *Temporary licenses.*** Applicants who satisfy all conditions for a license by verification under this rule, except for passing the applicable Iowa licensing examination, may be issued a temporary license in accordance with Iowa Code section 272C.12(3) "c." If the temporary license expires, the applicant may not practice until the applicant submits proof of passing the applicable Iowa licensing examination.

**641—35.5(105) Licensure by work experience in jurisdictions without licensure requirements.**

**35.5(1) *Work experience.***

*a.* An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a license to practice the profession may be eligible for an Iowa license if the person meets the conditions set forth in Iowa Code section 272C.13 and all other licensing criteria, including passing any necessary examinations. For each application submitted under this rule, the board will determine whether the applicant's prior work experience was substantially similar to the applicable apprenticeship training that is required for individuals licensed under 641—Chapter 29.

*b.* If the board determines an applicant's prior work experience was not substantially similar to the scope of practice in Iowa, the applicant may submit a subsequent application for licensure by work experience if all of the following criteria are satisfied:

(1) The applicant enrolls in an apprenticeship program approved by the United States Department of Labor;

(2) The applicant obtains a board-issued apprentice license; and

(3) The applicant successfully completes one year in the apprenticeship program.

**35.5(2) *Necessary documentation.*** An applicant seeking to substitute work experience in lieu of satisfying applicable education or training criteria bears the burden of providing all of the following by submitting relevant documents as part of a completed license application:

*a.* Proof of Iowa residency, which may include:

(1) A residential mortgage, lease, or rental agreement;

(2) A utility bill;

(3) A bank statement;

(4) A paycheck or pay stub;

(5) A property tax statement;

(6) A document issued by the federal or state government; or

(7) Any other board-approved document that reliably confirms Iowa residency.

*b.* Proof of three or more years of full-time work experience within the four years preceding the application for Iowa licensure, which demonstrates that the work experience was substantially similar

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

to an applicable apprenticeship program approved by the United States Department of Labor. Proof of work experience may include, but is not limited to:

- (1) A letter from the applicant's prior employer or employers documenting the applicant's dates of employment and scope of practice;
- (2) A paycheck or pay stub; or
- (3) If the applicant was self-employed, business documents filed with the secretary of state or other applicable business registry or regulatory agency in the other jurisdiction.

c. Proof that the applicant's work experience involved a substantially similar scope of practice to the practice in Iowa, which includes:

- (1) A written statement by the applicant detailing the scope of practice and stating how the work experience correlates to an applicable apprenticeship program approved by the United States Department of Labor; and
- (2) Business or marketing materials detailing the services provided.

d. Proof that the other jurisdiction did not require a license to practice the profession, which may include:

- (1) Copies of applicable laws;
- (2) Materials from a website operated by a governmental entity in that jurisdiction; or
- (3) Materials from a nationally recognized professional association applicable to the profession.

These rules are intended to implement Iowa Code sections 105.21 and 272C.12.

**ARC 7325C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to plumbing and mechanical systems petitions for rulemaking and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to rescind Chapter 36, "Plumbing and Mechanical Systems Board—Petitions for Rule Making," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.7 and 105.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 17A.7 and 105.4 and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This rulemaking proposes to rescind Chapter 36 in accordance with the goals and directives of Executive Order 10. Chapter 36 contains standard provisions that are uniform across many boards and agencies. In light of the Plumbing and Mechanical Systems Board's realignment with DIAL resulting from 2023 Iowa Acts, Senate File 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the Board will be able to rely on DIAL's 481—Chapter 2, "Petitions for Rule Making," which is substantively analogous to 641—Chapter 36.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*



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

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 36**.

**ARC 7282C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to tanning facilities  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 46, "Minimum Requirements for Tanning Facilities," Iowa Administrative Code, and to adopt a new chapter with the same title.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 136D.7.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 136D; 2023 Iowa Acts, Senate File 514; and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This proposed rulemaking proposes repromulgation of Chapter 46. This rulemaking implements Iowa Code section 136D.7 in accordance with the goals and directives of Executive Order 10. Iowa Code section 136D.7 requires the Department to adopt rules for the implementation and enforcement of Iowa Code chapter 136D, “including but not limited to rules relating to the operation and use of tanning devices, rules regarding the warning signs required to be posted by a tanning facility, and rules prescribing the criteria for revocation, cancellation, or suspension of a tanning facility permit.” It also requires the Department to establish and collect fees to defray the costs of administering the program established in Iowa Code chapter 136D.

The proposed rules set forth the purpose and scope of Chapter 46, including the types of businesses that constitute tanning facilities; establish definitions; clarify the types of devices that are exempt from regulation as tanning devices; establish permits and fees; establish minimum requirements for the construction and operation of tanning facilities; and provide the Department’s authority to conduct inspection and set forth procedures when noncompliance is identified.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

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

January 30, 2024  
9:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
9:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 46 and adopt the following **new** chapter in lieu thereof:

CHAPTER 46  
MINIMUM REQUIREMENTS FOR TANNING FACILITIES

**641—46.1(136D) Purpose and scope.** This chapter provides for the permitting and regulation of tanning facilities and devices used for the purpose of tanning human skin through the application of ultraviolet radiation. This includes, but is not limited to, public and private businesses, hotels, motels, apartments, condominiums, and health and country clubs. Tanning facilities that follow these rules are not relieved from the requirements of any other federal and state regulations or local ordinances.

**641—46.2(136D) Definitions.** The definitions set forth in Iowa Code section 136D.2 are incorporated herein by reference.

“*Board of health*” means a county, city, or district board of health that has a 28E agreement with the department to perform inspections under this chapter.

“*Cleansing*” means to remove soil, dirt, oils or other residues from the surface of the tanning unit which may come into contact with the skin.

“*Cleansing agent*” means a substance capable of producing the effect of “cleansing.” These agents shall not adversely affect the equipment or the health of the consumer and be acceptable to the department or board of health.

“*Consumer*” means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.

“*Exposure position*” means any position, distance, orientation, or location relative to the radiation surfaces of a tanning device at which the user is intended to be exposed to ultraviolet radiation from the product, as recommended by the manufacturer.

“*Formal training*” means a course of instruction approved by the department for operators of tanning facilities.

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

“*Health care professional*” means an individual, licensed by the state of Iowa, who has received formal medical training in the use of phototherapy.

“*Inspection*” means an official examination or observation to determine compliance with statutes, rules, orders, or other applicable conditions.

“*Manufacturer’s recommendations*” means written guidelines established by a manufacturer and approved by the U.S. Food and Drug Administration for the installation and operation of the manufacturer’s equipment.

“*Operator*” means an individual designated to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of the tanning devices.

“*Permit*” or “*permit to operate*” means a document issued by the department which authorizes a person to operate a tanning facility in Iowa.

“*Person*” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, but does not include federal government agencies.

“*Ultraviolet radiation*” means electromagnetic radiation with wavelengths in air between 200 and 400 nanometers.

**641—46.3(136D) Exemptions.** The department may, upon application or its own initiative, grant exemptions from these rules as long as it will not result in undue hazard to public health and safety. The following categories of devices are exempt from the provisions of this chapter:

**46.3(1)** Devices intended for purposes other than the deliberate exposure of human skin to ultraviolet radiation which produce or emit ultraviolet radiation incidental to their proper operation.

**46.3(2)** Tanning devices which are limited exclusively to personal use by an individual and the individual’s immediate family. Multiple ownership of the device by persons for personal use only does not qualify it for the “personal use only” exemption.

**46.3(3)** Phototherapy devices used by a properly trained health care professional in the treatment of disease.

**641—46.4(136D) Permits and fees.**

**46.4(1)** *Permit to operate.* No tanning facility may operate without a permit issued by the department.

**46.4(2)** *Application requirements for permit.* Prior to operating a tanning facility, an individual shall:

a. Apply for a permit on forms provided by the department or board of health, along with a nonrefundable application fee of \$5. A \$15 returned check fee will be charged for each check returned for insufficient funds.

b. Notify the department in writing within 30 days of any changes, additions, or deletions to the initial or renewal application as appropriate. This does not include changes involving replacement of components in tanning equipment.

**46.4(3)** *Expiration of permit.* Except as provided in 46.4(4) “b,” each permit expires at the end of the specified day stated therein.

**46.4(4)** *Renewal of permit.*

a. Permits will be renewed annually upon the department’s receipt of a completed renewal application and the \$5 fee.

b. If the completed renewal is submitted prior to expiration of the existing permit, the existing permit does not expire until the application has been finally determined by the department.

c. In addition to any annual fee not paid, tanning facilities incur a \$25 per month fee for failure to pay annual permit fees starting the month of expiration of the facility’s permit.

**46.4(5)** *Transfer or termination of permit.* Permits are nontransferable and must be returned to the department or board of health upon cessation of operation or change of ownership.

**46.4(6)** *Denial, revocation, or termination of permit.*

a. The department may deny, suspend, or revoke a permit for any of the following reasons:

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

- (1) Submission of false information to the department, including in a permit application;
- (2) Operation of the tanning facility in a manner that causes or threatens hazard to the public health or safety;
- (3) Failure to allow authorized representatives of the department or board of health to enter the tanning facility at reasonable times for the purpose of determining compliance with the provisions of this chapter, conditions of the permit, or an order of the department or board of health;
- (4) Failure to pay fees in accordance with rule 641—46.4(136D); and
- (5) Violation of any of the provisions of this chapter or Iowa Code chapter 136D.

*b.* Except in cases where public health and safety require otherwise, prior to the institution of proceedings for suspension or revocation of a permit, the department or board of health will notify the permit holder, in writing, of the facts or conduct warranting such action and provide an opportunity for the permit holder to demonstrate or achieve compliance.

*c.* Any person aggrieved by a decision by the department to deny, suspend, or revoke a permit may request a contested case hearing pursuant to 481—Chapter 9.

*d.* After suspension or revocation, a permit may be reinstated upon payment of a \$50 fee and completion of all other requirements. This fee is in addition to any other applicable fee.

**46.4(7) Inspections.**

*a.* Inspections will be conducted annually at the cost of the permit holder. The cost of an inspection is \$33 per tanning device, up to \$330 per facility maximum. Inspection costs are due upon receipt of notice by the facility. Facilities located within a contracted area of a board of health will be paid to the contracted board of health or its designee. Inspection costs not received within 45 days of the date of billing will be assessed a \$25 per month penalty for each month or fraction thereof that payment is delinquent.

*b.* A penalty fee of \$25 per facility may be assessed for:

- (1) Failure to respond to a notice of violation within 30 days of the date of the inspection.
- (2) Failure to correct violations cited during the inspection.

*c.* Inspections include, but are not limited to, reviewing proper operation and maintenance of devices, necessary records and training documentation, and operator understanding and competency.

**641—46.5(136D) Construction and operation of tanning facilities.** The following are minimum standards for the construction, operation, and maintenance of tanning facilities:

**46.5(1) Warning signs.** A tanning facility shall provide and post warning signs and statements as follows:

*a.* The warning sign must use minimum 0.5-inch (12.7-millimeter) letters for the statement “DANGER, ULTRAVIOLET RADIATION” and 0.25-inch (6.4-millimeter) letters for other lettering; use red lettering against a white background; be at least 9.0 inches by 12.0 inches (22.9 centimeters × 30.5 centimeters); and have the following wording:

DANGER

ULTRAVIOLET RADIATION

— Overexposure can cause

- Eye and skin injury
- Allergic reaction

— Repeated exposure may cause

- Premature aging of the skin
- Skin cancer

— Failure to wear protective eyewear may result in

- Severe burns to eyes
- Long-term injury to eyes

— Medication or cosmetics may increase your sensitivity

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

b. A warning sign as set forth in 46.5(1) "a" will be posted in a conspicuous location readily visible to consumers entering the facility and in a conspicuous location within one meter of the tanning device readily visible to a person preparing to use the device.

c. A tanning facility shall require each consumer to read the information in Appendices 1, 2, and 3 prior to the consumer's initial exposure and annually thereafter. The consumer must sign a statement that the information has been read and understood. The information in Appendices 1, 2, and 3 must also be posted in each tanning room.

**46.5(2) Federal certification.** Only tanning devices manufactured and certified under the provisions of 21 CFR section 1040.20 may be used in tanning facilities. Compliance is based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR sections 1010.2 and 1010.3. Labeling shall be in accordance with 21 CFR section 1040.20(d).

**46.5(3) Tanning device timers.** Each tanning device shall have a timer that complies with 21 CFR section 1040.20(c). Each tanning device must have a method of remote timing so consumers cannot control their own exposure time. Tokens for token timers shall not be issued to any consumer in quantities greater than the device manufacturer's maximum recommended exposure time for the consumer.

**46.5(4) Temperature limits.** The operator shall ensure that the facility's interior temperature does not exceed 100 degrees F or 38 degrees C.

**46.5(5) Condition of tanning devices.** The tanning devices shall be maintained in good repair and comply with all state and local electrical code requirements, and include physical barriers to protect consumers from injury induced by falling against or breaking the lamps.

**46.5(6) Stand-up booths.** Additionally, stand-up booths shall be constructed:

a. Utilizing physical barriers (e.g., handrails) or other means (floor markings) to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.

b. To withstand the stress of use and the impact of a falling person.

c. Utilizing rigid construction, with doors that open outwardly, and with handrails and nonslip floors.

**46.5(7) Protective eyewear.**

a. Eyewear shall not be reused by another consumer.

b. Protective eyewear shall meet the criteria of 21 CFR section 1040.20(c)(4).

c. Protective eyewear shall not be altered in any manner that would change its use as intended by the manufacturer (e.g., removal of straps).

d. A tanning facility operator shall verify that a consumer has protective eyewear in accordance with this subrule and not allow a consumer to use a tanning device if that consumer does not use the protective eyewear. The operator should:

(1) Ask to see the eyewear before the consumer enters the tanning room; or

(2) Provide disposable eyewear in the tanning room at all times and post a sign stating that the disposable eyewear is available and has to be worn.

e. A tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear.

**46.5(8) Operation.**

a. A trained operator must be present when a tanning device is operated and within hearing distance to allow the consumer to easily summon help if necessary. If the operator is not in the immediate vicinity during use, the consumer must be able to summon help through use of an audible device such as an intercom or buzzer and the operator or emergency personnel must be able to reach the consumer within a reasonable amount of time after being summoned.

b. The facility's permit will be displayed pursuant to Iowa Code section 136D.6.

c. A record of each consumer's total number of tanning visits and tanning times, exposure lengths in minutes, times and dates of the exposure, and any injuries or illness resulting from the use of a tanning device must be maintained.

d. Any tanning injury not requiring a physician's care and any resulting changes in tanning sessions shall be noted in the consumer's file. A written report of any tanning injury requiring a

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

physician's care shall be provided to the department within five working days of its occurrence or operator's notice thereof. The report will include:

- (1) The name of the affected individual;
- (2) The name and location of the tanning facility involved;
- (3) The nature of the injury;
- (4) The name and address of the health care provider treating the affected individual, if any; and
- (5) Any other information considered relevant to the situation.

*e.* Defective or burned-out lamps or filters shall be replaced with a type intended for use in that device as specified on the product label on the tanning device or with lamps or filters that are "equivalent" under 21 CFR Section 1040.20, and policies applicable at the time of lamp manufacture.

*f.* Ultraviolet lamps and bulbs that are not otherwise defective or damaged will be replaced at such frequency or after such duration of use as is recommended by the manufacturer.

*g.* Contact surfaces of tanning devices shall be:

- (1) Cleansed by the operator with a cleansing agent between each use;
- (2) Covered by a nonreusable protective material during each use; or
- (3) Cleansed by the consumer after use, provided the following conditions are met:
  1. The operator instructs the consumer annually on how to properly cleanse the unit;
  2. The consumer annually signs a statement that the consumer agrees to cleanse the unit after each use;

3. Signs are posted in each tanning room reminding the consumer to cleanse the tanning unit after each use and instructing the proper way to cleanse the unit; and

4. The operator cleanses the tanning unit at least once a day.

*h.* Records or documentation required by this chapter must be maintained in the tanning facility for a minimum of two years. If maintained electronically, such records must be retrievable as a printed copy.

*i.* The operator shall limit a consumer's exposure to the maximum exposure frequency and session duration recommended by the manufacturer.

*j.* When a tanning device is being used, no other person can be allowed in the tanning device area.

*k.* "Unlimited" tanning packages cannot be advertised or promoted unless tanning frequency limits set by the manufacturer are included therein.

**46.5(9) Training of operators.**

*a.* All operators must satisfactorily complete a training program approved by the department prior to operating a tanning device that includes:

- (1) Education on this chapter;
- (2) Procedures for correct operation of the tanning facility and tanning devices;
- (3) The determination of skin type of consumers and appropriate duration of exposure to tanning devices;

(4) Recognition of reaction or overexposure;

(5) Manufacturer's procedures for operation and maintenance of tanning devices; and

(6) Competency testing.

*b.* Owners and managers must complete formal training approved by the department. All owners and managers must satisfactorily pass a certification examination approved by the department before operating a tanning facility or training employees.

*c.* Owners and managers are responsible to train operators in the above topics and to provide review as necessary. Operators will be questioned during inspections as to the level of their understanding and competency in operating the tanning device.

*d.* Proof of training for owner/managers and employees must be maintained in the tanning facility and available for inspection. The employee record should be the original test signed by the employee, the date, and a statement signifying that all answers have been completed by the employee and without prior knowledge of the scoring key.

*e.* Operators shall be at least 16 years of age.

*f.* Training and testing will be completed every five years.

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

**46.5(10) *Promotional materials.*** A tanning facility shall not claim, or distribute materials claiming, that tanning devices are safe, that tanning devices are free from risk, or that use of the device will result in medical or health benefits. The only claim that may be made is that the device is for cosmetic use only.

**46.5(11) *Electronically controlled facilities.*** Electronically controlled facilities are facilities that rely on electronic means to monitor consumers.

*a.* Entry into the facility is allowed by card only. Only one individual may enter under each card. The card is specifically activated for tanning use if the facility offers other activities and tanning will not activate if the card is not programmed for tanning. The card will not activate if two individuals are in the tanning room.

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

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

*d.* The card will be programmed for the number of minutes the consumer is allowed to tan and may be reprogrammed for an increase in minutes per session only after the consumer has reviewed and re-signed the tanning agreement. The card will be deactivated after 30 consecutive days without consumer access such that the consumer will then reapply to access the tanning unit.

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

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

*g.* An emergency call button or device that calls the operator or emergency personnel will be placed in each tanning room conveniently located within reach of the tanning bed.

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

**641—46.6(136D) Inspections, violations and injunctions.**

**46.6(1) *Access.*** The director or an authorized agent has access to any tanning facility as authorized by Iowa Code section 136D.8.

**46.6(2) *Civil penalty and enforcement.*** The department may take legal action as provided in Iowa Code sections 136D.8(3) and 136D.9.

*a.* The department will take the following steps or use county ordinances or any other applicable ordinances, resolutions, rules or regulations when enforcement of these rules is necessary.

(1) Cite each section of the Iowa Code or rules violated and any civil penalty imposed.

(2) Specify the manner in which the owner or operator failed to comply.

(3) Specify the steps required for correcting the violation.

(4) Request a corrective action plan, including a time schedule for completion of the plan.

(5) Set a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the permit holder must respond with the corrective action plan and, if applicable, any reasons why the civil penalty should not be imposed or to request a contested case hearing pursuant to 481—Chapter 9.

*b.* The department will review the corrective action plan and approve it or require that it be modified.

These rules are intended to implement Iowa Code chapter 136D.



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

1. Not all individuals who use or take these agents will experience a photosensitive reaction or the same degree of photosensitive reaction. An individual who experiences a reaction on one occasion will not necessarily experience it again or every time.
2. Names of agents should be considered only as examples. They do not represent all the names under which a product may be sold. A more complete list is available from the facility operator.
3. If you are using an agent in any of these classes, you should reduce UV exposure even if your particular medication is not listed.

Acne treatment (Retinoic acid, Retin-A) Psoralens (5-Methoxypsoralen, 8-Methoxypsoralen, 4,5,8-trimethyl-psoralen)

Antibacterials (deodorant bar soaps, antiseptics, cosmetics, halogenated carbanilides, halogenated phenols, halogenated salicylanilides, bithionol, chlorhexidine, hexachlorophene)

Antibiotics, anti-infectives (Tetracyclines)

Anticonvulsants (carbamazepine, trimethadione, promethazine)

Antidepressants (amitriptyline, Desipramine, Imipramine, Nortriptyline, Protriptyline), Tranquilizers, anti-emetics (Phenothiazines)

Antidiabetics (glucose-lowering agents) (sulfonylureas, oral antidiabetics, hypoglycemics)

Antihistamines (diphenhydramine, promethazine, triprolidine, chlorpheniramine)

Anti-inflammatory (Piroxicam), Non-steroidal anti-inflammatory drugs (Ibuprofen, Naproxen, Piroxicam)

Antimicrobials (griseofulvin), Sulfonamides ("Sulfa drugs," antimicrobials, anti-infectives)

Atropine-like drugs (anticholinergics, antiparkinsonism drugs, antispasmodics, synthetic muscle relaxants)

Coal tar and derivatives (Denorex, Tegrin, petroleum products used for psoriasis and chronic eczema and in shampoos)

Contraceptives, oral and estrogens (birth control pills, estrogens, progesterones)

Dyes (used in cosmetic ingredients, acridine, anthracene, cosin (lipstick), erythrosine, fluorescein, methyl violet, methylene blue, rose bengal)

Perfumes and toilet articles (musk ambrette, oil of bergamot, oil of cedar, oil of citron, oil of lavender, oil of lemon, oil of lime, oil of rosemary, oil of sandalwood)

Thiazide diuretics ("water pills")

## Appendix 2

## SUN-REACTIVE SKIN TYPES USED IN CLINICAL PRACTICE

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

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

(a) Based in the first 45-60 minutes (= 2-3 minimum erythema dose) exposure of the summer sun (early June) at sea level

Appendix 3  
POTENTIAL NEGATIVE HEALTH EFFECTS  
RELATED TO ULTRAVIOLET EXPOSURE

1. Increased risk of skin cancer later in life.
2. Increased risk of skin thickening, age spots, irregular pigmentation, and premature aging.
3. Possibility of burning or rash, especially if using any of the potential photosensitizing drugs and agents. The consumer should consult a physician before using a tanning device if using medications, if there is a history of skin problems or if the consumer is especially sensitive to sunlight.
4. Increased risk of eye damage unless proper eyewear is worn. Iowa law requires the use of proper eyewear during tanning sessions.

TANNING SYSTEMS

1. Low-pressure tanning systems use a higher percentage of UVB rays which penetrate only the upper layer of skin and can cause burning more easily than high-pressure tanning systems. Low-pressure systems require more frequent sessions to maintain a tan.

High-intensity tanning systems use more lamps and shorter tanning sessions than low-intensity tanning systems. These are still classified as low-pressure systems.

2. High-pressure tanning systems use a higher percentage of UVA rays which penetrate more deeply and can permanently damage the lower layers of skin and increase the incidences of skin cancers. High-pressure systems require fewer and less frequent sessions to maintain a tan.

3. The exposure schedule for each specific unit is shown on the labeling on the tanning unit. Iowa law requires the operator to limit the exposure of each consumer to the exposure schedule shown on the unit in which the consumer is tanning.

These rules are intended to implement Iowa Code chapter 136D.

**ARC 7323C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to plumbing and mechanical systems declaratory orders and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to rescind Chapter 57, “Plumbing and Mechanical Systems Board—Declaratory Orders,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.9 and 272C.15.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 17A.9 and 272C.15 and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This rulemaking proposes to rescind Chapter 57 in accordance with the goals and directives of Executive Order 10. Chapter 57 contains standard provisions that are uniform across many boards and agencies. In light of the Plumbing and Mechanical Systems Board’s realignment with DIAL resulting from 2023 Iowa Acts, Senate File 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the Board will be able to rely on DIAL’s 481—Chapter 3, “Petitions for Declaratory Order,” which is substantively analogous to 641—Chapter 57.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 57**.

**ARC 7324C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to plumbing and mechanical systems rulemaking procedure and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to rescind Chapter 58, “Plumbing and Mechanical Systems Board—Agency Procedure for Rule Making,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3 and 17A.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3 and 17A.4 and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This rulemaking proposes to rescind Chapter 58 in accordance with the goals and directives of Executive Order 10. Chapter 58 contains standard provisions that are uniform across many boards and agencies. In light of the Plumbing and Mechanical Systems Board’s realignment with DIAL resulting from 2023 Iowa Acts, Senate File 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the Board will be able to rely on DIAL’s 481—Chapter 4, “Agency Procedure for Rule Making,” which is substantively analogous to 641—Chapter 58 and in line with a stated goal of Iowa Code chapter 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

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

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 58**.

**ARC 7326C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to plumbing and mechanical systems fair information practices and public records and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to rescind Chapter 59, "Plumbing and Mechanical Systems Board—Fair Information Practices and Public Records," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3 and 22.11.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3 and 22.11 and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This rulemaking proposes to rescind Chapter 59 in accordance with the goals and directives of Executive Order 10. Chapter 59 contains standard provisions that are uniform across many boards and agencies. In light of the Plumbing and Mechanical Systems Board's realignment with DIAL resulting from 2023 Iowa Acts, Senate File 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the Board will be able to rely on DIAL's 481—Chapter 5, "Public Records and Fair Information Practices," which is substantively similar to 641—Chapter 59 and in line with a stated goal of Iowa Code chapter 17A to "simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions."

*Fiscal Impact*

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

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 59**.

**ARC 7327C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to plumbing and mechanical systems noncompliance regarding debt and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to rescind Chapter 60, “Plumbing and Mechanical Systems Board—Noncompliance Regarding Child Support, Nonpayment of State Debt, and Noncompliance Regarding Student Loan Repayment,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 252D.8, 252J.8 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 252D.8, 252J.8 and 272C.4 and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This rulemaking proposes to rescind Chapter 60 in accordance with the goals and directives of Executive Order 10. Chapter 60 contains standard provisions that are uniform across many boards and agencies. In light of the Plumbing and Mechanical Systems Board’s realignment with DIAL resulting from 2023 Iowa Acts, Senate File 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise its current 481—Chapter 8 to promulgate a single chapter on this topic applicable to all divisions and boards within the Department.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

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

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 60**.

**ARC 7328C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to plumbing and mechanical systems military service, veteran reciprocity, and spouses of active duty service members and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to rescind Chapter 62, "Plumbing and Mechanical Systems Board—Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 272C.12A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 272C.12A and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This rulemaking proposes to rescind Chapter 62 in accordance with the goals and directives of Executive Order 10. Chapter 62 contains standard provisions that are uniform across many boards and agencies. In light of the Plumbing and Mechanical Systems Board's realignment with DIAL resulting from 2023 Iowa Acts, Senate File 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. The substance of this chapter will be included in one chapter for all of the licensing programs of DIAL.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).



PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 62**.

**ARC 7287C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to the impaired practitioner review committee and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 193, “Impaired Practitioner Review Committee,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 272C.3(1)“k.”

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 272C.3(1)“k.”

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 193 and implements Iowa Code section 272C.3(1)“k” in accordance with the goals of Executive Order 10 (January 10, 2023). This proposed rulemaking explains the processes of the impaired practitioner review committee and how the committee supports the recovery or rehabilitation of licensees. The committee is composed of at least one practitioner licensed under the same or similar professional licensing board who has successfully completed a board-approved recovery program and board-ordered probation and remained free of addiction for at least two years; one practitioner with expertise in substance use disorder, dependency, or addiction treatment programs; and one member of the public. The goal of this composition is to ensure the committee is well-rounded and has expertise in addiction and recovery, in addition to having members with pertinent perspectives to balance the needs of a licensee with protection of the public. Because this program is confidential, and participation is not a matter of public record, specific eligibility criteria must be met to ensure that matters that may need to be addressed by a professional licensing board are routed appropriately. Substantively, the goal of the terms of participation is to ensure that a licensee is safe to practice the profession through ongoing committee monitoring. Participants enter into a contract with the committee and agree to adhere to all terms and agreements set forth in the contract. If a contract provision is breached that poses an immediate risk to the public, the committee will immediately refer the matter to a professional licensing board for appropriate action to protect the public. Participation does not relieve a professional licensing board or licensee of any duties or consequences related to violations of the standards of practice, nor does it divest a professional licensing board of its authority. The committee also will refer any violations of the laws or rules governing the licensee’s practice to a professional licensing board for appropriate action. All information related to participation in this program is confidential, including names of participants.

No public comments were received on the published Regulatory Analysis for this chapter (IAB 11/1/23). A change has been made to the proposed chapter from the Regulatory Analysis to update the term “substance abuse disorder” to “substance use disorder.”

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

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

*Waivers*

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

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 193 and adopt the following **new** chapter in lieu thereof:

CHAPTER 193  
IMPAIRED PRACTITIONER REVIEW COMMITTEE

**641—193.1(272C) Definitions.** For the purpose of these rules, the following definitions apply:

“*Committee*” means the impaired practitioner review committee as established by a licensing board pursuant to the authority of Iowa Code section 272C.3(1) “k.”

“*Contract*” means the written document establishing the terms for participation in the impaired practitioner program prepared by the committee.

“*Impairment*” means an inability to practice with reasonable safety and skill as a result of substance use disorder, dependency, or addiction or any mental or physical disorder or disability.

“*Licensing board*” or “*board*” means “licensing board” or “board” as defined in Iowa Code section 272C.1.

“*Practitioner*” means a person licensed under Iowa Code chapter 105, 147, 148C, 149, 152B, 152C, 152D, 154A, 154E, or 155.

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

“*Self-report*” means the licensee’s providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

**641—193.2(272C) Purpose.** The impaired practitioner review committee evaluates, assists, monitors and, as necessary, makes reports to the licensing board on the recovery or rehabilitation of practitioners who self-report impairments. These rules do not apply to an impaired practitioner review committee governed by other administrative rule or statute.

**641—193.3(272C) Composition of the committee.** The chairperson of the board shall appoint the members of the committee. The committee will meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring. The membership of the committee includes, but is not limited to:

**193.3(1)** One practitioner, licensed under the same board or similar professional licensing board, who has successfully completed a board-approved recovery program and board-ordered probation for substance use disorder, dependency, or addiction and who has remained free of addiction for a period of no less than two years.

**193.3(2)** One practitioner with expertise in substance use disorder, dependency, or addiction treatment programs.

**193.3(3)** One public member of the board.

**641—193.4(272C) Eligibility.** To be eligible for participation in the impaired practitioner recovery program, a licensee must meet all of the following criteria:

**193.4(1)** The licensee self-reports an impairment or suspected impairment directly to the office of the board.

**193.4(2)** The licensee has not engaged in the unlawful diversion or distribution of controlled substances or illegal substances.

**193.4(3)** At the time of the self-report, the licensee is not already under board order for an impairment or any other violation of the laws and rules governing the practice of the profession.

**193.4(4)** The licensee has not caused harm or injury to a client.

**193.4(5)** There is currently no board investigation of the licensee that, as determined by the committee, concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care.

**193.4(6)** The licensee has not been subject to a civil or criminal sanction or ordered to make reparations or remuneration by a government or regulatory authority for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the licensee’s profession.

**193.4(7)** The licensee has provided truthful information and fully cooperated with the board or committee.

**641—193.5(272C) Terms of participation in the impaired practitioner recovery program.** A licensee shall agree to comply with the terms for participation in the impaired practitioner recovery program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period will be established by the committee and communicated to the licensee in writing.

**193.5(1) Noncompliance.** Failure to comply with the provisions of the contract will result in the committee immediately referring the matter to the board for possible disciplinary action.

**193.5(2) Practice limitations.** The committee may impose limitations on the licensee’s practice as a term of the contract until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill.

*a.* As a condition of participating in the program, a licensee must agree to limited practice in accordance with the terms specified in the contract.

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

*b.* In the event that the licensee refuses to agree to or comply with the limitations established in the contract, the committee will refer the licensee to the board for appropriate action.

**641—193.6(272C) Limitations.** The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired practitioner program. As set forth in Iowa Code section 272C.3(1) "k," participation in the program does not relieve the board of any duties or divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant will be referred to the board for appropriate action.

**641—193.7(272C) Confidentiality.** The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Participation in the impaired practitioner program and information in the possession of the board or the committee about licensees in the program will not be disclosed to the public.

These rules are intended to implement Iowa Code chapter 272C.

**ARC 7379C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to the certificate of need program  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 202, "Certificate of Need Program," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 135.62(2)"e"(5).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 135.61 to 135.83.

*Purpose and Summary*

The Iowa Code currently mandates the existence of the State Health Facilities Council (Council) and the Certificate of Need (CON) process and these administrative rules. The statutory goal is to protect access to affordable health care options, especially in rural areas and for medically underserved populations. Institutional health facilities, including but not limited to hospitals, health care facilities, birthing centers, and ambulatory surgery centers, must acquire a CON prior to offering services.

This proposed chapter establishes the CON process when adding beds, building a new facility, or purchasing certain medical equipment. It provides an overview of each step in the process and information about the role of the Council and its duties. This chapter also publicly illustrates the process and criteria that will be used by the Council in determining whether to grant a CON to an applicant.

Public notice was provided, and one comment from an association was received indicating support for the changes to Chapter 202.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Rebecca Swift  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.218.4969  
Email: [rebecca.swift@dia.iowa.gov](mailto:rebecca.swift@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 202 and adopt the following **new** chapter in lieu thereof:

CHAPTER 202  
CERTIFICATE OF NEED PROGRAM

**641—202.1(135) Definitions.** For purposes of this chapter, the following definitions apply:

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

*“Acute care category of bed usage,”* as the term applies in Iowa Code section 135.63(2) *“k,”* is the same as the acute care categories listed in the state survey section of the American Hospital Association Annual Survey of Hospitals.

*“Any expenditure in excess of five hundred thousand dollars,”* as defined in Iowa Code section 135.61(18) *“e,”* means new capital expenditures necessary to operate the service for a year.

*“Any mobile health service with a value in excess of one million five hundred thousand dollars,”* as defined in Iowa Code section 135.61(18) *“l,”* means the value of all equipment used to provide the service, including the trailer. The party providing the equipment is the applicant regardless of the location of that party.

*“Appropriate geographic service area,”* as the term applies to defining affected persons in Iowa Code section 135.61(1) *“c,”* is defined as follows:

1. For applications regarding hospitals, hospitals located in the same county and in Iowa counties contiguous to the county wherein the applicant hospital’s proposed project will be located.

2. For applications regarding health care facilities, other health care facilities located in the same county and in Iowa counties contiguous to the county wherein the applicant’s proposed health care facility will be located.

3. For applications sponsored by other than the hospitals or health care facilities specified in paragraphs *“1”* and *“2,”* those providers within the same county who offer similar service or might logically be viewed as potential providers of such service.

*“Bed capacity”* is defined as follows:

1. For hospitals, bed capacity is defined as the total facility licensed beds as reported on the state survey section of the American Hospital Association Annual Survey of Hospitals.

2. For health care facilities, bed capacity is defined as a facility’s licensed bed capacity according to the department of inspections, appeals and licensing.

*“Cardiac catheterization service,”* as the term applies to a new or changed institutional health service in Iowa Code section 135.61(18) *“m”*(1), means the initiation or expansion of this service.

*“Consumers served by a new institutional health service”* means those consumers residing in the service area as determined by the department.

*“Long-term (acute) care hospital,”* for purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a long-term care hospital-prospective payment system (LTCH-PPS) hospital in accordance with 42 CFR Part 412 as amended to March 29, 1985.

*“Open heart surgical service,”* as the term applies to new or changed institutional health service in Iowa Code section 135.61(18) *“m”*(2), means the initiation or expansion of this service.

*“Organ transplantation service,”* as the term applies to a new or changed institutional health service in Iowa Code section 135.61(18) *“m”*(3), means the initiation or expansion of this service. Each type of organ transplant shall be considered separately.

*“Permanent change in bed capacity of an institutional health facility”* includes but is not limited to the following:

1. A conversion of a long-term acute care hospital, a rehabilitation hospital or a psychiatric hospital as defined by federal regulations to a general acute care hospital or to a different type of specialty hospital.

2. A hospital that has deleted beds pursuant to Iowa Code section 135.63(2) *“g”* for the purpose of receiving designation as a critical access hospital reestablishes the deleted beds at a later time, provided that the number of beds reestablished does not exceed the number of beds maintained prior to the deletion as reported on the bed reduction form.

*“Physical facility,”* as the term applies in Iowa Code section 135.61(18) *“f,”* means a separately licensed facility.

*“Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers.”* The meaning of this term as used in Iowa Code section 135.63(2) *“a”* is determined by looking at factors that include but are not limited to:

1. The type of health care service delivered.

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

2. The control and supervision of medical judgment in the care of and treatment of patients.
3. The control and supervision of professional assistants, including nurses, physician assistants, and technicians.
4. The ownership and maintenance of medical records of patients.

This term excludes an ambulatory surgical center as defined in Iowa Code section 135R.1.

*“Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment,”* as the term applies to new or changed institutional health service in Iowa Code section 135.61(18) *“m”*(4), means the initiation or expansion of this service.

*“Rehabilitation hospital,”* for the purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as an inpatient rehabilitation facility-prospective payment system (IRF-PPS) hospital in accordance with 42 CFR Part 412.23(b), 412.25 or 412.29 as amended to March 29, 1985.

*“Relocation of an institutional health facility,”* as the term applies to new or changed institutional health service in Iowa Code section 135.61(18) *“b,”* means the replacement of a facility located in one county with a facility located in another county.

*“Value in excess of one million five hundred thousand dollars,”* as used in Iowa Code section 135.61(18) *“g,” “h,” “i”* and *“j,”* means the value of the equipment including any applicable sales tax, delivery charge and installation charge. With respect to the initiation of radiation therapy services applying ionizing radiation for the treatment of malignant disease using the megavoltage external beam equipment, the term includes the cost of constructing a vault.

#### **641—202.2(135) Letter of intent.**

**202.2(1)** Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service will electronically submit a letter of intent meeting the criteria noted in Iowa Code section 135.65(1) and containing the project’s estimated cost (site costs, land improvements, facility costs, movable equipment and financing costs, and any applicable sales tax for movable equipment, any applicable delivery charge for movable equipment, and any applicable installation charge for movable equipment).

**202.2(2)** The department will make available on the certificate of need web page all criteria and standards that are pertinent to an application.

**202.2(3)** A letter of intent received by the department is valid for a period of one year from the date of receipt by the department. The sponsor may renew the validity of a letter of intent by providing written notification to the department prior to the one-year expiration date.

**641—202.3(135) Determination of reviewability.** A sponsor of a proposed project may submit a written request for a determination of reviewability as to whether the project requires a certificate of need.

**202.3(1)** The request should include sufficient details of the proposed project and cite the sections of the Iowa Code that the sponsor relies upon to assert the project is not reviewable.

**202.3(2)** Upon receipt of a written request from the sponsor of a project, the department will determine if a proposed project requires a certificate of need under Iowa Code sections 135.61 through 135.83. The department may request additional information about the project to make the determination.

*a.* If it is determined that a certificate of need is required, the sponsor will be notified by the department and the request for nonreviewability will be considered the letter of intent for purposes of 202.2(2).

*b.* If it is determined that a certificate of need is not required, the sponsor will be notified by the department and the determination of nonreviewability will be placed on the next agenda of the state health facilities council for consideration.

*c.* The notification to the sponsor of the results of the department’s review of the request will include specific Iowa Code citations relied upon to support the determination.

#### **641—202.4(135) Submission of application.**



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

**202.4(1) Application form.**

*a.* A sponsor of a proposed project for a new or changed institutional health service will submit to the department an application for certificate of need by using the appropriate application form found on the certificate of need web page. All information requested in the application form will be required in the absence of a waiver by the department.

*b.* An original application and all attachments shall be submitted via electronic mail.

*c.* The department will establish and maintain electronic files on each application.

**202.4(2) Application fee.** The application fee specified in Iowa Code section 135.63(1) is based on the total cost of the project, including site costs, land improvements, facility costs, and movable equipment.

*a.* The fee for leased or donated new institutional health services is calculated in the same manner as if the new institutional health services were purchased.

(1) The leased equipment fee is based on total value of the lease, plus sales tax, delivery and installation.

(2) The lease of space includes the cost of a one-year-lease payment for the space.

(3) Financing costs are not applicable on leases or cash purchases.

*b.* The application fee will be refunded by the department for any application that is voluntarily withdrawn from the review process in the amounts specified in Iowa Code section 135.63(1).

*c.* For purposes of this subrule and Iowa Code section 135.63(1), the term “submission” means the day the application is received by the department.

**641—202.5(135) Organizational procedures.**

**202.5(1)** The presence of three members of the council shall constitute a quorum.

**202.5(2)** The chair and all other council members present will cast votes or abstain, as the case may be, on all council action. No proxy votes shall be allowed.

**202.5(3)** A vote of a majority of those present will be necessary to take action on any motion before the council. A tie vote means no action on the motion.

**202.5(4)** The council will, at the first meeting after July 1 of each odd-numbered year, elect a vice-chair to perform the duties of the chair in the chair’s absence, when the chair has a conflict of interest or when the chair so directs.

**202.5(5)** A council member will refrain from participating in an application review process if the member:

*a.* Has a personal bias or prejudice concerning the applicant;

*b.* Has acted as counsel to the applicant or a competitor of the applicant in the same or adjoining county within the past two years;

*c.* Has a financial interest in the outcome of the application process or any other significant personal interest that could be substantially affected by the outcome of the case;

*d.* Has a spouse or relative within the third degree of relationship that (1) is affiliated with or represents the applicant or a competitor of the applicant in the same or adjoining county; (2) has a known financial or significant personal interest that could be substantially affected by the outcome of the application process; or (3) is likely to testify on behalf of the applicant or an affected person at public hearing; or

*e.* Has any other legally sufficient cause to refrain from participating in the application review process.

**641—202.6(135) Public hearing on application.** Public hearings conducted pursuant to Iowa Code section 135.66(3) “*b*” are not contested cases. Judicial review pursuant to Iowa Code section 17A.19 of final agency decisions under Iowa Code section 135.69 will be treated as other agency action.

**202.6(1)** The council will use the following meeting format:

*a.* Announcement of application under review.

*b.* Presentation of department report.

*c.* Applicant presentation.

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

- d.* Affected persons' presentation.
- e.* Applicant's rebuttal.
- f.* Council discussion, motion and final decision.

**202.6(2)** The notice of an accepted application issued pursuant to Iowa Code section 135.66(2) will inform the applicant and affected persons of the deadlines for the electronic submission to the department of written statements or other materials. These deadlines will also be posted on the certificate of need web page.

Written submissions received by the department after the deadlines established in this notice will not be considered by the department or the council unless submitted at the public hearing solely to support oral testimony or upon a showing of good cause.

**202.6(3)** The applicant, affected persons, or their designated representatives will be given the opportunity to make oral presentations to the council. Other interested persons may be given the opportunity to make oral presentations to the council.

**202.6(4)** Oral testimony that simply duplicates material received in writing will not be heard. The applicant and affected persons will present only one witness for each issue raised unless permission is requested and granted by the chair.

**202.6(5)** All questions to an applicant or affected person presenting oral testimony will be directed from the council or council staff unless permission is requested and granted by the chair. Persons making oral presentations to the council are not expected to be placed under oath.

**202.6(6)** The council may designate technical consultants or experts to assist in its activities as defined by the council.

**641—202.7(135) Summary review.** Pursuant to Iowa Code section 135.67, an applicant requesting a summary review will abide by the following procedures:

**202.7(1)** Electronically submit a written request for summary review and a copy of the application and all attachments. The applicant is not required to submit a letter of intent pursuant to Iowa Code section 135.65 prior to submitting a written request for a summary review.

**202.7(2)** The eligibility of an application for summary review pursuant to Iowa Code section 135.67 does not mandate or require such review. The department will make the decision as to whether an application will be reviewed in the summary review process.

**202.7(3)** Upon receipt of a written request for summary review, an application, and the fee required by Iowa Code section 135.63(1), the department will notify the applicant in writing within 15 calendar days if the application is complete and if a summary review will be granted.

**202.7(4)** If an application is deemed incomplete, the department will state specifically in writing what information is needed to make the application complete.

**202.7(5)** If the department notifies the applicant that a summary review will not be performed, this decision is binding on the applicant and the application will be entered into the formal review process on the date of written notice that such application will not be reviewed summarily.

**202.7(6)** A summary review of an application for a certificate of need will be completed within 60 calendar days of the acceptance of an application by the department.

**202.7(7)** At any time during the summary review process, an application may be withdrawn without prejudice from the process. The applicant may then submit the application for a formal 90-day review.

**641—202.8(135) Extension of review time.**

**202.8(1)** A formal review of an application for a certificate of need pursuant to Iowa Code section 135.66 may be extended by the department on the basis of any of the following criteria:

- a.* In order to review competing applications simultaneously;
- b.* In the case of technologically innovative equipment, to obtain additional information necessary to evaluate the proposal. The department will specify in writing such additional information as necessary;
- c.* At the request of the applicant;

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

*d.* At the request of at least two members of the state health facilities council in order to allow additional time for deliberation on all evidence present. The council will specify the time of the delay and the date on which the final decision will be rendered.

**202.8(2)** An extension by the department made pursuant to 202.8(1) will in no case be more than 60 calendar days beyond the time a decision is required under Iowa Code section 135.69 unless the applicant and department agree.

**202.8(3)** Where none of the provisions of 202.8(1) are applicable and where an application will be automatically denied because of the expiration of time required by Iowa Code section 135.69 for the issuance of a written decision by the council, the department will notify the applicant of the likelihood of an automatic denial and will ask the applicant to request in writing an extension of the review time. Where an extension is so requested, the application will be heard at the next regularly scheduled meeting of the council or at any time agreeable to the applicant and the department.

**641—202.9(135) Rehearing of certificate of need decision.**

**202.9(1)** The applicant or any affected person who has participated or sought unsuccessfully to participate in the formal review procedure prescribed in Iowa Code section 135.66 may, for good cause shown, file an application for rehearing in writing with the department stating the specific grounds therefor and the relief sought, within 20 calendar days after the date of the issuance of the final decision on an application for certificate of need.

**202.9(2)** Grounds for rehearing include, but are not limited to:

- a.* New significant, relevant information that was unavailable at the date of the hearing;
- b.* Significant changes in factors or circumstances relied upon by the council in reaching its decision;
- c.* Demonstration that the council has materially failed to follow its adopted procedures in reaching its decision; or
- d.* Such other bases as the council determines constitute good cause.

**202.9(3)** An application for rehearing is deemed to have been denied unless the council grants the application in writing within 20 calendar days after its filing.

**202.9(4)** If the application for rehearing is granted, the council may issue an order modifying the initial final order, or may set the matter for consideration at a subsequent meeting date. If public hearing is granted on the application for rehearing, notice will be provided ten calendar days prior to hearing to the person applying for rehearing, the applicant and other affected persons upon request pursuant to 641—202.10(135).

**202.9(5)** The council will issue the final decision on rehearing, stating the basis for its decision, within 30 calendar days after the application for rehearing was granted or 30 calendar days after public hearing on rehearing, whichever is later.

**202.9(6)** If a rehearing is not requested or an affected party remains dissatisfied after the request for rehearing, an appeal may be taken in the manner provided by Iowa Code chapter 17A. A request for rehearing is not required prior to appeal under Iowa Code section 17A.19.

**641—202.10(135) Status reports to affected persons.** Affected persons are entitled to status reports from the department while a formal application review is in progress pursuant to Iowa Code section 135.68. The department will maintain a log of all requests for written status reports by affected persons. Affected persons who request written status reports will submit an electronic request, identifying the specific information requested, which may include notification of the council's final decision, any application for rehearing, or the filing of a petition for judicial review. The formal process does not preclude informal contacts with department staff for verbal status reports. Printed copies of the council's final decision, an application for rehearing, a petition for judicial review, or any other public record will be provided upon request.

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

**641—202.11(135) Finality.** The certificate of need application process is continuous beginning with submission of a letter of intent or request for waiver of a letter of intent through issuance of a final decision by the council subject to judicial review under Iowa Code chapter 17A.

**202.11(1)** The following stages of the process are intermediate and subject to judicial review only to the extent they meet criteria for intermediate review under Iowa Code section 17A.19:

- a. A decision by the department pursuant to 641—202.3(135) that a proposed project does not require a certificate of need;
- b. A decision by the department to waive submission of the letter of intent and substitute summary review; and
- c. The rejection of an application by the department that fails to provide all information required under Iowa Code section 135.63(1).

**202.11(2)** The following stages of the process are final decisions subject to judicial review as final agency action under Iowa Code section 17A.19:

- a. A decision by the department to disallow summary review;
- b. A decision by the council that a proposed project does not require a certificate of need;
- c. A decision by the council to approve or deny an application;
- d. The council's final ruling on an application for rehearing; and
- e. A decision by the council to revoke a certificate of need pursuant to 641—202.13(135).

**641—202.12(135) Project progress reports.**

**202.12(1)** The sponsor of an approved application will submit a progress report using the form available on the certificate of need web page six months after approval at hearing.

**202.12(2)** Progress reports shall fully identify the project and indicate the current status of the project in descriptive terms. The reports should also reflect an amended project schedule if necessary.

**641—202.13(135) Request for extension of certificate.**

**202.13(1)** A request by the applicant for an extension of a certificate of need should be filed with the department using the form available on the certificate of need web page no later than 30 days prior to the expiration of the certificate of need.

**202.13(2)** A request for extension should fully identify the project and indicate the current status of the project in descriptive terms.

**202.13(3)** Any affected person has the right to submit to the department in writing, or orally at the council meeting at which the extension request is considered, information that may be relevant to the question of granting an extension.

**202.13(4)** When an extension has been requested, the council will approve or deny the request at a meeting of the council preceding the expiration of the certification. The certificate of need may be revoked by the council at the end of the certification period for insufficient progress in developing the project.

**202.13(5)** If the extension is denied, the applicant has the right to appeal under the provisions of Iowa Code section 135.70.

**641—202.14(135) Application changes after approval.**

**202.14(1)** Once a project has been approved by the council, no changes that vary from or alter the number of approved beds, the approved services or the approved cost by an amount indicated in 202.14(2) may be made unless requested by the applicant and approved by the council. Requests should be made in writing and filed with the department electronically.

**202.14(2)** An increase in the actual cost of the project over and above that originally approved will automatically generate review by the council if the increase exceeds the originally approved amount by:

- a. Fifteen percent for projects up to \$999,999.99;
- b. Twelve percent for projects from \$1,000,000.00 to \$4,999,999.99;
- c. Eight percent for projects \$5,000,000.00 and over.

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

An increase in the approved cost that falls below the above percentages will be reported to the department.

**202.14(3)** Failure to notify and receive permission of the council to change the project as originally approved may result in the imposition of sanctions provided in Iowa Code section 135.73. The council may make a recommendation to the department regarding the imposition of a sanction and the amount of the fine to be imposed.

**641—202.15(135) Sanctions.** Hearings to determine class I or class II violations pursuant to Iowa Code section 135.73 will be conducted in accordance with the department's procedural rules for contested cases found at 641—Chapter 173.

**641—202.16(135) Reporting requirements.** For the purposes of the annual reports and data compilation required in Iowa Code sections 135.75 and 135.78, the department will utilize the AHA Annual Survey of Hospitals with the state survey addendum for hospitals and the cost reports for health care facilities submitted to the Medicaid enterprise of the department of health and human services.

These rules are intended to implement Iowa Code sections 135.61 through 135.83.

**ARC 7380C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to standards for certificate of need review  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind new Chapter 203, "Standards for Certificate of Need Review," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 135.62(2)"e"(5) and Executive Order 10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 135.61 to 135.83.

*Purpose and Summary*

The Iowa Code currently mandates the existence of the State Health Facilities Council (Council), the Certificate of Need (CON) process, and these administrative rules. Applicants for a CON and affected parties benefit from this proposed chapter since it provides guidance on adding services, such as cardiac catheterization and cardiovascular surgery and radiation therapy, and on the purchase of specific pieces of medical equipment, including MRI, PET and CT. The additional benefit is to those applicants who wish to add beds to a health care facility, such as a nursing home. The chapter outlines a bed need formula and additional factors that are used by applicants to determine whether there is a need for more beds in their area. The chapter benefits the Council when it reviews applications as it provides standards for the addition of certain services, for certain medical equipment purchases and for the addition of health care facility beds. This chapter also benefits those who might consider themselves an affected party to a specific application by keeping them informed of the standards for CON review.

This chapter also publicly illustrates some of the criteria that will be used by the Council in determining whether to grant a CON to an applicant. Public notice was provided, and one comment from an association was received indicating support for the changes to Chapter 203.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Rebecca Swift  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.218.4969  
Email: [rebecca.swift@dia.iowa.gov](mailto:rebecca.swift@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 31, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Rescind 641—Chapter 203 and adopt the following new chapter in lieu thereof:

CHAPTER 203  
STANDARDS FOR CERTIFICATE OF NEED REVIEW

**641—203.1** Reserved.

**641—203.2(135) Cardiac catheterization and cardiovascular surgery standards.**

**203.2(1) Purpose and scope.**

*a.* These standards are measures of some of those criteria found in Iowa Code sections 135.64(1)“a” through “q,” and 135.64(3). Criteria that are measured by a standard are cited in parentheses following each standard.

*b.* Certificate of need applications that are to be evaluated against these cardiac catheterization and cardiovascular surgery standards include:

- (1) Proposals to commence or expand capacity to perform cardiac catheterization.
- (2) Proposals to add new or replace cardiovascular surgery services.
- (3) Any other applications that relate to cardiac catheterization or cardiovascular surgery.

**203.2(2) Definitions.**

*a.* Adult cardiac catheterization laboratory—a diagnostic facility exclusively for intracardiac or coronary artery catheterization on adults.

*b.* Pediatric cardiac catheterization laboratory—the same as adult cardiac catheterization laboratory, except exclusively for children and infants.

*c.* Cardiac catheterization—

(1) Intracardiac—a diagnostic study of the heart, and pulmonary arteries, or both, in which a small catheter passes through a vein or artery in the neck, leg or arm and advances into the great vessels, the heart or the pulmonary arteries. Through this procedure one can measure pressure within the heart and in adjacent veins and arteries, collect blood samples for blood gas analysis and inject radiopaque material, and visualize cardiac and vessel anatomy. The procedure permits detection of congenital and acquired heart abnormalities, the study of ventricular function, the estimation of the orifice size, the placement of pacemakers, etc. Cardiac catheterization is incomplete without cineangiography, intracardiac pressure measurements, blood gas analysis and the ability to diagnose intracardiac shunts.

(2) Coronary artery catheterization—a diagnostic study of the coronary arteries, in which a small catheter passes through an artery in the leg, neck or arm into a coronary artery orifice. Intravascular pressure measurements are taken, and angiography of the coronary arteries is performed. Catheterization and cineangiography of the left ventricle are an integral part of this procedure.

*d.* Angiography—

The photographic recording of X-ray or radiologic images of blood vessels, in any part of the body—the heart, the head, the great vessels, the kidney, etc. In the procedure blood vessels are injected with a radiopaque chemical. Immediately following injection, X-rays are employed to image the path of the injected chemical. These X-ray images are then photographically recorded.

*e.* Angiocardiography—

The recording of moving X-ray images (fluoroscopic images) of the heart and great vessels. After injection of radiopaque chemicals, moving X-rays of the chemical’s flow are projected on a screen called a fluoroscope. Moving pictures (cineangiography) or still pictures in sequence (serialography) may be recorded of the X-ray image.

*f.* Adult cardiovascular surgery—cardiovascular surgery exclusively for adults.

*g.* Pediatric cardiovascular surgery—cardiovascular surgery exclusively for infants and children.

*h.* Cardiovascular surgery—the services associated with and surgery performed for congenital or acquired diseases of the heart, great vessels, or pericardium, including the placement of travenous and epicardial pacemakers.

(1) Open heart surgery—cardiovascular surgery in which an incision of sufficient size is made to allow direct vision of the area. Open heart surgery requires temporary use of a heart-lung

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

(cardiopulmonary bypass) machine, as blood flow through the heart is greatly reduced or stopped altogether.

(2) Coronary artery surgery—surgery to correct inadequate blood flow to the heart through using revascularization techniques to bypass significantly obstructed coronary artery lesions.

*i.* Closed heart surgery—cardiovascular surgery in which a small incision and repairs are made without direct vision of the area.

*h.*

**203.2(3) Availability of services.**

*a.* Minimum utilization—cardiovascular surgery (Iowa Code section 135.64(1) “c,” “g,” “h”).

(1) Adult cardiovascular surgical programs should project an annual minimum rate of over 200, or no approval will be granted. Higher case loads over 200 per annum, are encouraged.

(2) Pediatric cardiovascular surgical units should project a minimum of 100 pediatric heart operations after the first year, at least 75 of which must be open heart procedures.

(3) Combined adult/pediatric cardiovascular surgery units should project the minimum projected annual rates for both adult and pediatric surgery.

(4) Applicants should project utilization of cardiovascular surgery, catheterization and cardiac care units based upon service area population demographics, current regional or national utilization rates of the service, disease incidence and prevalence rates, current cardiac care treatment modes, and in consideration those adult cardiovascular surgery units currently operating in Iowa, and bordering states within the project’s service area.

*b.* Expansions—cardiovascular surgery (Iowa Code section 135.64(1) “c,” “d,” “e,” “g,” “h”).

(1) There should be no additional adult cardiovascular surgery units initiated, unless each existing unit within the project’s service area is operating at a minimum of 200 open heart surgery cases per year.

(2) There should be no additional pediatric cardiovascular surgery units initiated, unless each existing unit within the project’s service area is operating at 100 surgeries per year. If one team serves more than one institution, the numbers for those institutions should be combined.

(3) If the annual utilization of the other cardiovascular surgery units within the area is below the levels noted above, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the level must be demonstrated.

(4) The applicant will demonstrate that an attempt was made to determine with the cooperation of existing providers whether such a reduction would occur. Existing providers of consequence are generally within two hours’ surface travel time for adult services and within three for pediatric services.

*c.* Minimum utilization—cardiac catheterization (Iowa Code section 135.64(1) “c,” “d,” “g,” “h”).

(1) Adult cardiac catheterization laboratories should be projected to operate at a minimum of 300 catheterizations per annum.

(2) Pediatric catheterization laboratory units should project a minimum of 150 catheterizations annually.

(3) Combined units should meet each of the adult and pediatric standards.

(4) Applicant should project utilization of cardiac catheterization units based upon service area population demographics, current regional or national utilization rates of the service, disease incidence and prevalence rates, current cardiac care treatment modes, and in consideration those adult cardiovascular surgery units currently operating in Iowa, and bordering states within the project’s service area.

*d.* Expansions—cardiac catheterizations (Iowa Code section 135.64(1) “c,” “d,” “e,” “g,” “h”).

(1) There should be no additional adult cardiac catheterization unit opened unless the number of studies per year in each existing unit within the project’s service area is greater than 300. No additional pediatric unit should be opened unless the number of studies per year in each existing unit within the project’s services area is greater than 150.

(2) If the annual utilization of the other cardiovascular surgery units within the area is below the levels noted above, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the level must be demonstrated.



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

(3) The applicant must attempt and demonstrate that an attempt was made to determine with the cooperation of existing providers whether such a reduction would occur. Existing providers of consequence are those within two hours' surface travel time for adults or three for pediatrics.

**203.2(4) Costs.**

*a. Financial feasibility.* (Iowa Code section 135.64(1) "f," "i," "p") Cardiovascular surgery and catheterization equipment, and associated remodeling or construction should be depreciated over a period consistent with generally accepted accounting standards.

*b. Cost-effectiveness.* Proposed new or replacement cardiac catheterization laboratories cost per catheterization and cardiovascular surgery services estimated costs per surgery should when compared to their peers demonstrate cost-effectiveness.

**203.2(5) Accessibility.** (Iowa Code section 135.64(1) "c," "d")

*a.* Cardiovascular surgery units and cardiac catheterization labs should meet the needs of the communities that the units and labs are meant to serve.

*b.* Cardiac catheterization and cardiovascular surgery service should be provided regardless of ability to pay, in consideration of those programs available in the state that serve the medically indigent.

**203.2(6) Quality.** (Iowa Code section 135.64(1) "i," "k")

*a.* Each surgery unit and cardiac catheterization lab shall demonstrate a reasonable set of criteria that are used in selecting appropriate candidates for surgery and catheterization.

*b. Staffing minimums.*

(1) The open heart surgery team should minimally consist of:

1. At least two certified or board-eligible cardiovascular surgeons for the first 75 to 130 pediatric open heart surgeries. If pediatric surgery is performed, one surgeon must have special training and experience in surgery for congenital cardiac defects.

2. A board-certified or board-eligible adult or pediatric cardiologist(s). The latter only if pediatric surgery is performed, the former only if adult surgery is performed.

3. Board-certified or board-eligible anesthesiologist with special training in the management of cardiovascular cases' respiratory care.

4. Radiologist trained in the cardiovascular field.

5. Pathologist familiar with cardiac problems.

6. Surgical nursing staff specially trained in heart disease.

7. Cardiopulmonary bypass pump technicians.

8. Other ancillary staff as needed.

(2) Each applicant will document that the proposed surgery unit can be so staffed when completed and operational.

*c. Equipment and facilities.* The applicant seeking to provide cardiovascular surgery should demonstrate that the following support services will be available:

(1) General X-ray diagnostic facilities and facilities for emergency X-rays on a 24-hour basis.

(2) A cardiac catheterization laboratory or angiography lab available on a 24-hour basis.

(3) A cardiographics laboratory, with facilities for recording the following tests: EKG, vector cardiogram, phonocardiogram, echocardiogram, and exercise stress testing.

(4) A supporting blood bank and hematology laboratory.

(5) A microbiology laboratory.

*d.* Cardiac catheterization labs serving infants and children should have biplane angiographic equipment, either cineangiographic or cut film. Pediatric cardiac catheterization labs should be supervised by board-certified or board-eligible pediatric cardiologists; adult cardiac catheterization labs should be supervised by a board-certified or board-eligible adult cardiologist.

**203.2(7) Continuity.** (Iowa Code section 135.64(1) "g," "h," "i," "k")

*a.* The applicant should demonstrate that an attempt was made to solicit letters of support from area hospitals and physicians to indicate a community need.

*b.* The applicant should provide documentation that emergency medical transport services will be available.

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

c. Institutions providing cardiovascular surgery services should include mechanisms for comprehensive medical followup including adequate medical records exchange.

**203.2(8) Acceptability.** (Iowa Code section 135.64(1)) Facilities with cardiovascular surgery and cardiac catheterization indicate a willingness to observe and respect the rights of patients.

**641—203.3(135) Radiation therapy standards.****203.3(1) Purpose and scope.**

a. These standards provide guidelines to assist the council in applying those criteria in Iowa Code sections 135.64(1)“a” through “r” and 135.64(3). Criteria that are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications that are to be evaluated against these radiation therapy standards include:

(1) Proposals to commence or expand the kind or capacity of megavoltage radiation therapy services.

(2) Proposals to replace a megavoltage radiation therapy unit.

(3) Any other applications that relate to megavoltage radiation therapy.

**203.3(2) Definitions.**

“*Conjoint radiation oncology center*” or “*cancer center*” means a multi-institution, multidisciplinary network to provide radiation therapy for cancer patients. Integration of patient care management, common utilization of personnel and equipment, and a single system of records between center institutions ensures optimal care regardless of entry portal.

“*Dosimetrist*” means a staff member who calculates, verifies, and develops treatment plans for the radiation dose distributions that will be delivered to patients. The dosimetrist is an essential member of the treatment planning team and works closely with radiation oncologists and radiation physicists.

“*Megavoltage therapy*” means the use of ionizing radiation in excess of one million electron volts. Energies above one million electron volts cause considerably less skin damage, increase depth dose markedly, and result in much less scatter from the therapeutic beam. Megavoltage machines are classified as follows:

1. Electron accelerator. A machine such as a linear accelerator that uses a supply of electrons, which are accelerated into high energy beams. These electron beams are either caused to strike a target resulting in high energy X-ray production or are used themselves as the treatment beam. Electron accelerators generate over one million electron volts.

2. Heavy particle accelerator. A machine such as a cyclotron that produces beams of high energy particles such as protons, neutrons, pions, carbon ions, or other heavy ions with masses greater than that of an electron.

3. Isotope sources (gamma ray teletherapy units).

Cobalt 60 units—emit gamma rays of approximately 1.2 million electron volts.

“*Megavoltage therapy unit*” means a piece of megavoltage therapeutic radiologic equipment that provides megavoltage therapy.

“*New occurrence*” means a course of treatment for a new occurrence on a given patient at a given radiation therapy facility. First-time radiation therapy at a new facility is based on each round of treatment.

“*Radiation modality*” means the method of applying ionizing radiation in the treatment of patients with malignant disease using megavoltage external beam equipment.

“*Radiation oncologist*” means a physician authorized user trained in accordance with 641—subrule 41.3(5).

“*Radiation therapy facility*” or “*facility*” means the physical space that houses a megavoltage therapy unit and accompanying support equipment.

“*Radiation therapy physicist*” means an individual who works closely with radiation oncologists and is responsible for the safe and accurate delivery of radiation to patients. A radiation therapy physicist conducts quality control programs for the equipment and procedures, as well as calibrating the equipment. A radiation therapy physicist shall practice in accordance with 641—subrule 41.3(6).

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

“*Radiation therapy technologist*” means an individual who possesses an Iowa permit to practice as a radiation therapist in accordance with rule 641—42.7(136C).

“*Service area*” means the county in which the facility is located and any other counties from which the applicant expects to draw patients with a cancer diagnosis who need radiation therapy treatment.

“*Simulation*” means the precise mock-up of a patient treatment with an apparatus that uses planar X-rays, magnetic resonance imaging device, or computed tomography scanner, which is used in reproducing the two-dimensional or three-dimensional internal or external geometry to the patient, for use in treatment planning and delivery.

“*Superficial X-ray therapy*” means the use of a conventional X-ray machine, which generates X-rays of up to 150 kilovolts (150 kv), to treat superficial lesions, such as skin cancer.

“*Treatment*” means radiation fields applied in a single patient visit fraction or delivery session.

**203.3(3) Availability.**

*a. Minimum utilization.* (Iowa Code section 135.64(1) “c,” “g,” “h”)

(1) A megavoltage radiation therapy unit and cobalt units should treat at least 250 new occurrences annually within three years after initiation of the service.

(2) The expected number of new occurrences needing megavoltage radiation therapy annually in a service area should be calculated as follows:

1. Multiply the service area population times 0.00582 (5.82/1,000 population was the mean cancer incidence rate in 2017 in Iowa as filed by the Surveillance, Epidemiology, and End Results (SEER) Program).

2. Multiply this product times .5 (50 percent of all new occurrences receive radiation therapy).

(3) The expected volume of utilization sufficient to support the need for a new megavoltage therapy unit should be calculated as follows: each unit shall provide a minimum of 5,000 treatments per annum. Megavoltage treatments should be projected by multiplying the number of projected new occurrences needing megavoltage therapy times 20, which will result in no fewer than 5,000 treatments per annum.

(4) Applicants shall account for other providers of radiation therapy in the service area including, but not limited to, factors such as technological capability and quality. Applicants shall address in their application other providers and the impact on those providers in the service area and compare technological capability and quality.

(5) Applicants should provide a map of the expected service area.

(6) Institutions that form a conjoint oncology center should have at least 500 new occurrences annually.

*b. Simulator availability.* A simulator should be available within a radiation oncology department.

**203.3(4) Accessibility.** (Iowa Code section 135.64(1) “c,” “d”) Radiation therapy services should be provided regardless of ability to pay, in consideration of those programs available in the state that serve the medically indigent.

**203.3(5) Quality.** (Iowa Code section 135.64(1) “i,” “k”)

*a. Minimum staffing requirements for radiation therapy facilities:*

(1) Each facility will have the services of at least one radiation oncologist.

(2) Each facility will have the services of at least one radiation therapy physicist.

(3) Each facility will have the services of radiation therapy technologists that should be staffed at a level of two technologists per megavoltage unit.

(4) Each facility should have the services of nurses.

(5) Each facility should have the services of at least one dosimetrist.

(6) Each facility should have the services of one radiation therapist or radiation technologist competent to operate a CT simulator.

*b.* Each conjoint center will have at least two cancer biologists available.

*c.* Each conjoint center will have one radiation technologist available for each simulator.

*d.* The long-range plans for radiation therapy services shall be submitted to the Iowa department of health and human services.

*e.* Multidisciplinary tumor boards should be established in all institutions housing megavoltage machines.

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

*f.* A source of continuing education should exist within each conjoint center to reach participating community referral hospitals and physicians.

*g.* Each conjoint center should have a unified training program in radiation therapy for radiation oncologists.

*h.* Each radiation therapy facility should offer psychosocial counseling services and nutritional counseling.

**203.3(6) Continuity.** (Iowa Code section 135.64(1)“*g,*” “*h,*” “*i,*” “*k*”) The applicant should demonstrate that an attempt was made to solicit letters and establish referral agreements from area hospitals and physicians to indicate their willingness to participate in a cooperative endeavor to refer to the proposed service.

**641—203.4(135) Computerized tomography standards.****203.4(1) Purpose and scope.**

*a.* These standards are measures of some of those criteria in Iowa Code section 135.64(1) “*a*” through “*l.*” Criteria that are measured by a standard are cited in parentheses following each standard.

*b.* Certificate of need applications that are to be evaluated against these computerized tomography standards include:

- (1) Proposals to commence or expand the capacity of computerized tomography services.
- (2) Any other applications that relate to computerized tomography services.

**203.4(2) Definitions.**

*a.* Computerized tomographic (CT) scanner—a diagnostic tool that rotates about and that sends X-ray beams through the body or brain. The X-ray beams that emerge from the body or brain are absorbed by a detector. Differences in the amount of X-rays absorbed by the detector indicate differences in tissue density. As the scanner rotates, it takes many images of a volume or cross-section. The images on the detector are transmitted to a computer that displays on a monitor a reconstructed cross-sectional slice or volume. Contrast media is often injected to alter absorption of the detector. If the scan is repeated, it is called enhancement. Studies of the heart, arteries and veins may be done with contrast only.

- (1) Whole body scanner—one capable of imaging the entire body.
- (2) Head scanner—one capable of imaging only the brain and structures adjacent to the head.

*b.* Enhanced scan—a scan performed on a patient who has been administered a contrast medium so that specific organs or areas of the body will be displayed more distinctly on the scan image.

*c.* Minimum shared-market area for a scanner (hereafter referred to as “area”)—the smallest geographic area within which any scanner installation is judged to affect the utilization rate of any other scanner is the community (as defined by the U.S. Bureau of the Census) or a Standard Metropolitan Statistical Area (where an area is so designated).

*d.* Emergency medical service (EMS) level II trauma service—the level of various services and staffing that qualify a facility to be designated by the emergency medical service division of the Iowa department of health and human services, using the facilities categorization criteria of such services that is in effect on the date of the enactment of this standard.

*e.* Shared service agreements—a multi-institutional arrangement for coordination or consolidation of services or sharing of support services. Among the various types of arrangements are referred services, purchased or joint contract services, multisponsored services and regional services.

*f.* CT consortia—a cooperative venture in which two or more institutions form a separate entity that is created for the purpose of owning, leasing, planning for, and maintaining the use of the scanner. Each facility in the consortium maintains its autonomy for all other services.

*g.* Applicant—an applicant may be a facility or a consortium of facilities within an area, or a physician or group of physicians.

*h.* General imaging procedures—a radiological diagnostic procedure performed on an X-ray machine or similar radiological diagnostic instrument.

*i.* Active oncology service—full, multidisciplinary cancer care, provided by a medical team that would include: surgery, gynecology, medical oncology, radiation oncology, pathology, diagnostic radiology and nuclear medicine. The surgery specialties that might be available would include:

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

thoracic, abdominal, genitourinary and gynecological. The active oncology staff would include those specialists with training in oncology, hematology, and pathology and who spend at least half of their time at the institution.

*j.* Radiotherapy service—the therapeutic application of megavoltage radiation, using a linear accelerator or cobalt unit. The availability of such service at a hospital would necessitate personnel trained in the therapeutic application of radiology.

*k.* Chemotherapy service—the treatment of cancer by chemical agents.

**203.4(3) Determination of need.**

*a.* Applicants who do not now have a scanner, or who have a scanner and seek a certificate for one or more additional scanners.

(1) Applicants in areas with no other scanners.

1. Applicants must have performed at least 30,000 general imaging procedures during the past calendar year or 12 months, or

2. Demonstrate that during the past calendar year or 12 months, the applicant performed diagnostic procedures equivalent to 1500 HECTs (head equivalent CTs), using the following:

100% of the number of patients referred to other facilities for CT diagnosis  $\times$  1.75 (in the case of head scans) and 2.75 (in the case of body scans)

(2) Applicants in areas with one or more scanners.

1. An applicant must meet the requirement of need, described in 203.4(3) “a”(1), and

2. The average level of utilization for scanners within the area was at least 3000 HECTs (plus or minus 10 percent) for the past calendar year or 12 months. The average level of utilization will be determined by adding the number of HECTs performed during the period at all area facilities divided by the number of facilities.

3. The University of Iowa Hospitals and Clinics is specifically exempted from consideration under 203.4(3) “a”(2) “2” because it has a service area that encompasses the entire state and adjoining states. The utilization statistics for the University Hospital will therefore neither affect nor be affected by Mercy Hospital, Iowa City. Additionally, the utilization statistics for scanners at the University of Nebraska Hospitals and Clinics and St. Joseph’s Hospital (both in Omaha) will not affect the need for scanners at hospitals in Council Bluffs.

*b.* Replacement scanners—applicants who currently have a scanner.

(1) All applicants seeking to replace a scanner with another scanner, head or body.

1. The applicant must demonstrate that the applicant’s use of the applicant’s current scanner was at least at the operating capacity level during the last calendar year or 12 months, or

2. Below the operating capacity level, but above 1500 CT scan level, and the applicant must demonstrate reasons for permanently utilizing their scanner below operating capacity level and demonstrate that discontinuation of their scanner service would impair the applicant’s ability to respond to the emergency needs of the area. Reasons for utilizing the scanner below the capacity should include a unique patient or procedure mix that would define the capacity level differently for this applicant.

(2) Reserved.

**203.4(4) Costs and financial feasibility.** (Iowa Code section 135.64(1) “f,” “i,” “p”) CT scanners should be depreciated over a period of not less than seven years. Remodeling shall be depreciated as appropriate by generally accepted accounting principles.

*a.* *Cost-effectiveness.* Applicants should demonstrate for themselves and the health care system that the most cost-effective method of providing CT services has been chosen. Proposed new and replacement CT scanner’s cost per CT scan should, when compared to their peers, demonstrate cost-effectiveness.

*b.* Reserved.

**203.4(5) Accessibility.** (Iowa Code section 135.64(1) “c,” “d”)

*a.* All scanners must be available to meet the needs of the communities the scanners are meant to serve.

*b.* Services should be provided to all patients regardless of the patient’s ability to pay, taking into consideration the availability of those programs available in the state that serve the medically indigent.

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

c. Applicants will demonstrate a willingness to accept referrals for CT services from all area physicians.

**203.4(6) Quality.** (Iowa Code section 135.64(1) “i,” “k”)

a. Data on use and costs of the CT scanners should be submitted to the Iowa department of health and human services as a condition of approval. (Iowa Code section 135.64(1) “a,” “h”)

b. All scanners.

(1) All applicants must demonstrate that they have on their staff or will acquire on their staff a full-time diagnostic radiologist, trained in the use of the CT scanner, or other physicians with comparable training and expertise.

(2) All applicants must document that they have on their medical staff individuals who are qualified to operate a scanner and interpret and act upon the diagnostic results. Such documentation may include reference to board certification, apprenticeship, academic credentials or such other qualifications that would prompt a medical staff to accept the responsibility for offering this new service. Applicants who intend to acquire staff with the desired expertise should provide signed letters of intent from the incoming medical personnel. Applicants who intend to upgrade the specialty skills of their staff should document a plan for training their current staff in the use of CT scanners.

(3) All applicants should have a complement of other diagnostic modalities available. Applicants seeking body scanners should also have available ultrasound and conventional X-ray services.

(4) All applicants should have the facilities for treating the conditions diagnosed by imaging with the scanner or should demonstrate referral agreements with treatment facilities, in the event that the scanner will be used as a screening device.

(5) All applicants should have on their staff or available on a consultative basis the services of a biomedical engineer or medical physicist, with special training in CT applications. These functions may also be provided by contract with the scanner manufacturer.

**203.4(7) Continuity.** (Iowa Code section 135.64(1) “g,” “h,” “i,” “k”)

a. The applicant should demonstrate that an attempt was made to solicit letters of support from area hospitals and physicians to indicate a community need for the proposed service.

b. The applicant should provide documentation that emergency medical transport services will be available.

c. The applicant should demonstrate an emphasis on the availability of outpatient CT procedures and that an appropriate percentage of all CT procedures will be done on an outpatient basis.

**203.4(8) Acceptability.** (Iowa Code section 135.64(1) “k”) Providers of CT services should indicate a willingness to observe the rights of patients.

**641—203.5(135) Long-term care.****203.5(1) Purpose and scope.**

a. These standards are measures of criteria found in Iowa Code section 135.64(1) “a” through “g.” Criteria that are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications that are to be evaluated against these standards include applications to:

(1) Construct, develop, offer new, modernize, replace, renovate, or relocate intermediate care or skilled nursing care beds in nursing homes or hospitals.

(2) Expand bed capacity in intermediate care or skilled nursing care facilities or designated units in hospitals.

**203.5(2) Definitions.**

“Intermediate care facility” or “ICF” means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity require nursing services that can be provided only under the direction of a registered nurse or a licensed practical nurse.

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

“*Rural counties*” means all counties not designated by the U.S. Census as SMA (Standard Metropolitan Area) counties.

“*Skilled nursing facility*” or “*SNF*” means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals not related to the administrator or owner thereof within the third degree of consanguinity who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a 24-hour-per-day basis.

“*Urban counties*” means those counties designated by the U.S. Census as SMA (Standard Metropolitan Area) counties.

**203.5(3) Availability and need.** (Iowa Code section 135.64(1) “c,” “d,” “e,” “g,” “h”)

a. The following formula shall be used as a means of projecting the approximate number of intermediate and skilled nursing care beds needed to serve the projected population five years into the future:

(1) Rural counties:

$[\text{.09}(\text{65} + \text{population}) + \text{.0015}(\text{64} - \text{population})] \times 110\%$  equals total long-term care bed need

Combined SNF and ICF bed need equals  $\frac{2}{3}$  (total long-term care bed need)

Assumed RCF bed need equals  $\frac{1}{3}$  (total long-term care bed need).

(2) Urban counties:

$[\text{.07}(\text{65} + \text{population}) + \text{.0015}(\text{64} - \text{population})] \times 110\%$  equals total long-term care bed need

Combined SNF and ICF bed need equals  $\frac{2}{3}$  (total long-term care bed need)

Assumed RCF bed need equals  $\frac{1}{3}$  (total long-term care bed need).

(3) Department of economic development population projections are adopted for use in the determination of long-term care bed need.

(4) The department of health and human services will calculate long-term care bed need figures annually, using population projections five years into the future.

b. For purposes of comparing “need” to “existing” beds in a given county, the following shall be considered in the calculation of “existing” beds:

(1) ICF and SNF beds licensed at freestanding facilities in the county.

(2) Additional ICF and SNF beds previously approved through certificate of need but not yet licensed.

(3) ICF and SNF beds in designated units in hospitals in the county.

c. The statistical calculation of bed need shall serve as a guideline for the health facilities council in reviewing need for the proposed long-term care beds. Other factors that may be considered by the council include, but are not limited to:

(1) The availability and utilization of other ICF and SNF services in the county, or within the applicant’s service area.

(2) The availability and utilization of other long-term care services in nearby hospitals, such as skilled care available through the swing bed program.

(3) The availability of supportive living arrangements that may or may not be licensed as residential care facilities (RCF).

(4) The availability of home health and other in-home services.

(5) The availability of other services to the elderly.

(6) The availability of ICF and SNF services in neighboring counties.

(7) Utilization by out-of-state residents of facilities in counties bordering other states, where the applicant provides evidence that in-migration of long-term care patients exceeds out-migration to the bordering state.

(8) Programs and services directed at special populations whose needs cannot otherwise be met, or whose needs cannot be met cost-effectively at other facilities.

d. In documenting need for a project, the applicant shall identify the service area and target population, including a description of the methodology used by the applicant in determining need for

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

the requested beds and the expected sources of referrals. The applicant shall document that the number of beds requested is appropriate to address the identified need. The applicant shall also identify how the target population is currently being cared for, and what hardship is being experienced by the absence of the proposed beds.

**203.5(4) Quality.** (Iowa Code section 135.64(1)“i,” “k”) The applicant shall document that the applicant has contacted the health facilities division of the department of inspections and appeals to conform with physical standards, staffing requirements, and other licensing requirements to assess the potential for provision of quality care at the facility. When necessary, the applicant shall attempt to arrange an on-site visit to the facility to determine compliance with physical requirements, and shall provide documentation of this site visit or attempts to arrange such a site visit.

**203.5(5) Continuity.** (Iowa Code section 135.64(1)“g,” “h,” “k”)

a. The applicant shall document the relationship of the facility’s proposed services to other health and long-term care services in the community such as physician and hospital services, habilitation, rehabilitation, transportation or other services. The facility should be capable of providing or arranging for the provision of a continuum of long-term care services.

b. The facility should be capable of providing or arranging for the provision of a comprehensive program of coordinated patient services. The applicant shall provide evidence of contracts for services, appropriate staffing patterns and ratios, and licensure of personnel as necessary.

**203.5(6) Accessibility and acceptability.** (Iowa Code section 135.64(1)“c,” “d”)

a. Population subgroups that have traditionally been underserved, such as adolescents, the elderly, women, racial minorities, mentally ill, intellectually disabled, and developmentally disabled should be considered when planning for or reviewing long-term care facilities.

b. The applicant shall document to what extent Medicaid patients will be served by the proposed beds, using past Medicaid utilization as an indicator or, in the case of a new facility, projecting anticipated Medicaid utilization.

**203.5(7) Costs and financial feasibility.** (Iowa Code section 135.64(1)“e,” “f,” “i,” “p”)

a. The applicant shall identify capital and operating costs associated with the project, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

b. Construction costs shall be in line with construction costs of other similar projects.

c. The applicant shall provide budgets for the first three years of operation, including documentation of all assumptions used. The budget shall include anticipated sources of revenue, including the percentage of revenue from private pay, Medicaid, Medicare and other patient revenues.

d. Proposed charges per patient day should be justifiable when compared to current charges of other similarly licensed facilities in the applicant’s service area, or other similar facilities elsewhere in the state. If charges are significantly higher or lower, the applicant shall provide a description of proposed programs or services that explain the difference in charges.

These rules are intended to implement Iowa Code section 135.72.

**641—203.6 to 203.11** Reserved.

**641—203.12(135) Magnetic resonance imaging services standards.**

**203.12(1) Purpose and scope.**

a. These standards are measures of some of those criteria in Iowa Code section 135.64(1)“a” through “q.” Criteria that are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications that are to be evaluated against these standards include:

- (1) Proposals to commence or expand the capacity of magnetic resonance imaging services.
- (2) Proposals to replace a magnetic resonance imaging unit.
- (3) Any other applications that relate to magnetic resonance imaging.

**203.12(2) Definitions.**

“Area” means the community or a metropolitan statistical area (as defined by the U.S. Office of Management and Budget and used by the U.S. Census Bureau).



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

“*CT (computed tomography) procedure*” means a CT study of a single site of anatomic interest during an individual patient visit.

“*Magnetic resonance imaging (MRI)*” means a diagnostic modality that employs a combination of magnetic and radio frequency fields and computers to produce images of body organs and tissues.

“*MRI procedure*” means each discrete MRI study of one patient.

“*MRI unit*” means the essential equipment and facility necessary to operate one MRI system.

**203.12(3) Availability and need.** (Iowa Code section 135.64(1) “c,” “d,” “e,” “g,” “h”)

a. Applicants in areas with no other MRI units. Applicant must document a future utilization of reasonably projected MRI procedure volume for the fiscal year period after projected installation.

b. Applicants in areas with one or more MRI units currently in operation or approved by certificate of need for operation.

(1) Applicant must meet the requirement of need described in 203.12(3) “a,” and

(2) The other MRI unit(s) within the area must have been operating at a minimum of 2,000 MRI procedures annually (or 500 in three months), or proportionately more if the MRI unit runs more than one ten-hour shift.

(3) If the annual utilization of the other MRI unit(s) within the area has been below 2,000 procedures, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the 2,000 procedure level must be demonstrated.

c. Applicants seeking to replace an MRI unit.

(1) The applicant must demonstrate that the existing MRI unit has been operating at the level of at least 3,000 procedures during the most recent annual period.

(2) If the applicant’s annual utilization has been below 2,000 procedures, the applicant must reasonably project future utilization above that level or demonstrate reasons for permanently utilizing the equipment below that level.

d. Applicants seeking to add an additional MRI unit.

(1) The applicant must demonstrate that the existing MRI unit(s) has been operating at the level of at least 3,500 procedures during the most recent annual period.

(2) The applicant must demonstrate that the demand significantly exceeds the 2,000 procedures annually.

(3) If the applicant’s annual utilization has been below 2,000 procedures, the applicant must reasonably project future utilization above that level or demonstrate reasons for permanently utilizing the equipment below that level.

**203.12(4) Quality and continuity.** (Iowa Code section 135.64(1) “g,” “h,” “i,” “k”)

a. The proposed MRI unit should function as a component of a comprehensive inpatient or outpatient diagnostic service. The proposed MRI unit must have the following modalities on-site or through referral arrangements:

(1) Ultrasound.

(2) Computed tomography.

(3) Angiography.

(4) Nuclear medicine.

(5) Conventional radiography.

b. The proposed MRI unit must be located in a facility that has, either in-house or through referral arrangement, the resources necessary to treat most of the conditions diagnosed or confirmed by MRI. The following medical specialties must be available during MRI service hours on-site or by referral arrangements: neurology or neurosurgery, oncology and cardiology.

c. A proposal to provide new or expanded MRI must include satisfactory assurances that the services will be offered in a physical environment that conforms to federal standards, manufacturer’s specifications, and licensing agencies’ requirements.

d. The applicant must provide evidence that the proposed MRI equipment has been certified for clinical use by the U.S. Food and Drug Administration or will be operated under the approval and authority of an institutional review board whose membership is consistent with U.S. Department of Health and Human Services regulations.

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

*e.* Applicants for MRI should document that the necessary qualified staff are available to operate the proposed unit. The following minimum staff will be available to the MRI unit:

(1) A board-eligible or board-certified radiologist or any other board-eligible or board-certified licensed physician whose exclusive responsibility for at least a two-year period prior to submission of a certificate of need request has been in the acquisition and interpretation of clinical images. This individual shall have a knowledge of MRI through training, experience, or documented postgraduate education. The individual shall also have training with a functional MRI facility.

(2) Qualified engineering personnel, available to the institution during MRI service hours, with training and experience in the operation and maintenance of the MRI equipment.

(3) Diagnostic radiologic technologists or other certified technologists with expertise in computed tomography or other cross-sectional imaging methods, at a staffing level consistent with the hospital's expected MRI service volume.

(4) Other appropriate physicians shall be available during MRI service hours in clinical specialties such as neurology or neurosurgery, oncology and cardiology.

*f.* The applicant shall demonstrate how emergencies within the MRI unit will be managed in conformity with accepted medical practice.

**203.12(5) Accessibility and acceptability.** (Iowa Code section 135.64(1) "c," "d")

*a.* MRI facilities should have adequate scheduled hours to avoid an excessive backlog of cases and to meet the needs of the communities the scanners are meant to serve.

*b.* Selection of patients for clinical MRI studies must guarantee equal access to all persons regardless of insurance coverage or ability to pay.

**203.12(6) Costs and financial feasibility.** (Iowa Code section 135.64(1) "e," "f," "i," "p")

*a.* The applicant shall identify capital and operating costs associated with the proposed MRI unit, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

*b.* The applicant shall provide budgets for the first three years of operation, including documentation and justification of all assumptions used.

*c.* The applicant must document its projected average cost per procedure and charge per procedure for the first three years. Charges for MRI should be reasonably related to service cost, and comparable to MRI charges at other facilities in the state.

*d.* The applicant shall demonstrate that alternatives were considered and the proposed application is the most cost-effective and will accomplish the goals of the project.

**641—203.13(135) Positron emission tomography services standards.**

**203.13(1) Purpose and scope.**

*a.* These standards are measures of some of those criteria in Iowa Code section 135.64(1) "a" through "q." Criteria that are measured by a standard are cited in parentheses following each standard.

*b.* Certificate of need applications that are to be evaluated against these standards include:

(1) Proposals to commence or expand the capacity of positron emission tomography services.

(2) Proposals to replace a positron emission tomography unit.

(3) Any other applications that relate to positron emission tomography.

**203.13(2) Definitions.**

"Area" means the community or a metropolitan statistical area (as defined by the U.S. Office of Management and Budget and used by the U.S. Census Bureau).

"CT (computed tomography)" means an imaging method in which a cross-sectional image of the structures in a body plane is reconstructed by a computer program from the X-ray absorption of beams projected through the body in the image plane.

"Cyclotron" means an apparatus for accelerating protons or neutrons to high energies by means of a constant magnet and an oscillating electric field.

"MRI (magnetic resonance imaging)" means a diagnostic modality that employs a combination of magnetic and radio frequency fields and computers to produce images of body organs and tissues.

"Radiopharmaceutical" means a radioactive pharmaceutical used for diagnostic or therapeutic purposes.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*PET procedure*” means an image-scanning sequence derived from a single administration of PET, equated with a single injection of the tracer.

“*Positron emission tomography (PET)*” means an imaging method in which positron-emitting radionuclides, which are produced either by a cyclotron or generator, and a nuclear camera are used to create pictures of organ function rather than structure.

“*SPECT (single photon emission computed tomography)*” means a camera-based imaging system using the radionuclides in the routine practice of nuclear medicine.

**203.13(3) Availability and need.** (Iowa Code section 135.64(1) “c,” “d,” “e,” “g,” “h”)

a. Applicants in areas with no other PET units.

(1) Applicants should demonstrate a reasonable potential utilization of a PET unit based on diversified inpatient and outpatient case mix thresholds including:

1. Intracranial cases.
  - Primary brain tumors 50/year
  - Metastasis 100/year
  - Cerebral vascular disease 200/year
  - Organic brain disease and dementia/psychiatric diagnoses (including epilepsy-seizure disorders) 500/year
  - Spinal 100/year
2. Cardiovascular cases.
  - Ischemic heart disease (including acute and chronic infarction) 1200/year
3. Neoplasms (head, neck, thorax (excluding heart), abdomen, pelvic, prostate and musculoskeletal 1300/year.

(2) Applicants should have other diagnostic capabilities, on-site or through referral arrangements, with appropriate volumes including:

	<u>Proposed Threshold</u>
Nuclear medicine imaging services	5,600
Single photon emission computed tomography (including brain, bone, liver, Gallium and Thallium stress)	1,600
CT	8,000
MRI	2,400

(3) Applicants should demonstrate secondary and tertiary service capability, on-site or through referral arrangements, including cardiac surgery, cardiology, internal medicine, general surgery, hematology/oncology, neurology, pathology, thoracic surgery and psychiatry.

b. Applicants in areas with one or more PET units currently in operation or approved by the certificate of need program for operation.

Existing PET units within the area (whether basic or enhanced) should have been operating at a minimum of 1000 PET procedures during the most recent annual period as reported to the certificate of need program according to 203.13(6) “e.”

**203.13(4) Quality and continuity.** (Iowa Code section 135.64(1) “g,” “h,” “i,” “k”)

a. The proposed PET unit should function as a component of a comprehensive inpatient or outpatient diagnostic service. The proposed PET unit should have the following modalities (and capabilities) on-site or through referral arrangements:

- (1) Computed tomography.
- (2) Magnetic resonance imaging.
- (3) Nuclear medicine — (cardiac, SPECT).
- (4) Conventional radiography.

b. The proposed PET unit should be located in a facility that has, either in-house or through referral arrangement, the resources necessary to treat most of the conditions diagnosed or confirmed by PET.

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

The following medical specialties should be available during PET service hours on-site or by referral arrangements: cardiology, neurology, neurosurgery, oncology, and psychiatry.

*c.* A proposal to provide new or expanded PET must include satisfactory assurances that services will be offered in a physical environment that conforms to federal standards, manufacturer's specifications, and licensing agencies' requirements. The following areas are to be addressed:

- (1) Quality control and assurance of radiopharmaceutical production of generator or cyclotron-produced agents;
- (2) Quality control and assurance of PET tomograph and associated instrumentation;
- (3) Radiation protection and shielding;
- (4) Radioactive emissions to the environment.

*d.* The applicant will provide evidence that the proposed PET equipment has been certified for clinical use by the U.S. Food and Drug Administration or will be operated under the approval and authority of an institutional review board whose membership is consistent with U.S. Department of Health and Human Services regulations.

*e.* Applicants for PET will document that the necessary qualified staff are available to operate the proposed unit. The applicants will document the PET training and experience of the staff. The following minimum staff will be available to the PET unit:

(1) One or more nuclear medicine imaging physician(s) available to the PET unit who have been licensed by the state for the handling of medical radionuclides and whose primary responsibility for at least a one-year period prior to submission of the certificate of need application has been in acquisition and interpretation of tomographic images. This individual shall have knowledge of PET through training, experience, or documented postgraduate education. The individual shall also have training with a functional PET facility.

(2) Qualified PET radiochemist or radiopharmacist personnel, available to the facility during PET service hours, with at least one year of training. The individual(s) will demonstrate experience in the testing of chemical, radiochemical, and radionuclidic purity of PET radiopharmaceutical syntheses.

(3) Qualified engineering and physics personnel, available to the facility during PET service hours, with training and experience in the operation and maintenance of the PET equipment.

(4) Qualified radiation safety personnel, available to the facility at all times, with training and experience in the handling of short-lived positron-emitting nuclides.

(5) Certified nuclear medicine technologists with expertise in computed tomographic nuclear medicine imaging procedures, at a staffing level consistent with the proposed center's expected PET service volume.

(6) Other appropriate personnel should be available during PET service hours, which may include certified nuclear medicine technologists, computer programmers, nurses, and radiochemistry technicians.

*f.* The applicant will demonstrate how emergencies within the PET unit will be managed in conformity with accepted medical practice.

**203.13(5) Accessibility and acceptability.** (Iowa Code section 135.64(1) "c," "d")

*a.* PET facilities should have adequate scheduled hours to avoid an excessive backlog of cases.

*b.* Selection of patients for clinical PET studies will guarantee equal access to all persons regardless of insurance coverage or ability to pay.

*c.* In addition to accepting patients from participating institutions, facilities performing clinical PET procedures should accept appropriate referrals from other local providers. These patients will be accommodated to the extent possible by extending the hours of service and by prioritizing patients according to standards of need and appropriateness rather than source of referral.

**203.13(6) Costs and financial feasibility.** (Iowa Code section 135.64(1) "e," "f," "i," "p")

*a.* The applicant will identify capital and operating costs associated with the proposed PET unit, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

*b.* The applicant will provide budgets for the first three years of operation, including documentation and justification of all assumptions used.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*c.* The applicant will document its projected average cost per procedure and charge per procedure for the first three years. Charges for PET should be reasonably related to service cost and comparable to PET charges at other facilities in the state.

*d.* The applicant should verify whether the service is eligible for reimbursement by public and private third-party payers.

*e.* The applicant should demonstrate that alternatives were considered and the proposed application is the most cost-effective and should accomplish the goals of the project.

These rules are intended to implement Iowa Code sections 135.61 through 135.83.

**ARC 7442C**

## **REAL ESTATE COMMISSION[193E]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to administration and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 1, “Administration,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543B.

#### *Purpose and Summary*

These proposed rules provide Iowans and licensees and their employers with relevant information on the practice of real estate, requirements prior to licensure, requirements after licensure and making sure licensees are held to a higher standard to protect the public from harm. This proposed chapter articulates practice standards and provides a scope of practice for the profession.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

## REAL ESTATE COMMISSION[193E](cont'd)

Renee Paulsen  
 Real Estate Commission  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1  
ADMINISTRATION

**193E—1.1(543B) Mission of the commission.** The mission of the Iowa real estate commission is to protect the public through the examination, licensing, and regulation of real estate brokers, salespersons, and firms pursuant to Iowa Code chapter 543B, Real Estate Brokers and Salespersons; to administer Iowa Code chapter 543C, Sales of Subdivided Land Outside of Iowa; and to administer Iowa Code chapter 557A, Time-Shares.

The commission is a policymaking body with authority to promulgate rules for the regulation of the real estate industry consistent with all applicable statutes. Administrative support services are furnished by the professional licensing and regulation division of the department of inspections, appeals, and licensing. The commission or duly authorized representative may inspect subdivided land outside of Iowa pursuant to Iowa Code section 543C.4.

**193E—1.2(543B) Correspondence and communications.** Correspondence and communications with the commission should be addressed or directed to the commission office.

**193E—1.3(543B) Meetings of the commission.** Meetings of the commission are held at times scheduled by the commission in the offices of the commission or at a place designated by the commission. Special meetings may be called by the chairperson or executive officer of the commission, who sets the time and place of the meeting.

## REAL ESTATE COMMISSION[193E](cont'd)

**193E—1.4(543B) Custodian of records, filings, and requests for public information.** Unless otherwise specified by the rules of the department of inspections, appeals, and licensing or the professional licensing and regulation division, the commission is the principal custodian of its own agency orders, statements of law or policy issued by the commission, legal documents, and other public documents on file with the commission.

**1.4(1)** Any person may examine public records promulgated or maintained by the commission at its office during regular business hours.

**1.4(2)** Records, documents and other information may be gathered, stored, and available in electronic format. Information, various forms, documents, and the license law and rules may be reviewed or obtained at any time by the public from the commission's website.

**1.4(3)** Deadlines. Unless the context dictates otherwise, any deadline for filing a document that falls on a Saturday, Sunday, or official state holiday will be extended to the next working day.

**193E—1.5(543B) Investigation and subpoena.** Commission rules regarding investigations and investigatory subpoenas may be found in 193E—Chapter 18 and in the uniform rules for the professional licensing and regulation division at 193—Chapter 6.

**193E—1.6(543B) Impaired licensee review committees.** Commission rules governing impaired licensee review committees may be found in the uniform rules for the professional licensing and regulation division at 193—Chapter 12.

These rules are intended to implement Iowa Code chapters 17A, 252J, 261, 272C and 543B.

**ARC 7443C**

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

**Proposing rulemaking related to definitions  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 2, "Definitions," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

This proposed chapter provides Iowans and licensees and their employers with definitions relevant to the practice of real estate. These proposed rules articulate practice standards and provide a scope of practice for the profession.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

## REAL ESTATE COMMISSION[193E](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2  
DEFINITIONS

**193E—2.1(543B) Definitions.**

“*Additional license*” means any officer or partner license(s) issued based upon and dependent or contingent upon the primary or main officer or partner license, but assigned to a different corporation or partnership.

“*Advance fees*” means any fees charged for services to be paid in advance of the rendering of such services including, without limitation, any fees charged for listing, advertising, or offering for sale or lease any real property, but excluding any fees paid solely for advertisement in a newspaper of general circulation.

“*Affiliated licensee*” means a broker associate or salesperson, as defined in Iowa Code section 543B.5(5) and 543B.5(19), who is under the supervision of a broker.



## REAL ESTATE COMMISSION[193E](cont'd)

“*Applicant*” means a person who has applied for or intends to apply for a real estate salesperson or real estate broker license.

“*Application form*” means the form furnished by the commission to be completed and submitted to apply for an original license as a real estate salesperson, real estate broker, real estate firm or trade name.

“*Branch office license*” means the same as “duplicate license” as used in Iowa Code section 543B.31.

“*Broker*” means any person holding an Iowa real estate broker license as defined in Iowa Code section 543B.3.

“*Brokerage agreement*” means the same as defined in Iowa Code section 543B.5(7).

“*Broker associate*” means the same as defined in Iowa Code section 543B.5(5).

“*Buyer*” includes a purchaser, tenant, vendee, lessee, party to an exchange, or grantee of an option. Selected rules in these chapters will at times refer separately to “buyers” and “tenants” to clarify licensees’ duties and obligations.

“*Client*” means the same as defined in Iowa Code section 543B.5(9).

“*Commission*” means the real estate commission.

“*Common source information companies*” means any individual, corporation, limited liability company, business trust, estate, trust, partnership, association, or any other legal entity (except any government or governmental subdivision or agency, or any officer or employee thereof acting in such individual’s official capacity) that is a source, compiler, or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited to, multiple listing services.

“*Completed application*” means an original or renewal application timely received with all necessary information, documents, signatures, fees or penalties.

“*Confidential information*” means information made confidential by statute, regulation, or express instructions from the client. Confidential information does not include “material adverse facts” as defined in Iowa Code section 543B.5(14). Confidential information includes, but is not limited to, the following:

1. Information concerning the client that, if disclosed to the other party, could place the client at a disadvantage when bargaining;
2. That the seller or landlord is willing to accept less than the asking price or lease price for the property;
3. That the buyer or tenant is willing to pay more than the asking price or lease price for the property;
4. The motivating factors for the party selling or leasing the property;
5. The motivating factors for the party buying or leasing the property;
6. That the seller or landlord will agree to sale, lease, or financing terms other than those offered;
7. That the buyer or tenant will agree to sale, lease, or financing terms other than those offered;
8. The seller’s or landlord’s real estate needs;
9. The buyer’s or tenant’s real estate needs;
10. The seller’s or landlord’s financial information, except that the seller’s ability to sell and the landlord’s ability to lease are considered a material fact;
11. The buyer’s or tenant’s financial qualifications, except that the buyer’s ability to buy and the tenant’s ability to lease are considered a material fact.

Confidential information is not disclosable unless one of the following applies:

1. The client to whom the information pertains provides informed written consent to disclose the information;
2. The disclosure is mandated by statute or regulation, or failure to disclose the information would constitute fraudulent representation;
3. The information is made public or becomes public by the words or conduct of the client to whom the information pertains or from a source other than the licensee; or
4. The disclosure is necessary to defend the licensee against an accusation of wrongful conduct in an actual or threatened judicial proceeding, an administrative proceeding before the commission, or in a proceeding before a professional committee.

“*Consumer*” means a person seeking or receiving real estate brokerage services.

## REAL ESTATE COMMISSION[193E](cont'd)

“*Contract between the buyer and seller*” means an offer to purchase, a sales contract, an option, a lease-purchase option, an offer to lease, or a lease.

“*Conviction*” means the same as defined in Iowa Code section 543B.15(3).

“*Customer*” means a consumer of real estate services in connection with a real estate transaction who is not being represented by the licensee, but for whom the licensee may perform ministerial acts. A customer may be a client of another broker, may have yet to decide whether or not to be represented by any broker, or may have chosen not to be represented by any broker.

“*Designated broker*” means the broker or broker associate designated as the person in charge of and responsible for supervision of a main office or branch office as defined in Iowa Code section 543B.5(11).

“*Dual agent*” means a licensee who, with the written informed consent of all the parties to a contemplated real estate transaction, has entered into a brokerage agreement with and therefore represents the seller and buyer or both the landlord and tenant in the same in-house transaction.

“*Duplicate license*” or “*replacement license*” means a license reissued for the remainder of a license term, at the written request of the broker, to replace a lost or destroyed license.

“*Electronic format*” means a record generated, communicated, received, or stored by electronic means, and is in a format that has the continued capability to be retrieved and legibly printed upon request.

“*Examination*” means a licensure examination necessary before issuance of a license.

“*Examinee*” means a person who has registered or intends to register to take a licensure examination.

“*Filed*” means that documents or application and fees are considered filed with the commission on the date postmarked, not the date metered, or on the date personally delivered to the commission office.

“*Firm*” means a licensed partnership, association, limited liability company, or corporation.

“*Licensee*” means the same as defined in Iowa Code section 543B.5(13).

“*Listing broker*” means the real estate broker who obtains a listing of real estate or of an interest in a residential cooperative housing corporation.

“*Ministerial acts*” means those acts that a licensee may perform for a consumer that are informative in nature and do not rise to the level of specific assistance on behalf of a consumer. For purposes of these rules, ministerial acts include, but are not limited to, the following:

1. Responding to general telephone inquiries by consumers as to the availability and pricing of brokerage services;
2. Responding to general telephone inquiries from a consumer concerning the price, facts and features, or location of property;
3. Attending an open house and responding to general questions from a consumer about the facts and features of the property;
4. Setting an appointment to view property;
5. Responding to general questions of consumers walking into a licensee’s office concerning brokerage services offered or the facts and features of particular properties;
6. Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;
7. Describing the facts and features of a property or the property’s condition in response to a consumer’s inquiry;
8. Completing business or factual information for a consumer on an offer or contract to purchase on behalf of a client;
9. Showing a client through a property being sold by an owner; or
10. Referring a person to another broker or service provider.

“*Moral turpitude*” means an act of baseness, vileness, or depravity, in the private and social duties which a person owes to another person or to society in general, contrary to the accepted and customary rule of right and duty between person and person. It is conduct that is contrary to justice, honesty and good morals. Various factors may cause an offense which is generally not regarded as constituting moral turpitude to be regarded as such. A crime of moral turpitude as specified in Iowa Code section 543B.15(3) shall include without limitation forcible felonies as delineated in Iowa Code section 702.11.

## REAL ESTATE COMMISSION[193E](cont'd)

*“Original license”* means the license of a salesperson, broker, or firm that covers the first term of licensure in Iowa. A license applied for and reissued after the final deadline for renewal of a license is also an original license.

*“Primary license”* or *“main license”* means the original license issued based upon examination, including any subsequent renewals or reinstatements of the license. Continuing education is necessary to renew to active status.

*“Principal broker”* means a broker who is either a real estate proprietor, a partner in a real estate partnership, or an officer in a real estate corporation.

*“Renewal application form”* means the form furnished by the commission to be completed and submitted to apply for renewal of a license as a real estate salesperson, real estate broker, real estate firm, branch office or trade name.

*“Salesperson”* means any person holding an Iowa real estate salesperson license as defined in Iowa Code section 543B.5(19).

*“Seller”* includes an owner, landlord, vendor, lessor, party to an exchange, or grantor of an option. Selected rules in these chapters will at times refer separately to “sellers” and “landlords” to clarify licensees’ duties and obligations.

*“Selling broker”* means a real estate broker who finds and obtains a buyer in a transaction.

*“Single agent”* means a licensee who represents only one party in a real estate transaction. A single agent includes a broker and any affiliated broker associates or salespersons representing a party exclusively or nonexclusively, regardless of whether the single agent be all affiliated broker associates or salespersons, or only the identified broker associates or salespersons, or a group of identified broker associates or salespersons. A single agent may be one of the following:

1. “Seller’s agent” which means a licensee who represents the seller in a real estate transaction;
2. “Landlord’s agent” which means a licensee who represents the landlord in a leasing transaction;
3. “Buyer’s agent” which means a licensee who represents the buyer in a real estate transaction;

and

4. “Tenant’s agent” which means a licensee who represents the tenant in a leasing transaction.

*“Sole-proprietor broker”* means an individual or single license broker who privately owns and manages a real estate company.

*“Specific assistance”* means any communication beyond casual conversation concerning the facts and features of a property which occurs prior to the point of discussing price range or any specific, financial qualifications of the buyer or tenant, or selling or buying motives or objectives of the seller or buyer, or tenant or landlord, or eliciting or accepting information involving a proposed or preliminary offer associated with a specific property, in which the person may unknowingly divulge any confidential personal or financial information, which, if disclosed to the other party, could harm the party’s bargaining position. For the purposes of these rules, “specific assistance” does not include preliminary conversations or “small talk” concerning location and property styles, or responses to general factual questions from a potential buyer or tenant concerning facts and features of properties which have been advertised for sale or lease.

*“Status”* means the condition of a real estate license. A license may be active, inactive, expired, suspended, revoked or canceled. “Inactive license” is defined in Iowa Code section 543B.5(12).

*“Subagent”* means a broker and a broker’s affiliated licensees, engaged by another broker to act as an agent for a client. The subagent has the same obligations and responsibilities to the client as the primary broker representing the client.

*“Third party”* means a person or entity that is not a client, is not a party to the transaction, and has no agency relationship to a real estate brokerage.

*“Timely”* means done or occurring at a reasonable time under the circumstances.

*“Timely received”* means postmarked, not metered, not later than midnight on the last date of the deadline specified by the Iowa Code or commission rules.

*“Transaction”* means the sale, exchange, purchase, or rental of, or the granting or acceptance of, an option to sell, exchange, purchase, or rent an interest in real estate, but excluding the subleasing of an interest in a residential cooperative housing corporation, when the leases are for one year or less.

REAL ESTATE COMMISSION[193E](cont'd)

“*Type*” means the category to which a broker license or firm license is issued. A broker license may be issued as a sole-proprietor broker, broker officer, broker partner, or broker associate. A firm license may be issued as a corporation, partnership or association.

“*Undisclosed dual agent*” means a licensee representing two or more clients in the same transaction whose interests are adverse without the knowledge and informed consent of the clients.

This rule is intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7444C**

## **REAL ESTATE COMMISSION[193E]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to broker licensure and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 3, “Broker License,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

#### *Purpose and Summary*

This proposed chapter sets minimum standards for entry into the real estate profession. Iowa residents and licensees and employers will benefit from these rules since the rules articulate the processes by which individuals apply for licensure as a real estate licensee in the state of Iowa, as directed in statute, which includes the processes for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications, and examinations.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

## REAL ESTATE COMMISSION[193E](cont'd)

Renee Paulsen  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
BROKER LICENSE

**193E—3.1(543B) Broker licensure.** An applicant is only eligible for a broker license by satisfying Iowa Code section 543B.15.

**3.1(1)** An applicant for a real estate broker's license who has been convicted of a disqualifying criminal offense in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction as provided by Iowa Code section 272C.15 and rule 193—15.2(272C).

**3.1(2)** An applicant for a broker license may use active experience as a former Iowa salesperson or active salesperson experience in another state or jurisdiction, or a combination of both, to satisfy the experience requirement for a broker license under Iowa Code section 543B.15(7) only if the former Iowa salesperson or applicant from another state or jurisdiction was actively licensed for not less than 24 months and if the license on which the experience is based has not been expired for more than three years prior to the date the completed broker application with fee is filed with the commission.

**193E—3.2(543B) License examination.** Examinations for licensure as a real estate broker are conducted by the commission's authorized representative.

**3.2(1) Testing service.** The commission will negotiate an agreement with a testing service relating to examination development, test scheduling, examination sites, grade reporting and analysis. The commission approves the form, contract, and method of administration. The examination is conducted in accordance with approved procedures formulated by the testing agency. Applicants register and pay examination fees directly to the testing service.

## REAL ESTATE COMMISSION[193E](cont'd)

**3.2(2) Requests for waiver.** The commission will consider each request for a waiver of commission rules or of the qualifications for licensure on an individual basis. The commission may require additional supporting information. If the applicant's experience or prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

**3.2(3) Eligibility to sit for examination.** An individual may only sit for the examination after meeting the qualifications set out in Iowa Code section 543B.15. An examinee is obligated to show one of the following at the examination site:

- a. Evidence that prelicense education has been completed within the last two years.
- b. The letter from the commission granting a waiver of prelicense education.
- c. A written authorization from the commission for individuals planning to qualify under rule 193E—5.3(543B) or 193E—5.12(543B).
- d. A written authorization from the commission for individuals planning to seek reinstatement of an expired license.

**3.2(4) Failure to pass examination.** An examinee who takes an examination and fails is eligible to apply to retake the examination at any time the examination is offered by filing a new registration form and paying the examination fee, unless the qualifying time period for the prelicense education or granted waiver has expired.

**193E—3.3(543B) Application for broker license.** An applicant who applies for a broker's license will submit to the commission a completed application, license fee, proof of required education, and test score reports not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

**3.3(1) Application contents.** The applicant for licensure attests to the accuracy of the detailed personal, financial, and business information concerning the applicant included on the application.

**3.3(2) License terms.** Real estate broker, salesperson, trade name, branch office, and firm licenses are issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term. Branch office licenses and trade name licenses are issued for the remaining portion of the license term of the license to which each is assigned.

**3.3(3) Denial of application.** An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application does not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

**193E—3.4(543B) Broker continuing education.**

**3.4(1)** To renew a license in active status, each broker or broker associate completes a minimum of 36 hours of approved programs, courses or activities. The continuing education is completed during the three calendar years of the license term and cannot be carried over to another license term.

**3.4(2)** Brokers and broker associates complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.

Law Update	8 hours
Ethics	4 hours
Electives	24 hours

**3.4(3)** A license may be renewed in inactive status without the completion of continuing education. Prior to reactivating a license which has been issued inactive due to the licensee's failure to submit evidence of continuing education, the licensee submits an application to reactivate to active status with evidence that all deficient continuing education hours have been completed. The maximum continuing education hours will not exceed the prescribed number of hours of one license renewal period and are completed during the three calendar years preceding activation of the license.

## REAL ESTATE COMMISSION[193E](cont'd)

**193E—3.5(17A,272C,543B) Renewing a broker license.** To remain authorized to act as a real estate broker, a broker renews a real estate license before the expiration date of the license. Brokers who fail to renew a real estate license before expiration are not authorized to practice as real estate brokers in Iowa. Termination of a broker's authority to practice real estate in Iowa automatically terminates the authority of all salespersons employed by or assigned to the broker.

**3.5(1) Application forms.** Applications for renewal of a broker's license may be found on the commission's website. Brokers renew electronically. While the commission generally mails reminders to brokers in the November preceding license expiration, the failure of the commission to mail a reminder does not excuse the broker from the requirement to renew prior to the expiration of the license.

**3.5(2) Qualifications for renewal.** The commission grants an application to renew a broker's license if:

*a.* The application is timely received by the commission by December 31, or within the 30-day grace period after expiration as provided by Iowa Code section 543B.28.

*b.* The application is accompanied by the regular renewal fee and, if received by the commission after midnight December 31 but prior to midnight January 30, is accompanied by a penalty of \$25.

*c.* The application is fully completed with all necessary information, including proper disclosure of completed continuing education and errors and omissions insurance.

*d.* The application does not include grounds to deny a license, such as the revocation of a license in another jurisdiction or a criminal conviction.

**3.5(3) Incomplete or untimely applications to renew.** Renewal applications received by the commission after midnight January 30 will be treated as applications to reinstate an expired license under rule 193E—3.6(272C,543B).

*a.* Applications to renew or reinstate a broker's license which are incomplete or which are not accompanied by the proper fee may be returned to the broker for additional information or fee.

*b.* Alternatively, the commission may retain the application, and notify the applicant that the application cannot be granted without further information or fee.

**3.5(4) Insufficient continuing education.** Renewal applications which do not report completion of required continuing education, but which are otherwise timely and sufficient and accompanied with the proper fee, are renewed in inactive status. In the event of a factual dispute regarding the broker's intent to renew in inactive status or a broker's completion of continuing education, the commission may deny the application and provide the applicant with an opportunity for hearing according to the procedures set forth in rule 193—7.39(546,272C).

**3.5(5) Denial of application to renew.** An application to renew may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application to renew does not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

**3.5(6) Renewal of inactive or suspended license.** An inactive or suspended license expires if not timely renewed. The status of a license does not affect the requirement to renew.

**193E—3.6(272C,543B) Reinstatement of an expired broker license.** A real estate broker who fails to renew or file a completed renewal application by midnight January 30 of the first year following expiration may reinstate the license within three years of expiration by submitting a complete and sufficient application accompanied by the regular renewal fee and an additional reinstatement fee of \$25 for each partial or full month following expiration. From the date of expiration to the date of reinstatement, the broker is not authorized to practice as a real estate broker in Iowa.

**3.6(1) Continuing education.** A broker either fully satisfied all continuing education or has retaken and passed the broker examination to reinstate an expired broker license.

**3.6(2) Starting over.** A broker who fails to reinstate an expired license by December 31 of the third year following expiration is treated as if the former broker had never been licensed in Iowa. Such a former broker starts over in the licensing process and must first qualify and apply for a salesperson license.

REAL ESTATE COMMISSION[193E](cont'd)

**3.6(3) Denial of application.** An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application does not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7445C**

## **REAL ESTATE COMMISSION[193E]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to salesperson licensure and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 4, "Salesperson License," Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543B.

#### *Purpose and Summary*

This proposed chapter sets minimum standards for entry into the real estate profession as a salesperson. Iowa residents and licensees and employers benefit from the rules since the rules articulate the processes by which individuals apply for licensure as a real estate licensee in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications, and examinations.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)



## REAL ESTATE COMMISSION[193E](cont'd)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
SALESPERSON LICENSE

**193E—4.1(543B) General criteria for salesperson license.** A person who is licensed under and employed by or otherwise associated with a real estate broker or firm is a “salesperson” as defined in Iowa Code section 543B.5(20) and rule 193E—2.1(543B).

**4.1(1)** An original application for a salesperson license cannot be issued to inactive status.

**4.1(2)** If the license is transferred, as provided in rule 193E—6.2(543B), the salesperson may work immediately for the new broker.

**4.1(3)** A salesperson is assigned to a licensed broker or firm and cannot conduct business independently.

**4.1(4)** Except as provided in Iowa Code section 543B.21, an applicant for a salesperson license must meet all qualifications under Iowa Code section 543B.15.

**4.1(5)** An applicant for a real estate salesperson license who has been convicted of a disqualifying criminal offense in a court of competent jurisdiction in this state or in any other state, jurisdiction, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction as provided by Iowa Code section 272C.15 and rule 193—15.2(272C).

**4.1(6)** An applicant for a real estate salesperson license who has had a professional license of any kind revoked in this or any other jurisdiction may be denied a license by the commission on the grounds of the revocation.

**4.1(7)** Salesperson prelicense education requirements. As required by Iowa Code section 543B.15(8) and 193E—Chapter 16, the required course of study for the salesperson licensing examination consists of 60 live instruction or online learning hours of real estate principles and practices. To be eligible to take the examination, the 60 live education or online learning hours of real estate principles and practices are completed during the 12 months prior to taking the examination. The applicant will also provide evidence of successful completion of the following courses: 12 hours

REAL ESTATE COMMISSION[193E](cont'd)

of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. The prelicense education will expire after 12 months.

**193E—4.2(543B) License examination.** Examinations for licensure as a real estate salesperson are conducted by the commission or its authorized representative.

**4.2(1) Testing service.** The commission will negotiate an agreement with a testing service relating to examination development, test scheduling, examination sites, grade reporting and analysis. The commission will approve the form, contract, and method of administration. The examination is conducted in accordance with approved procedures formulated by the testing service. Applicants register and pay examination fees directly to the testing service.

**4.2(2) Requests for waiver.** The commission will consider each request for a waiver of commission rules or of the qualifications for licensure on an individual basis. The commission may require additional supporting information. If the applicant’s prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

**4.2(3) Eligibility to sit for examination.** An individual may only sit for the exam after meeting the qualifications set out in Iowa Code section 543B.15. An examinee is obligated to show one of the following at the examination site:

- a. Evidence that 60 live education or online learning hours of real estate principles and practices have been completed.
- b. A letter from the commission granting a waiver of prelicense education.
- c. A written authorization from the commission for individuals planning to qualify under rule 193E—5.3(543B) or 193E—5.12(543B).

**4.2(4) Failure to pass examination.** An examinee who takes an examination and fails is eligible to apply to retake the examination at any time the examination is offered by filing a new registration form and paying the examination fee, unless the qualifying time period for the prelicense education or waiver granted has expired.

**193E—4.3(543B) Application for salesperson license.** An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application with license fee, proof of required education, and test score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

**4.3(1) Application contents.** The application includes detailed personal, financial, and business information concerning the applicant, and the applicant for licensure attests to its accuracy.

**4.3(2) License terms.** A salesperson license is issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term.

**4.3(3) Denial of application.** An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application does not prevent the later initiation of a contested case to challenge a licensee’s qualifications for licensure.

**193E—4.4(543B) Salesperson continuing education requirements.**

**4.4(1)** As a requirement of license renewal in active status, each salesperson completes a minimum of 36 hours of approved programs, courses or activities during the three calendar years of the license term, and continuing education hours cannot be carried over to another license term.

**4.4(2)** Salespersons renewing licenses shall complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.

Law Update .....	8 hours
Ethics .....	4 hours

REAL ESTATE COMMISSION[193E](cont'd)

Electives . . . . . 24 hours

**4.4(3)** A salesperson license may be renewed to inactive status without completion of continuing education. Prior to reactivating a license which has been issued inactive due to failure to submit evidence of continuing education, the licensee must submit evidence that all deficient continuing education hours have been completed. The maximum continuing education hours shall not exceed the prescribed number of hours of one license renewal period and must be completed during the three calendar years preceding activation of the license.

**193E—4.5(543B) Renewing a license.** To remain authorized to act as a real estate salesperson, a salesperson must renew a real estate license before the expiration date of the license. Salespersons who fail to renew a real estate license before expiration are not authorized to practice as real estate salespersons in Iowa.

**4.5(1) Application forms.** Applications for renewal of a salesperson license may be found on the commission’s website. Salespersons will renew electronically. While the commission generally mails reminders to salespersons in the November preceding license expiration, the failure of the commission to mail a reminder does not excuse the salesperson from the requirement to timely renew.

**4.5(2) Qualifications for renewal.** The commission shall grant an application to renew a salesperson license if:

a. The application is timely received by the commission by December 31, or within the 30-day grace period after expiration as provided by Iowa Code section 543B.28.

b. The application is accompanied by the regular renewal fee and, if received by the commission after midnight December 31, but prior to midnight January 30, is accompanied by a penalty of \$25.

c. The application is fully completed with all necessary information, including proper disclosure of required continuing education and errors and omissions insurance.

d. The application fails to reveal grounds to deny a license, such as a criminal conviction or the revocation of a license in another jurisdiction.

**4.5(3) Incomplete or untimely applications to renew.** Renewal applications received by the commission, or postmarked, after midnight January 30 shall be treated as applications to reinstate an expired license under rule 193E—4.6(272C,543B).

a. Applications to renew or reinstate a salesperson license which are incomplete or which are not accompanied by the proper fee may be returned to the salesperson for additional information or fee.

b. Alternatively, the commission may retain the application and notify the applicant that the application cannot be granted without further information or fee.

**4.5(4) Insufficient continuing education.** Renewal applications which do not report completion of required continuing education, but which are otherwise timely and sufficient and accompanied with proper fee, shall be renewed in inactive status. In the event of a factual dispute regarding the salesperson’s intent to renew in inactive status or a salesperson’s compliance with continuing education requirements, the commission may deny the application and provide the applicant with an opportunity for hearing according to the procedures set forth in rules 193—7.39(546,272C) and 193E—18.13(543B).

**4.5(5) Denial of application to renew.** An application to renew may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application to renew shall not prevent the later initiation of a contested case to challenge a licensee’s qualifications for licensure.

**4.5(6) Renewal of inactive or suspended license.** An inactive or suspended license must be timely renewed or it shall expire. The status of a license does not affect the requirement to renew.

**193E—4.6(272C,543B) Reinstatement of an expired salesperson license.** A real estate salesperson who fails to renew or fails to file a complete renewal application form by midnight January 30 of the first year following expiration may reinstate the license within three years of expiration by submitting a complete and sufficient application accompanied by the regular renewal fee and an additional reinstatement fee of \$25 for each partial or full month following expiration. From the date of expiration

## REAL ESTATE COMMISSION[193E](cont'd)

to the date of reinstatement, the salesperson is not authorized to practice as a real estate salesperson in Iowa.

**4.6(1) Continuing education.** An application to reinstate an expired salesperson license must report that the salesperson either fully satisfied all required continuing education or has retaken and passed the salesperson examination. A salesperson holding an expired license who wishes to retake the salesperson examination must obtain written authorization from the commission to show at the examination site.

**4.6(2) Deposit of reinstatement fees.** Reinstatement fees collected under this rule shall be transmitted to the treasurer's office and credited to the education fund established in Iowa Code section 543B.54.

**4.6(3) Starting over.** A salesperson who fails to reinstate an expired license by December 31 of the third year following expiration shall be treated as if the former salesperson had never been licensed in Iowa. Such a former salesperson must start over in the licensing process and qualify and apply for a salesperson license.

**4.6(4) Denial of application.** An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application shall not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7446C**

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

**Proposing rulemaking related to reciprocity  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 5, "Licensees of Other Jurisdictions and Reciprocity," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543B.

*Purpose and Summary*

This proposed chapter sets minimum standards for entry into the real estate profession from another jurisdiction. Iowa residents and licensees and employers benefit from the rules since the rules articulate the processes by which individuals apply for licensure as a real estate licensee in the state of Iowa, as directed in statute. This includes the processes for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications, and examinations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

## REAL ESTATE COMMISSION[193E](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 5 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 5

## LICENSEES OF OTHER JURISDICTIONS AND RECIPROCITY

**193E—5.1(543B) Licensees of other jurisdictions.** As provided in Iowa Code section 543B.21, a nonresident of this state may be licensed as a real estate broker or a real estate salesperson upon complying with all the provisions and conditions of Iowa Code chapter 543B and commission rules relative to resident brokers or salespersons.

**5.1(1)** A person licensed in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) or 193E—5.12(543B) may qualify for a salesperson license in Iowa.

**5.1(2)** A person licensed as a broker or broker associate in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) or 193E—5.12(543B) may qualify for the same type of broker or broker associate license in Iowa. The person meets all criteria for

## REAL ESTATE COMMISSION[193E](cont'd)

an Iowa broker license as provided in rule 193E—3.1(543B). If the person does not meet the criteria, the person may qualify for a salesperson license if the person meets, at a minimum, the criteria for an Iowa salesperson license as provided in 193E—Chapter 4.

**5.1(3)** A person may only perform activities in Iowa as provided by Iowa Code chapter 543B after qualifying for and being issued a real estate license.

**193E—5.2(543B) Nonresident application.** Each applicant under rule 193E—5.3(543B) or under a reciprocal licensing agreement or memorandum applies on forms provided by the commission under Iowa Code section 543B.16. The application includes but is not limited to a certification of license from the state of original licensure containing all information required by Iowa Code section 543B.21 and an affidavit certifying that the applicant has reviewed and is familiar with and will be bound by the Iowa real estate license law and the rules of the commission.

**193E—5.3(543B) License by examination.** A nonresident applicant licensed as a real estate salesperson or broker in a state or jurisdiction which does not have a reciprocal licensing agreement or memorandum with Iowa, or an applicant who does not qualify for reciprocal licensing, may be issued a comparable Iowa license by passing the real estate examination under the following circumstances:

**5.3(1) Broker.** The person has been actively licensed as a broker or broker associate, the person meets all criteria for an Iowa broker's license as provided in rule 193E—3.1(543B), and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the national portion and Iowa portion of the broker real estate examination.

**5.3(2) Salesperson.** The person has been actively licensed as a salesperson and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the Iowa portion of the salesperson real estate examination.

**5.3(3)** The applicant submits a written request for authorization to sit for the appropriate examination.

**5.3(4)** The applicant submits certification of the applicant's current qualifying license from the licensing authority that issued the license.

**193E—5.4(543B) Licensure by reciprocity.** The commission may, as provided in Iowa Code section 543B.21, enter into specific written reciprocal licensing agreements or memorandums with other individual states or jurisdictions having similar licensing criteria and grant an Iowa license to licensees from those states or jurisdictions on the same basis as Iowa licensees are granted licenses by those states or jurisdictions.

**5.4(1)** The applicant is not a resident of Iowa.

**5.4(2)** A license issued pursuant to this rule is based upon a nonresident salesperson or broker license issued by examination.

**5.4(3)** A license issued pursuant to this rule is assigned to the same broker or firm as the nonresident license upon which it is based.

**5.4(4)** If an applicant establishes residency in Iowa, that person does not qualify for licensure by reciprocal licensing agreement or memorandum.

**5.4(5)** An Iowa license issued by reciprocity is based upon the nonresident license issued by examination in that other state or jurisdiction and is issued to the same broker and location as the nonresident license. The nonresident broker and firm, if applicable, must also be licensed in Iowa.

**5.4(6)** A reciprocity agreement or memorandum of understanding is only a method to apply for licensure and does not grant any exception to mandatory license laws of Iowa or the other state or jurisdiction.

**5.4(7)** An Iowa licensee wishing to obtain a license in any other state or jurisdiction should contact that state's or jurisdiction's licensing board for information and applications.

**193E—5.5(543B) Renewal of a license issued by reciprocity.** All renewal criteria for a real estate broker or salesperson license issued by examination apply to a license issued by reciprocity.

## REAL ESTATE COMMISSION[193E](cont'd)

Continuing education reciprocity is specifically provided for in the reciprocal license agreement or memorandum, or in a separate reciprocal continuing education agreement or memorandum.

**193E—5.6(543B) Reinstatement of a license issued by reciprocity.** All reinstatement criteria for a real estate broker license or salesperson license issued by examination apply to a license issued by reciprocity.

**5.6(1)** Starting over. A broker or salesperson who fails to file a complete application to reinstate an expired license by midnight December 31 of the third year following expiration is treated as if the former broker or salesperson had never been licensed in Iowa.

**5.6(2)** A broker or salesperson must qualify for reciprocity in order to reinstate an expired reciprocal broker or salesperson license.

**5.6(3)** If the broker or salesperson has moved into Iowa and no longer qualifies for reciprocity, the expired license is reinstated in the same manner as a license issued by examination as provided in rule 193E—3.6(272C,543B) for brokers and rule 193E—4.6(272C,543B) for salespersons.

**193E—5.7(543B) Nonresident real estate offices and licenses required.** All nonresident applicants for licensure in Iowa shall qualify for and obtain a license pursuant to Iowa Code section 543B.2(2) and rule 193E—7.1(543B).

**5.7(1)** If the applicant is a broker associate or salesperson of a nonresident broker, the nonresident employing broker must have an Iowa broker license.

**5.7(2)** If the applicant is employed by or otherwise associated with a nonresident real estate firm as defined in rule 193E—2.1(543B), that firm must apply and qualify for an Iowa license.

*a.* No firm as defined in rule 193E—2.1(543B) may be granted an Iowa license unless at least one member or officer of the firm applies for and is granted an Iowa broker license.

*b.* Every member or officer of the firm and every employee or associated real estate licensee who acts as a real estate broker, broker associate, or salesperson in Iowa must apply for and be granted an Iowa license.

**5.7(3)** As provided by Iowa Code section 543B.22, a nonresident broker or firm is not obligated to maintain a definite place of business in Iowa if that broker or firm maintains an active place of business within the resident state or jurisdiction.

**193E—5.8(543B) Actions against nonresidents.** The application for a nonresident license is accompanied by an executed irrevocable written consent to suits and actions at law or in equity as provided in Iowa Code section 543B.23.

**193E—5.9(543B) Nonresident continuing education.** Nonresident licensees shall fully comply with all continuing education unless a separate education agreement is in place between Iowa and the nonresident state or jurisdiction.

**193E—5.10(543B) License discipline reporting.** If an Iowa licensee has a real estate license disciplined, suspended or revoked by any other state or jurisdiction, that disciplinary action will be considered prima facie evidence of violation of Iowa Code section 543B.29 or 543B.34 or both, and a hearing may be held to determine whether similar disciplinary action should be taken against the Iowa licensee. Failure to notify the commission within 15 days of an adverse action taken by another state or jurisdiction is cause for disciplinary action.

**193E—5.11(543B) Licensure by verification.** A person licensed in another state or jurisdiction may qualify for an Iowa salesperson or broker license through verification by making application as provided in rule 193—14.4(272C). In addition to all requirements provided by rule 193—14.4(272C), an applicant for a license through verification shall also submit to the commission proof of passing the Iowa portion of the salesperson or broker real estate examination.

**5.11(1) License terms.** Once the applicant submits an approved application and appropriate licensing fees, a license will be issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term.

REAL ESTATE COMMISSION[193E](cont'd)

**5.11(2)** Reserved.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7447C**

## **REAL ESTATE COMMISSION[193E]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to termination and transfer and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 6, “Termination and Transfer,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

#### *Purpose and Summary*

This proposed chapter provides basic information on the structure and function of the Commission when it comes to a licensee terminating employment or transferring to another licensed firm. These rules benefit the public and licensees in knowing about the organization and administration of the Commission.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

#### *Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:



## REAL ESTATE COMMISSION[193E](cont'd)

January 30, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

January 31, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6  
TERMINATION AND TRANSFER

**193E—6.1(543B) Terminating employment or association.** When a licensee is discharged by the affiliated broker or the licensee terminates the employment or association with the affiliated broker, the licensee immediately ceases all activities that need an active real estate license until such time as a new affiliated broker makes written request for the license and the license is reassigned to the new affiliated broker.

**6.1(1)** When a broker discharges a salesperson or broker associate, the broker complies with all criteria of Iowa Code section 543B.33. The releasing broker makes a reasonable effort to ensure that an application to inactivate the licensee is submitted electronically to the commission within 72 hours of the discharge date.

**6.1(2)** The licensee may terminate the employment or association by providing written notice to the affiliated broker advising the effective date of the termination and requesting that the license be immediately returned to the commission. The affiliated broker cannot refuse to comply with the request. The releasing broker makes every reasonable effort to ensure that the commission receives the electronic application within 72 hours of the termination date.

**193E—6.2(543B) Transfer of license and necessary transfer application.** All requests for transfer of license are made on the necessary electronic application for license transfer available from the commission. The license transfer application is only used for transferring the license from the affiliated broker to a new affiliated broker. This transfer application is only to be used if the transferring licensee has obtained the necessary information from the new affiliating broker. The license transfer application cannot be used for licensees who are terminated or who quit prior to obtaining a new affiliating broker. The transfer application cannot be backdated to a new affiliated broker.

**6.2(1)** The license transfer process involves three steps, and each step needs to be correctly completed to qualify as a valid transfer. The steps are as follows:

*a.* The transferring licensee submits the electronic transfer application available from the commission.

*b.* Both the new affiliating broker and releasing broker electronically approve the transfer request within 48 hours of receiving notification from the commission of the transfer request.

REAL ESTATE COMMISSION[193E](cont'd)

c. The electronic transfer application is approved and issued by the commission.

**6.2(2)** Transfer effective date. The effective date of the transfer is the date of approval and issuance from the commission.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7448C**

## **REAL ESTATE COMMISSION[193E]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to offices and management and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 7, “Offices and Management,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

#### *Purpose and Summary*

This proposed chapter provides Iowans and licensees with information relevant to running the office and practice of a real estate firm. This chapter articulates practice standards and provides a scope of practice for the profession.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

#### *Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## REAL ESTATE COMMISSION[193E](cont'd)

January 30, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

January 31, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7  
OFFICES AND MANAGEMENT

**193E—7.1(543B) Real estate offices and licenses needed.**

**7.1(1)** Every Iowa resident real estate firm or self-employed broker maintains an office as provided in Iowa Code section 543B.31.

A nonresident Iowa real estate broker or firm is not obligated to maintain a definite place of business within Iowa as provided in Iowa Code section 543B.22.

**7.1(2)** Sharing office space. It is acceptable for more than one broker to operate in an office at the same address if each broker maintains all records and trust accounts separate from all the others. Each broker operates under a business name, which clearly identifies the broker as an individual within the group of brokers.

**7.1(3)** Branch office. A licensed Iowa real estate firm or sole-proprietor broker maintaining a branch office displays a commission-issued branch office license in that location. The branch office license is issued in the name of the firm or sole-proprietor broker and includes the license number and the physical address of the branch office. The branch office license is issued at a reduced fee and has the same expiration date of the primary license.

**7.1(4)** When a real estate brokerage firm closes, the principal broker or a designated representative follows procedures as provided in 193E—Chapter 8.

**7.1(5)** A licensed officer of a corporation or partnership may be licensed as an officer or partner of more than one corporation or partnership. The main or primary license for which the full license fee was paid is maintained in active status to keep any additional licenses that were issued at a reduced fee active and in effect. A broker officer licensed to more than one corporation or partnership may be the designated broker of more than one corporation or partnership.

Continuing education is needed only for renewal of the main or primary license.

**7.1(6)** When a branch office closes, notice in writing, electronically or otherwise, shall be given to the commission.

**7.1(7)** Each actively licensed broker associate and salesperson is licensed under a broker.

**7.1(8)** A broker associate or salesperson may not be licensed under more than one broker during the same period of time.

## REAL ESTATE COMMISSION[193E](cont'd)

**193E—7.2(543B) Notification needed.**

**7.2(1)** Partnerships, associations, and corporations are obligated to obtain a license before acting as a real estate broker. Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days that the broker has formed a new partnership, association or corporation, or has changed the type of the business, is prima facie evidence of a violation of Iowa Code section 543B.1.

**7.2(2)** Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change in type of license as sole-proprietor broker, partner, officer or broker associate is prima facie evidence of a violation of Iowa Code sections 543B.1 and 543B.29(1).

**7.2(3)** Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change of address of a proprietorship, partnership, or corporation is prima facie evidence of a violation of Iowa Code section 543B.32.

**7.2(4)** Failure of a broker to return a license electronically to the commission office to ensure that it is received within 72 hours after a salesperson or broker associate is discharged or terminates employment is prima facie evidence of a violation of Iowa Code section 543B.33.

**7.2(5)** Failure of a licensee to inform the commission in writing, electronic or otherwise, within five working days of a change of residence address or mailing address is prima facie evidence of a violation of Iowa Code sections 543B.16 and 543B.18.

**193E—7.3(543B) Suspended and revoked licenses.**

**7.3(1)** As of the effective date of a suspended or revoked license, the licensee cannot engage in any activity that needs a real estate license as defined in Iowa Code chapter 543B.

**7.3(2)** When a sole-proprietor broker, corporation or partnership license is suspended or revoked, all licensees associated with or assigned to that sole-proprietor broker, corporation or partnership are automatically placed on inactive status for the duration of the suspension or revocation, unless transferred to another sole-proprietor broker, corporation or partnership.

*a.* When a suspension or revocation is determined, the commission also determines whether the corporation or partnership license is automatically canceled.

*b.* If the broker whose license is suspended or revoked is the only licensed broker officer of a corporation, the corporation license will automatically be canceled.

**7.3(3)** A licensee whose license is suspended or revoked may receive compensation during the period of suspension or revocation only for those acts performed and for which compensation was earned when the person was actively licensed prior to the effective date of the suspension or revocation.

This rule does not determine if a licensee is entitled to compensation; such entitlement would depend upon the licensee's written employment or association agreement with the former affiliated broker and is a matter of contract law.

**7.3(4)** All listings and property management agreements are canceled by the broker whose license is suspended or revoked upon receipt of the order of revocation or suspension and prior to the effective date of the order.

*a.* The seller or landlord, or buyer or tenant, are advised that the seller or landlord, or buyer or tenant, may enter into a listing or brokerage agreement with another broker of choice.

*b.* A broker whose license is suspended or revoked cannot sell or assign listings or management agreements to another broker without the written consent of the owner of the property, and any sale or assignment of listings or management agreements are completed prior to the effective date of the order.

**7.3(5)** A broker whose license is suspended or revoked cannot finalize any pending closings. This responsibility is given to another broker, an attorney, a financial institution, or an escrow company.

*a.* Transfer of this responsibility is done with the written approval of all parties to the transaction.

*b.* All parties to the transaction are advised of the facts concerning the situation and are provided the name, address, and telephone number of the responsible entity where all trust and escrow moneys will be held, with the written approval of all parties.

**7.3(6)** A broker whose license is suspended or revoked is barred from advertising real estate in any manner as a broker. All advertising, including but not limited to signs, is removed or covered within ten calendar days after the effective date of the suspension or revocation.

## REAL ESTATE COMMISSION[193E](cont'd)

The real estate brokerage telephone is not answered in any manner to indicate the broker is active in the real estate business.

**193E—7.4(543B) Barred practices.** For purposes of this rule, only the term “real estate licensee” means “real estate broker or real estate salesperson” as defined in Iowa Code chapter 543B. A licensee participating in any of the practices described in this rule is deemed to be engaging in unethical conduct and a practice harmful or detrimental to the public within the meaning of Iowa Code section 543B.29(1).

**7.4(1)** An arrangement in which a real estate licensee needs or conditions, in connection with the sale of a lot, that the real estate licensee receive from the homebuilder an exclusive right to sell or list the house to be constructed on the lot.

**7.4(2)** An arrangement in which a real estate licensee agrees to sell lots on behalf of a developer on the condition that the developer obligates each homebuilder purchasing such a lot to list the house to be constructed with the real estate licensee.

**7.4(3)** An arrangement in which a real estate licensee, in connection with the sale of a lot to a consumer or homebuilder, obligates the consumer or homebuilder to pay a commission on the value of the house to be constructed on the lot.

**7.4(4)** Any arrangement pursuant to which the sale of real estate to a prospective purchaser is conditioned upon the listing of real estate owned by the prospective purchaser with the real estate licensee.

**7.4(5)** An arrangement in which a real estate licensee, in connection with the sale of a lot to a consumer, obligates the consumer to use a specified homebuilder to build the house to be constructed on the lot.

**7.4(6)** Any arrangement in which a real estate licensee enters into an agreement with a mortgage broker, bank, savings and loan, or other financial institution pursuant to which the making of a loan is directly or indirectly conditioned upon payment of a real estate commission to the real estate licensee.

**7.4(7)** Any arrangement pursuant to which a real estate licensee who is affiliated with a mortgage broker, bank, savings and loan association or other financial institution benefits from the practice by the affiliated financial institution of granting mortgage loans or any other loan or financial services or the availability of other benefits directly or indirectly conditioned upon the use of the real estate services of the affiliated licensee.

**7.4(8)** Any arrangement barred by Iowa Code section 543B.60A.

This rule is intended only to regulate the licensing of real estate licensees in the state of Iowa. This rule is not intended nor should it be interpreted to supplant Iowa Code chapter 553 (The Iowa Competition Law) or as authorizing or approving business practices which are not specifically barred in this rule. The commission, upon receipt of any formal written complaint filed against a licensee alleging a violation of this rule, in addition to evaluating such complaint for license revocation or suspension under Iowa Code chapter 543B, forwards a copy of such complaint to the attorney general of the state of Iowa and to the United States Attorney for investigation and appropriate action.

**193E—7.5(543B) Loan finder fees.** The acceptance of a fee or anything of value by a real estate licensee from a lender or financing company for the referral or steering of a client to the lender for a loan is considered not in the best interest of the public and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

**193E—7.6(543B) Lotteries barred.** Licensees cannot engage in lotteries and schemes of sales involving selling of certificates, chances or other devices, whereby the purchaser is to receive property to be selected in an order to be determined by chance or by some means other than the order of prior sale, or whereby property more or less valuable will be secured according to chance or the amount of sales made, or whereby the price will depend upon chance or the amount of sales made, or whereby the buyer or tenant will not receive, rent, or lease any property. Such activities are declared to be methods by reason of which the public interests are endangered.

## REAL ESTATE COMMISSION[193E](cont'd)

**193E—7.7(543B) Broker needed to furnish progress report.** After an offer to buy has been made by a buyer and accepted by a seller, either party may demand at reasonable intervals and the broker furnishes a detailed statement showing the current status of the transaction.

**193E—7.8(543B) Disclosure of licensee interest, acting as a principal, and status as a licensee.** A licensee cannot act in a transaction on the licensee's own behalf, on behalf of the licensee's immediate family, or on behalf of the brokerage, or on behalf of an organization or business entity in which the licensee has an interest, unless the licensee provides written disclosure of that interest to all parties to the transaction in accordance with Iowa Code section 543B.56(3) "b." Disclosure obligated under this rule is made at the time of or prior to the licensee's providing specific assistance to the party or parties to the transaction. Copies of the disclosure may be provided in person, electronically or by mail, as soon as reasonably practical. If no specific assistance is provided, disclosure is provided prior to the parties' forming a legally binding contract, either prior to an offer made by the buyer or tenant or prior to an acceptance by the seller or landlord, whichever comes first.

**7.8(1) Licensee acting as a principal.** A licensee cannot acquire any interest in any property, directly or indirectly, nor can the licensee sell any interest in which the licensee, directly or indirectly, has an interest without first making written disclosure of the licensee's true position clear to the other party. Satisfactory proof of this disclosure is produced by the licensee upon request of the commission. Whenever a licensee is in doubt as to whether an interest, relationship, association, or affiliation obligates disclosure under this rule, the safest course of action is to make the written disclosure.

**7.8(2) Status as a licensee.** Before buying, selling, or leasing real estate as described above, the licensee discloses in writing any ownership, or other interest, which the licensee has or will have and the licensee's status to all parties to the transaction. An inactive status license does not exempt a licensee from providing the obligated disclosure.

**7.8(3) Dual capacity.** The licensee does not act in a dual capacity of agent and undisclosed principal in any transaction.

**193E—7.9(543B) Financial interest disclosure needed.** A licensee who has any affiliated business arrangement or relationship with any provider of settlement services, as defined below, and directly or indirectly refers business to that provider or affirmatively influences the selection of that provider discloses the arrangement and any financial interest to the person whose business is being referred or influenced. The obligated disclosure is acknowledged by the separate signatures of the person or persons whose business is being referred or influenced. The disclosure is given and signed before or at substantially the same time that the business is referred or the provider is selected. If the disclosure is made on a separate form, the licensee retains a copy of the signed disclosure in the transaction file for a period of five years after the execution.

**7.9(1)** An affiliated business arrangement means an arrangement in which a real estate licensee, or an associate of a real estate licensee, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in the business entity providing the service or product.

*a.* An associate means one who has one or more of the following relationships with a real estate licensee:

- (1) A spouse, parent, or child of a real estate licensee;
- (2) A corporation or business entity that controls, is controlled by, or is under common control with a real estate licensee;
- (3) An employee, officer, director, partner, franchiser or franchisee of a real estate licensee; or
- (4) Anyone who has an agreement, arrangement or understanding with a real estate licensee or brokerage, the purpose or substantial effect of which is to enable the real estate licensee to refer for any service, settlement service, or business or product related to the transaction and to benefit financially from the referral of that business.

*b.* Settlement services include services in connection with a real estate transaction including, but not limited to, the following: mortgage or other financing; title searches; title examinations; the provisions of title certificates, title insurance, hazard insurance; services rendered by an attorney; the

REAL ESTATE COMMISSION[193E](cont'd)

preparation of documents; property surveys; the rendering of credit reports or appraisals; pest, fungus, mechanical or other inspections; services rendered by a real estate agent or broker; and the handling of the processing and closing of settlement.

c. An affiliated business arrangement does not include an arrangement in which a real estate licensee, or an associate of a real estate licensee, gives or pays an undisclosed commission in a transaction to any other licensee for a referral to provide real estate brokerage services, including franchise affiliates, if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service. Referral fees or commissions paid by a licensee to another licensee under these conditions are exempted from the disclosure criteria.

7.9(2) No particular language is needed for the disclosure. To assist real estate licensees and the public, the commission recommends the following sample language:

<b>DISCLOSURE OF REFERRAL OF BUSINESS</b>	
<p>I understand that _____ (name of real estate licensee) _____ has an affiliate relationship with or owns an interest in _____ (name of company to which business is being referred) _____ and is also recommending that I employ this company for _____ (type of service) _____.</p>	
<p>I understand that _____ (name of real estate licensee) _____ may earn financial benefits from my use of this company. I understand that I am not obligated to use this company, and may select a different company if I wish to do so. This form has been fully explained to me and I have received a copy.</p>	
<p>_____</p> <p style="text-align: center;">(Date)</p>	<p>_____</p> <p style="text-align: center;">(Signature of person whose business is being referred)</p>

7.9(3) The term “franchise” has the same meaning as set forth in 24 CFR Chapter XX, Section 3500.15(c) as of April 1995.

7.9(4) The term “affiliate relationship” means the relationship among business entities where one entity has effective control over the other by virtue of a partnership or other agreement or is under common control with the other by a third entity or where an entity is a corporation related to another corporation as parent to subsidiary by an identity of stock ownership.

7.9(5) The term “beneficial ownership” means the effective ownership of an interest in a provider of settlement services or the right to use and control the ownership interest involved even though legal ownership or title may be held in another person’s name.

7.9(6) The term “direct ownership” means the holding of legal title to an interest in a provider of settlement services except where title is being held for the beneficial owner.

7.9(7) The term “control” as used in the definition of “affiliate relationship” means that a person:

- a. Is a general partner, officer, director, or employer of another person;
- b. Directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing more than 20 percent of the voting interests of another person;
- c. Affirmatively influences in any manner the election of a majority of the directors of another person; or
- d. Has contributed more than 20 percent of the capital of the other person.

**193E—7.10(543B) Agency-designated broker responsibilities.** The following conditions and circumstances, together with the education and experience of licensed and unlicensed employees and independent contractors, is considered when determining whether or not the designated broker has met the supervisory responsibilities as set forth by Iowa Code section 543B.62(3) “b.”

7.10(1) When making a determination, the commission may consider, but is not limited to consideration of, the following:

## REAL ESTATE COMMISSION[193E](cont'd)

- a. Availability of the designated broker/designee to assist and advise regarding brokerage-related activities;
- b. General knowledge of brokerage-related staff activities;
- c. Availability of quality training programs and materials to licensed and unlicensed employees and independent contractors;
- d. Supervisory policies and practices in the review of competitive market analysis, listing contracts, sales contracts and other contracts or information prepared for clients and customers;
- e. Frequency and content of staff meetings;
- f. Written company policy manuals for licensed and unlicensed employees and independent contractors;
- g. Ratio of supervisors to licensed employees and independent contractors; and
- h. Assignment of an experienced licensee to work with new licensees.

**7.10(2)** The designated broker disseminates, in a timely manner, to licensed employees and independent contractors all regulatory information received by the brokerage pertaining to the practice of real estate brokerage.

**193E—7.11(543B) Supervision needed.** An employing or affiliated broker is responsible for providing supervision of any salesperson or broker associate employed by or otherwise associated with the broker as a representative of the broker. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and the salesperson or broker associate does not relieve either the broker or the salesperson or broker associate of duties, obligations or responsibilities obligated by law.

**7.11(1)** Each salesperson and broker associate keeps the broker fully informed of all activities being conducted on behalf of the broker in accordance with Iowa Code section 543B.62(3) “b.”

**7.11(2)** The activities of a salesperson or broker associate acting as a principal in the sale, lease, rental, or exchange of property owned by the licensee could impact the salesperson’s or broker associate’s license and the license of the employing or affiliated broker.

a. When a licensee is acting as a principal, the licensee keeps the employing or affiliated broker fully informed of all activities.

b. While this rule does not obligate that a licensee list property owned by the licensee with the employing or affiliated broker, the broker may obligate as a condition of employment or affiliation that the licensee list the property with the employing or affiliated broker or pay a commission.

**7.11(3)** A broker associate means the same as Iowa Code section 543B.5(5) and rule 193E—2.1(543B). A broker associate is subject to the provisions of Iowa Code sections 543B.24 and 543B.33 and commission rules pertaining to salespersons during the time the broker remains a broker associate.

**7.11(4)** A broker who sponsors a salesperson during the salesperson’s first year of licensure must be able to demonstrate that the broker has the time available and experience necessary to adequately supervise an inexperienced salesperson.

**193E—7.12(543B) Commission controversies.** The commission will not and is not authorized by law to consider or conduct hearings involving disputes over fees or commissions between cooperating brokers, salespersons, and other brokers.

**7.12(1)** A former employing or affiliated broker may pay a commission directly to a broker associate or salesperson who is presently assigned to another broker or firm, or whose license is inactive, expired, suspended or revoked, only if the commission was earned while the broker associate or salesperson was actively licensed and assigned to the former broker. Whether or not a commission was earned while the broker associate or salesperson was licensed with the former broker depends upon the licensee’s written agreement with the former broker. The commission will not determine whether a commission is earned or whether a commission is to be paid.

**7.12(2)** If the licensee is presently assigned to another broker or firm, the former broker does not pay the commission to the new employing or affiliated broker or firm.



## REAL ESTATE COMMISSION[193E](cont'd)

**7.12(3)** An Iowa real estate broker may pay a commission or fee to or receive a commission or fee from a nonresident broker who is actively licensed in the broker's resident state but not licensed in Iowa. The nonresident broker takes no part in the listing, showing, negotiating offers or any other functions of a broker in Iowa unless actively licensed in Iowa.

**7.12(4)** Upon the termination of association or employment with the affiliated broker or firm, the broker associate or salesperson cannot take or use any written listing or brokerage agreements secured during the association or employment. Said listings and brokerage agreements remain the property of the broker or firm and may be canceled only by the broker and the seller, unless the terms of the listing or brokerage agreement state otherwise.

**193E—7.13(543B) Support personnel for licensees; permitted and barred activities.** Whenever a licensee affiliated with a broker engages support personnel to assist the affiliated licensee in the activities of the real estate brokerage business, both the firm or sponsoring broker and the affiliated licensee are responsible for supervising the acts or activities of the support personnel; however, the affiliated licensee has the primary responsibility for supervision. Unless the support person holds a real estate license, the support person cannot perform any activities, duties, or tasks of a real estate licensee as identified in Iowa Code sections 543B.3 and 543B.6 and may perform only ministerial duties that do not need discretion or the exercise of the licensee's own judgment. Personal assistants are considered support personnel.

**7.13(1)** Individuals actively licensed with one firm or broker cannot work as support personnel for a licensee affiliated with another firm or broker. Individuals with an inactive status license may work as support personnel for a licensee but cannot participate in any activity that needs a real estate license.

**7.13(2)** Any real estate brokerage firm or broker that allows an affiliated licensee to employ, or engage under an independent contractor agreement, support personnel to assist the affiliated licensee in carrying out brokerage activities complies with the following:

- a.* Implement a written company policy authorizing the use of support personnel by licensees;
- b.* Specify in the written company policy, which may incorporate the duties listed in subrule 7.13(4), any duties that the support personnel may perform on behalf of the affiliated licensee;
- c.* Ensure that the affiliated licensee and the support personnel receive copies of the duties that support personnel may perform.

**7.13(3)** Broker supervision and improper use of license and office. While individual and designated brokers are responsible for supervising the real estate-related activities of all support personnel, an affiliated licensee employing a personal assistant has the primary responsibility for supervision of that personal assistant. A broker is not held responsible for inadequate supervision if:

- a.* The unlicensed person violated a provision of Iowa Code chapter 543B or of commission rules that is in conflict with the supervising broker's specific written policies or instructions;
- b.* Reasonable procedures have been established to verify that adequate supervision was being provided;
- c.* The broker, upon hearing of the violation, attempted to prevent or mitigate the damage;
- d.* The broker did not participate in the violation; and
- e.* The broker did not attempt to avoid learning of the violation.

**7.13(4)** In order to provide reasonable assistance to licensees and their support personnel, but without defining every permitted activity, the commission has identified certain tasks that unlicensed support personnel under the direct supervision of a licensee affiliated with a firm or broker may not perform.

- a.* Permitted activities include, but are not limited to, the following:

## REAL ESTATE COMMISSION[193E](cont'd)

(1)	Answer the telephone, provide information about a listing to licensees, and forward calls from the public to a licensee;
(2)	Submit data on listings to a multiple listing service;
(3)	Check on the status of loan commitments after a contract has been negotiated;
(4)	Assemble documents for closings;
(5)	Secure documents that are public information from the courthouse and other sources available to the public;
(6)	Have keys made for company listings;
(7)	Write advertisements and promotional materials for the approval of the licensee and supervising broker;
(8)	Place advertisements in magazines, newspapers, websites, social media, and other media as directed by the supervising broker;
(9)	Record and deposit earnest money, security deposits, and advance rents, and perform other bookkeeping duties;
(10)	Type contract forms as directed by the licensee or the supervising broker;
(11)	Monitor personnel files;
(12)	Compute commission checks;
(13)	Place signs on property;
(14)	Order items of routine repair as directed by a licensee;
(15)	Act as courier for such purposes as delivering documents or picking up keys. The licensee remains responsible for ensuring delivery of all executed documents obligated by Iowa law and commission rules;
(16)	Schedule appointments with the seller or the seller's agent in order for a licensee to show a listed property;
(17)	Arrange dates and times for inspections;
(18)	Arrange dates and times for the mortgage application, the preclosing walk-through, and the closing;
(19)	Schedule an open house;
(20)	Perform physical maintenance on a property; or
(21)	Accompany a licensee to an open house or a showing and perform the following functions as a host or hostess: <ol style="list-style-type: none"> <li>1. Open the door and greet prospects as they arrive;</li> <li>2. Hand out or distribute prepared printed material;</li> <li>3. Have prospects sign a register or guest book to record names, addresses and telephone numbers;</li> <li>4. Accompany prospects through the home for security purposes and not answer any questions pertaining to the material aspects of the house or its price and terms.</li> </ol>
(22)	Independently host open houses for tours attended by licensed brokers and salespersons only.

b. Barred activities include, but are not limited to, the following:

(1)	Making cold calls by telephone or in person or otherwise contacting the public for the purpose of securing prospects for listings, leasing, sale, exchanges, or property management;
(2)	Independently hosting open houses, kiosks, home show booths, or fairs attended by the public;
(3)	Preparing promotion materials or advertisements without the review and approval of licensee and supervising broker;
(4)	Showing property independently;
(5)	Answering any questions on title, financing, or closings (other than time and place);
(6)	Answering any questions regarding a listing except for information on price and amenities expressly provided in writing by the licensee;

## REAL ESTATE COMMISSION[193E](cont'd)

(7)	Discussing or explaining a contract, listing, lease, agreement, or other real estate document with anyone outside the firm;
(8)	Negotiating or agreeing to any commission, commission split, management fee, or referral fee on behalf of a licensee;
(9)	Discussing with the owner of real property the terms and conditions of the real property offered for sale or lease;
(10)	Collecting or holding deposit moneys, rent, other moneys or anything of value received from the owner of real property or from a prospective buyer or tenant;
(11)	Providing owners of real property or prospective buyers or tenants with any advice, recommendations or suggestions as to the sale, purchase, exchange, rental, or leasing of real property that is listed, to be listed, or currently available for sale or lease; or
(12)	Holding one's self out in any manner, orally or in writing, as being licensed or affiliated with a particular firm or real estate broker as a licensee.

**193E—7.14(543B) Information provided by nonlicensed support personnel limited.** Nonlicensed support personnel may, on behalf of the employer licensee, provide information concerning the sale, exchange, purchase, rental, lease, or advertising of real estate only to another licensee. Support personnel provides information only to another licensee that has been provided to the personnel by the employer licensee either verbally or in writing.

**193E—7.15(543B) Presenting purchase agreements.** All written offers to purchase received by a listing broker or listing agent are promptly presented to the seller for formal acceptance or rejection. The formal acceptance or rejection of the offer is promptly communicated to the prospective buyers. Unless there is written agreement between the seller and the listing broker directing otherwise, the listing broker is obligated to present back-up offers until the transaction has closed.

**7.15(1)** A customer's agent seeking compensation from the listing broker cannot prepare an offer to purchase on the property without first obtaining authorization and agreement from the listing broker.

**7.15(2)** A real estate licensee cannot induce another to seek to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent.

**7.15(3)** Immediately upon receiving an offer to purchase signed and dated by the buyer with consideration, if any, the listing agent provides a copy of the offer to purchase to the buyer as a receipt.

**7.15(4)** A customer's agent or representative cannot negotiate directly or indirectly with a seller or buyer, or landlord or tenant, if the agent knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has a written unexpired listing or brokerage agreement for services on an exclusive basis.

**7.15(5)** A listing agent cannot refuse to permit a customer's agent or representative to be present at any step in a real estate transaction including, but not limited to, viewing a property, seeking information about a property, or negotiating directly or indirectly with an agent about a property listed by such agent; and no agent refuses to show a property listed by that agent or otherwise deal with a represented customer who requests that the customer's agent or representative be present at any step in the real estate transaction, except as provided in this subrule.

*a.* The customer's agent or representative does not have the right to be present at any discussion of confidential matters or evaluation of the offer by the seller and the listing agent.

*b.* Unless the seller provides written instructions to the listing agent to exclude a customer's agent or representative from being present when the offer is presented, it is not unlawful for the customer's agent or representative to be present.

*c.* Compliance with this rule does not need or obligate a listing broker to share any commission or to otherwise compensate a customer's agent.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7449C****REAL ESTATE COMMISSION[193E]****Notice of Intended Action****Proposing rulemaking related to closing a real estate business  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 8, “Closing a Real Estate Business,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

This proposed chapter articulates practice standards for closing a real estate business. The chapter provides the public and licensees with guidelines relevant to the provisions for when a licensee wishes to close the licensee’s practice. The Commission has quite a few people who retire or want to transfer to another company and no longer have their business open. This is a good source of information to follow.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

## REAL ESTATE COMMISSION[193E](cont'd)

January 31, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8  
CLOSING A REAL ESTATE BUSINESS

**193E—8.1(543B) Closing a real estate firm.** The following steps are necessary for the voluntary closing of a real estate brokerage firm. The individual broker or the designated broker:

**8.1(1)** Notifies the commission via electronic application upon closing the firm. The following information may be included:

- a. The date the firm closed or will close;
- b. The location where records and files will be stored for a minimum of five years; and
- c. The name, address, and telephone number of the custodian who will be storing the records and files;

**8.1(2)** Notifies all licensees associated with the firm in writing of the effective date of the closing. The former affiliated broker makes every reasonable effort to return the licenses of any licensees associated with the firm at the time of closing to the commission within 72 hours, with written notice that the firm is closed;

**8.1(3)** Notifies all listing and management clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the firm will close. All listing and management clients are advised in writing that they may enter into a new listing or management agreement with the broker of their choice;

**8.1(4)** Removes advertising signs from all properties that were listed with or managed by the firm. Arranges to cancel advertising in the name of the firm, including office signs, Internet to include websites and social media, and telephone listing advertisements;

**8.1(5)** Maintains all escrow or trust accounts until all moneys are transferred to the lending institution, an escrow company or an attorney for closing of the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds; and

**8.1(6)** Arranges for pending contracts to be closed by a lending institution, an escrow company or an attorney. In the case of a sale, transfer or merger of an existing brokerage, the acquiring broker may close the pending transactions acquired from the selling broker after having first obtained the express written consent of all parties to the transactions. The broker notifies all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

**193E—8.2(543B) Involuntary closing of a sole-proprietor brokerage.** Upon the death or disability of a sole-proprietor broker in which the affairs of the broker cannot be carried on, the following steps are necessary for closing the real estate brokerage business:

## REAL ESTATE COMMISSION[193E](cont'd)

**8.2(1)** All licensees associated with the broker cease all brokerage activity until their licenses have been transferred to another broker;

**8.2(2)** The executor or legal representative of the broker's estate, if an attorney or a broker, may conclude pending business; and

**8.2(3)** The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in rule 193E—8.1(543B) for voluntary closing.

**193E—8.3(543B) Involuntary closing of a corporation, partnership, or association brokerage firm.**

**8.3(1)** In the event of an involuntary closing of a brokerage firm as a result of the death or incapacity of one or more of the licensed broker officers, broker partners or broker associates of a real estate corporation, partnership or association in which the affairs of the broker, partnership, corporation or association cannot be carried on, the following steps are necessary for closing the real estate brokerage business:

*a.* All licensees associated with the firm cease all brokerage activity until their licenses have been transferred to another broker;

*b.* The executor of the broker's estate, if an attorney, or the legal representative of the firm may conclude pending business; and

*c.* The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in rule 193E—8.1(543B) for voluntary closing.

**8.3(2)** In the event of the death or incapacity of a designated broker for a firm, the affairs of the firm may be carried on by naming a new designated broker. The commission is notified of the change within 72 hours.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7450C****REAL ESTATE COMMISSION[193E]****Notice of Intended Action****Proposing rulemaking related to fees  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 9, "Fees," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

This proposed chapter sets standards for fees for the Commission. Iowa licensees, future licensees and employers will benefit from the rules since the rules articulate the process that individuals will need to follow to pay for initial licensure, renewal, and reinstatement.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

## REAL ESTATE COMMISSION[193E](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9  
FEES

**193E—9.1(543B) Fees.**

**9.1(1)** Original license or renewal.

## REAL ESTATE COMMISSION[193E](cont'd)

Broker license	\$170
Additional officer or partner license	\$ 50
Firm license	\$170
Branch office license	\$ 50
Trade name license	\$ 50
Salesperson license	\$125

**9.1(2)** Fee for renewal of broker and salesperson license between January 1 and January 30 following expiration of license is the regular renewal fee plus \$25 reinstatement fee.

Broker license	\$195
Salesperson license	\$150

Reinstatement fee is not applicable to a firm license, additional officer license, additional partner license, trade name license, or branch office license.

**9.1(3)** Fee for certification of license is \$25.

**193E—9.2(543B) Refunds and bad payments.**

**9.2(1)** Fees remitted with an application for license will be refunded if the commission finds the applicant is not qualified for a license.

**9.2(2)** Fees will not be refunded for the unexpired term of a license that has been issued and is in effect.

**9.2(3)** A fee remitted in error will be refunded if it is received as a separate check. If not received as a separate check, a fee remitted in error will be refunded if a written request is received within 30 days of receipt of the fee.

**9.2(4)** Payment of a fee with a bad payment is prima facie evidence of a violation of Iowa Code section 543B.29(1) or 543B.34(8) or both.

**9.2(5)** If a bad payment is received for an original license, the application for license is deemed incomplete and the license null and void.

**9.2(6)** If a bad payment is received for renewal of a license, the application is deemed incomplete and the license issued for the new term is deemed null and void. If a replacement payment is not received by the commission by the date of expiration of the license (December 31), the appropriate reinstatement fee is added to the unpaid renewal fee.

**193E—9.3(543B) Examination fee.** The examination fee is paid directly to the testing service at the prevailing rate established by contract between the commission and the testing service.

These rules are intended to implement Iowa Code section 543B.27.

**ARC 7451C****REAL ESTATE COMMISSION[193E]****Notice of Intended Action****Proposing rulemaking related to advertising  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 10, "Advertising," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.



REAL ESTATE COMMISSION[193E](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

This proposed chapter articulates practice standards for advertising real estate services. The chapter provides the public and licensees with guidelines relevant to the provisions for when a licensee is advertising. The Commission receives quite a few complaints for unlicensed advertising, such as a tradename that could be a team name or another aspect of advertising other than the firm and licensee names. Advertising is a main source for licensees seeking new clients or listings. This is a good source of information to follow.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's

## REAL ESTATE COMMISSION[193E](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10  
ADVERTISING

**193E—10.1(543B) Advertising.** A broker cannot advertise to sell, buy, exchange, rent, or lease property in a manner indicating that the offer is being made by a private party not engaged in the real estate business, and no real estate advertisement can show only a post office box number, telephone number or street address. Every licensee, when advertising real estate, will use the licensed business name or the name under which the broker is licensed, and affirmatively and unmistakably indicate that the party is a real estate licensee and not a private party. Each broker when operating under a franchise or trade name other than the broker's own name may license the franchise or trade name with the commission, or clearly reveal in all advertising that the broker is the licensed individual who owns the entity using the franchise or trade name.

**10.1(1)** Advertising includes all forms of identification, representation, promotion and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity. Forms of advertising include, but are not limited to, real estate brokerage checks, letterhead, email, signs, websites, social media and business cards.

**10.1(2)** Real estate advertising cannot be misleading or deceptive or intentionally misrepresent any property, terms, values, or policies and services of the brokerage.

**10.1(3)** All advertising is conducted under the supervision of the broker. The broker ensures the accuracy of the information and, upon becoming aware of a material error or an advertisement that is in violation of this chapter or Iowa Code chapter 543B, the broker promptly corrects the error or problem within ten calendar days.

**10.1(4)** A licensed firm advertising or marketing on a website or social media account that is either owned by or controlled by the licensed firm includes the following data on each page of the site on which the firm's advertisement or information appears:

- a. The firm or tradename as registered with the commission (abbreviations are not permitted);
- b. The city and state in which the firm's main office is located; and
- c. The states in which the firm holds a real estate brokerage license.

**10.1(5)** A licensee advertising or marketing on a website or social media account that is either owned by or controlled by the licensee includes the following data on each page of the site on which the licensee's advertisement or information appears:

- a. The licensee's legal name;
- b. The name of the firm or trade name with which the licensee is affiliated as that firm name is registered with the commission (abbreviations are not permitted);
- c. The city and state in which the licensee's office is located; and
- d. The states in which the licensee holds a real estate broker or salesperson license.

**10.1(6)** A firm using any Internet electronic communication for advertising or marketing, including but not limited to email, websites, and social media accounts, includes the information in rule 193E—10.1(4).

**10.1(7)** A licensee using any Internet electronic communication for advertising or marketing, including but not limited to email, websites, and social media accounts, includes on the first or last page of all communications the information in subrule 10.1(5).

**193E—10.2(543B) Advertising under own name.** Salespersons and broker associates are barred from advertising under their own names unless they are the owners of the property they are advertising for sale, rent, lease or exchange, and on which no brokerage fees are to be paid. The sale is completely a

## REAL ESTATE COMMISSION[193E](cont'd)

“for sale by owner” transaction. The property cannot be listed or advertised in any way that would make it appear to be listed with a brokerage. The affiliated licensee cannot function in any capacity that needs a real estate license, and the licensee is responsible for all advertising conducted on the licensee’s own behalf.

**193E—10.3(543B) Signs on property.** Placing a sign on any property offering it for sale, rent, lease, or exchange without the written consent of the owner is not considered in the best interest of the general public.

**10.3(1)** When a listing expires, unless a new written listing or extension is obtained, the licensee immediately ceases advertising and active marketing of the property. The licensee makes every reasonable effort to remove signs as quickly as possible.

**10.3(2)** The licensee makes every reasonable effort to remove signs from the property after the transaction is closed. Sold signs and other signs are not left on properties without the written consent of the new owner of record.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7452C**

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

**Proposing rulemaking related to brokerage agreements and listings  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 11, “Brokerage Agreements and Listings,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

This proposed chapter articulates practice standards for brokerage agreements and listings. The chapter provides the public and licensees with guidelines relevant to the provisions for when a consumer decides to enter into an agreement with a licensee. The Commission believes this chapter to be one that should be held to a high standard of practice. This chapter is important in protecting the public from substantial harm.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

## REAL ESTATE COMMISSION[193E](cont'd)

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 11 and adopt the following new chapter in lieu thereof:

CHAPTER 11  
BROKERAGE AGREEMENTS AND LISTINGS

**193E—11.1(543B) Listing brokerage agreements.** All listing agreements are in writing, properly identifying the property and containing all of the terms and conditions under which the property is to be sold, including the price, the commission to be paid, the signatures of all parties concerned and a definite expiration date. The agreement contains no provision requiring a party signing the listing to notify the broker of the listing party's intention to cancel the listing after such definite expiration date. An exclusive agency or exclusive right to sell listing clearly indicates that it is such an agreement. A legible copy of every written listing agreement or other written authorization is given to the owner of the property by a licensee as soon as the signature of the owner is obtained.

**11.1(1)** A licensee cannot solicit or enter into a listing or brokerage agreement with an owner if the licensee knows or has reason to know that the owner has a written unexpired exclusive agency or exclusive right to sell listing agreement to the property with another broker, unless the owner initiates the discussion and the licensee has not directly or indirectly solicited the listing or brokerage agreement.

*a.* However, if the owner initiates the discussion, the licensee may negotiate and enter into a listing or brokerage agreement that will take effect after the expiration of the current listing.

## REAL ESTATE COMMISSION[193E](cont'd)

*b.* If the owner initiates the discussion, the licensee may inform the owner that the owner needs to allow the current listing to expire or obtain a mutually acceptable cancellation from the listing broker before any further discussion can take place.

**11.1(2)** A real estate licensee cannot negotiate a sale, exchange, or lease of real property directly with an owner if it is known that the owner has a written unexpired contract in connection with the property which grants an exclusive right to sell to another broker, or which grants an exclusive agency to another broker.

**11.1(3)** A listing agreement cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

**11.1(4)** Net listing barred. No licensee makes or enters into a net listing agreement for the sale of real property or any interest in real property. A net listing agreement is an agreement that specifies a net sale price to be received by the owner with the excess over that price to be received by the broker as commission. The taking of a net listing is unprofessional conduct and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

**11.1(5)** A real estate licensee cannot induce another to seek to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent.

**11.1(6)** Any commission or fee in any listing agreement is fully negotiable among the parties to that listing agreement. Once the parties to a listing agreement have agreed to a commission or fee, no licensee other than a party to the listing agreement attempts to alter, modify, or change or induce another person to alter, modify or change a commission or fee that has previously been agreed upon without the prior written consent of the parties to that listing agreement.

**193E—11.2(543B) Enforcing a protective clause.** To enforce a protective clause beyond the expiration of an exclusive listing contract, there is a provision for the protective clause in the listing contract which establishes a definite protection period. In writing and prior to the expiration of the listing, the broker furnishes to the listing party the names and available contact information of persons to whom the property was presented during the active term of the listing and for whom protection is sought. Delivery is by personal service with written acknowledgment of receipt, or by both regular mail and certified mail, return receipt requested.

**193E—11.3(543B) Brokerage agreements.** All brokerage agreements are written and cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement, unless the terms of the agreement state otherwise. Upon termination of association or employment with the principal broker, the affiliated broker associate or salesperson cannot take or use any written brokerage agreements secured during the association or employment. Said brokerage agreements remain the property of the principal broker and may be canceled only by the broker and the client.

**11.3(1)** Every written brokerage agreement includes, at a minimum, the criteria set forth in Iowa Code section 543B.57 and the following provisions:

*a.* All listing contracts and all brokerage agency contracts contain a statement disclosing the brokerage policy on cooperating with and compensating other brokerages whether the brokerage is acting as subagent or the other parties' agent in the sale, lease, rental, or purchase of real estate, including whether the brokerage intends to share the compensation with other brokerages. Such disclosure serves to inform the client of any policy that would limit the participation of any other brokerage; and

*b.* All listing contracts and all brokerage agency contracts comply with Iowa real estate law and commission rules including, but not limited to, rules 193E—11.1(543B) and 193E—11.4(543B) and 193E—Chapter 15.

**11.3(2)** No licensee makes or enters into a brokerage agreement that specifies a net sale, lease, rental, or exchange price to be received by an owner and the excess to be received by the licensee as a commission.

## REAL ESTATE COMMISSION[193E](cont'd)

**11.3(3)** The taking of a net brokerage agreement is unprofessional conduct and a practice that is harmful or detrimental to the public and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

**11.3(4)** Duration of relationship. The relationships commence at the time of the brokerage agreement and continue until closing of the transaction or performance or completion of the agreement by which the broker was engaged within the term of the agreement. If the transaction does not close, or the agreement for which the broker was engaged is not performed or completed for any reason, the relationship ends at the earlier of the following:

- a. Any date of expiration agreed upon by the parties; or
- b. Any termination by written agreement of the parties.

**11.3(5)** Obligation terminated. In addition to any continuing duty or obligation provided in the written agreement or pursuant to Iowa law and commission rules, a broker or brokerage engaged as a seller's or landlord's agent, buyer's or tenant's agent, subagent, or dual agent and affiliated licensees have the duty after termination, expiration, completion, or performance of the brokerage agreement to:

- a. Account for all moneys and property related to and received during the engagement; and
- b. Keep confidential all information received during the course of the engagement which was made confidential by request or instructions from the engaging party or is otherwise confidential by statute or rule.

**11.3(6)** Compensation. In any real estate transaction, the broker's compensation may be paid by the seller, the buyer, the landlord, the tenant, a third party, or the sharing or splitting of a commission or compensation between brokers.

a. Payment of compensation is not to be construed to determine or establish an agency relationship. The payment of compensation to a broker does not determine whether a brokerage relationship has been created between any broker and a seller, landlord, buyer, or tenant paying such compensation.

b. Written permission of the client is needed as follows:

(1) A seller's or landlord's agent may share the commission or other compensation paid by such seller or landlord with another broker, with the written consent of the seller or landlord.

(2) A buyer's or tenant's agent may share the commission or other compensation paid by such buyer or tenant with another broker, with the written consent of the buyer or tenant.

(3) Without the written approval of the client, a seller's or landlord's agent cannot propose to the buyer's or tenant's agent that such seller's or landlord's agent may be compensated by sharing compensation paid by such buyer or tenant.

(4) Without the written approval of the client, a buyer's or tenant's agent cannot propose to the seller's or landlord's agent that such buyer's or tenant's agent may be compensated by sharing compensation paid by such seller or landlord.

c. A broker may be compensated by more than one party for services in a transaction if the parties have consented in writing to such multiple payments prior to entering into a contract to buy, sell, lease, or exchange.

d. A licensee cannot accept, receive or charge an undisclosed commission for a transaction.

e. A licensee cannot give or pay an undisclosed commission to any other licensee for a transaction, except payment for referrals to other licensees, including franchise affiliates, to provide real estate brokerage services, if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service.

f. A licensee cannot pay any undisclosed rebate to any party to a transaction.

g. A licensee cannot give any undisclosed credit against commission due from a client or licensee to any party to a transaction.

h. A licensee cannot accept, receive or charge any undisclosed payments for any services provided by any third party to any party to a transaction including, but not limited to, payments for procuring insurance or for conducting a property inspection related to the transaction.

i. The provisions of these rules do not apply to a gratuitous gift, such as flowers or a door knocker, to a buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease, as long as any client relationship has terminated.

## REAL ESTATE COMMISSION[193E](cont'd)

*j.* The provisions of these rules do not apply to a free gift, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease prior to the parties' signing a contract to purchase or lease and not promised or offered as an inducement to sell, buy, or lease, as long as no client relationship has been established with the buyer or lessee.

**11.3(7)** Solicitation of brokerage agreements. A licensee cannot advise, counsel, or solicit a brokerage agreement from a seller or buyer, or landlord or tenant, if the licensee knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has contracted with another broker for the same brokerage services on an exclusive basis.

*a.* This rule does not preclude a broker from entering into a brokerage agreement with a seller or buyer, or landlord or tenant, when the initial contact is initiated by the seller or buyer, or landlord or tenant, and the licensee has not directly or indirectly solicited the discussion, provided the brokerage agreement does not become effective until the expiration or release of the current brokerage agreement.

*b.* A brokerage agreement cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

**11.3(8)** Any commission or fee in any brokerage agreement is fully negotiable among the parties to that brokerage agreement. Once the parties to a brokerage agreement have agreed to a commission or fee, no licensee other than a party to that brokerage agreement attempts to alter, modify, or change or induce another person to alter, modify, or change a commission or fee that has previously been agreed upon without the prior written consent of the parties to that brokerage agreement.

**11.3(9)** A commission split agreement between brokers needs to be a separate document and not included in the purchase agreement. A purchase agreement should not be made contingent upon the selling broker's receiving a certain percentage of the listing broker's commission.

**193E—11.4(543B) Terms or conditions.** A licensee cannot write, prepare or otherwise use a contract containing terms or conditions that would violate real estate laws in Iowa Code chapter 543B or commission rules.

The broker is responsible to ensure that all preprinted documents and forms used are in compliance with these rules.

**193E—11.5(543B) Distribution of executed instruments.** Upon execution of any instrument in connection with a real estate transaction, a licensee, as soon as practicable, delivers a legible copy of the original instrument to each of the parties thereto. It is the responsibility of the licensee to prepare sufficient copies of such instruments to satisfy this criteria. The broker retains copies for five years.

**193E—11.6(543B) Rebates and inducements.**

**11.6(1)** A licensee cannot pay a commission, any part of a commission, or valuable consideration to an unlicensed third party for performing brokerage functions or engaging in any activity that needs a real estate license. Referral fees or finder's fees paid to unlicensed third parties for performing brokerage activities, or engaging in any activity that needs a real estate license, are barred.

**11.6(2)** In a listing contract, the broker is principal party to the contract. The broker may, with proper disclosure, pay a portion of the commission earned to an unlicensed seller or landlord that is a principal party to the listing contract. This will be deemed a reduction in the amount of the earned commission.

**11.6(3)** A licensee may present a gratuitous gift, such as flowers or a door knocker, to the buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease. The permission and disclosure criteria of rule 193E—11.3(543B) do not apply as long as any client relationship has terminated.

**11.6(4)** A licensee may present free gifts, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease, prior to that party's signing a contract to purchase or lease and not promised or offered as an inducement to buy or lease. It is the licensee's responsibility to ensure that the promotion is in compliance with other Iowa laws, such as gaming regulations. The permission and disclosure criteria of rule 193E—11.3(543B) do not apply as long as no client relationship has been established with the buyer or lessee.

## REAL ESTATE COMMISSION[193E](cont'd)

**11.6(5)** The offering by a licensee of a free gift, prize, money, or other valuable consideration as an inducement is free from deception and does not serve to distort the true value of the real estate service being promoted.

**11.6(6)** A licensee may make donations to a charity, or other not-for-profit organization, for each listing or closing, or both, that the licensee has during a specific time period. The receiving entity may be selected by the licensee or by a party to the transaction. The contribution may be in the name of the licensee or in the name of a party to the transaction. Contributions are permissible only if the following conditions are met:

- a. There are no limitations placed on the payment;
- b. The donation is for a specific amount;
- c. The receiving entity does not act or participate in any manner that would need a license;
- d. The licensee exercises reasonable care to ensure that the organization or fund is a bona fide nonprofit;
- e. The licensee exercises reasonable care to ensure that the promotional materials clearly explain the terms under which the donation will be made; and
- f. All necessary disclosures are made.

**193E—11.7(543B) New construction.** A contract with a builder to construct or attach personal property or other type of structure to land and thereby produce an improvement to real estate is a real estate transaction. A licensee makes written disclosure revealing that the licensee and the licensee's broker or brokerage firm will receive a commission, compensation, or valuable consideration for its efforts in the transaction, as obligated by paragraph 11.3(6) "d." Written disclosure is necessary regardless of the type of representation provided by the licensee or if the licensee provides no representation.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7453C**

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

**Proposing rulemaking related to disclosure of relationships  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 12, "Disclosure of Relationships," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

This proposed chapter articulates practice standards for licensees to disclose any and all relationships associated in a given transaction. The chapter provides the public and licensees with guidelines relevant to the provisions when a consumer decides to enter into an agreement with a licensee but has other relationship types within a transaction. The Commission believes this chapter to be one that should be held to a high standard of practice. This chapter is important in protecting the public from substantial harm.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.



REAL ESTATE COMMISSION[193E](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12  
DISCLOSURE OF RELATIONSHIPS

**193E—12.1(543B) Written company policy needed.** Every licensed sole-proprietor single broker, firm, partnership, limited liability company, association, or corporation has a written company policy. Regardless of the type or types of agency relationships offered, a written company policy is needed.

## REAL ESTATE COMMISSION[193E](cont'd)

**12.1(1)** The written company policy identifies and describes the types of real estate brokerage relationships in which the broker and affiliated licensees may engage with seller, landlord, buyer, or tenant as a part of any real estate brokerage business activities.

**12.1(2)** In addition, every real estate brokerage that offers representation to both buyers and sellers, and tenants and landlords, also specifically addresses the following:

*a.* The appointed agent's policy and brokerage procedures intended to prevent any mishandling of information through both formal and informal sharing of information within the brokerage; and

*b.* The arrangement of brokerage office space and the personal relationships of affiliated licensees who are representing clients with adverse interests.

**12.1(3)** A broker is not obligated to offer or engage in more than one type of brokerage relationship as enumerated in rules 193E—12.3(543B) through 193E—12.5(543B).

**193E—12.2(543B) Disclosure of agency.**

**12.2(1)** A licensee cannot represent any party or parties to a real estate transaction or otherwise act as a real estate broker or salesperson unless that licensee makes disclosure to all obligated parties to the transaction identifying which party or parties, if any, that licensee represents in the transaction. Disclosure pursuant to this rule is made by the licensee at the time the licensee provides specific assistance to the client or nonrepresented customer.

**12.2(2)** Verbal disclosure needed. The disclosure obligated by subrule 12.2(1) is made verbally by the licensee prior to the licensee's providing specific assistance to the client or nonrepresented customer. A change in the licensee's representation that makes the initial verbal disclosure incomplete, misleading, or inaccurate obligates that a new verbal disclosure be made immediately.

**12.2(3)** Written disclosure needed. The written disclosure obligated by subrule 12.2(1) is made by the licensee to all parties to a real estate transaction identifying which party the licensee represents in the transaction.

*a.* The written disclosure is needed to be made to the buyer or tenant prior to any offer, lease, or rental agreement being made or signed by the buyer or tenant, and prior to any offer, lease, or rental agreement being signed or accepted by the seller or landlord.

*b.* The written disclosure is acknowledged by separate signatures of all parties to the transaction. A change in the licensee's representation that makes the initial written disclosure incomplete, misleading, or inaccurate obligates that a new verbal disclosure be made which is followed by a new written disclosure signed by all parties to the transaction as soon as practical.

**12.2(4)** A licensee representing a buyer or tenant informs the listing broker, the listing agent, or the seller or landlord of the agency relationship in accordance with Iowa Code section 543B.57(5). If the property is not listed, the obligated disclosure is made to the unrepresented seller or landlord.

**12.2(5)** The seller or landlord may, in the listing or brokerage agreement, authorize the seller's or landlord's broker to disburse part of the broker's compensation to other brokers, including a buyer's or tenant's broker solely representing the buyer or tenant.

**12.2(6)** Nothing contained in this rule obligates any buyer or tenant or seller or landlord to pay compensation to a licensee unless the buyer or tenant or seller or landlord has entered into a written listing or brokerage agreement with the broker specifying the compensation terms and conditions, in accordance with Iowa real estate license law and commission rules.

**12.2(7)** The obligation of either the seller or landlord or buyer or tenant to pay compensation to a broker does not establish an agency relationship or affect any agency relationship.

**12.2(8)** Nothing contained in this rule bars a party from entering into a written listing or brokerage agreement with a broker which contains duties, obligations, and responsibilities that are in addition to those specified in Iowa real estate license law and commission rules.

**12.2(9)** A licensee cannot be the agent for both the buyer or tenant without following Iowa Code section 543B.58(1).

**12.2(10)** A licensee may work with and establish different types of agency relationships with the same client, in separate transactions. Examples of different agency relationships with the same client in separate transactions include, but are not limited to, the following:

## REAL ESTATE COMMISSION[193E](cont'd)

*a.* A common example includes a licensee acting as a listing or seller's agent selling a property in one transaction and also working with and representing this same person in another transaction as a buyer's agent in the purchase of a different property.

*b.* A licensee may act as a dual agent in either of the separate transactions, or both, with the written permission of the parties to the specific transaction and if the broker or brokerage has a written company policy that includes disclosed dual agency for in-house transactions or same agent transactions.

*c.* Regardless of the type of agency relationship provided in each transaction, the licensee complies with the criteria of Iowa Code chapter 543B and this rule in establishing the relationships for each separate transaction.

**12.2(11)** An agency relationship disclosure is not needed when the licensee is acting solely as a principal and not as an agent for another or when a written communication from the licensee is a solicitation of business.

**12.2(12)** If the seller, landlord, buyer, or tenant rejects representation, or refuses to sign the agency disclosure document, or refuses to sign acknowledging receipt of the disclosure, the licensee notes that fact and includes the date, place, time, and the names of others in attendance on a copy of the agency disclosure document and obtains other documentation establishing delivery of the disclosure and maintains the written documentation, including but not limited to copies of facsimile, restricted delivery certified mail, and other communications, in the transaction file.

**12.2(13)** A licensee who is offering real estate brokerage services as an auctioneer makes the written disclosure to the buyer and obtains the acknowledgment of receipt obligated by law and rules, prior to the buyer's entering into a written purchase agreement for the property. For the purposes of this rule, the identification of the successful bidder constitutes the first meaningful contact with a buyer when specific assistance is provided. After the first meaningful contact, the first practical opportunity to make the necessary disclosures to the buyer depends upon the circumstances. While it is not necessary, it is recommended that licensees disclose in all advertisements and flyers that they are licensed agents representing the seller and, prior to crying the auction, announce that they are licensed real estate agents representing the seller.

*a.* Disclosure under this rule applies only to the day of the auction.

*b.* If the licensee provides brokerage services prior to the auction, the disclosure is made either orally or in writing prior to or at the time of specific assistance being provided.

**12.2(14)** The licensee retains a copy of the disclosure form signed by the prospective buyer, seller, landlord or tenant, or the documentation and copies as obligated in subrule 12.2(12) as follows:

*a.* If an offer is accepted, the signed or noted copy is retained by the broker in the closed transaction file for a period of five years from the date of the signature or note.

*b.* If the offer is not accepted, a signed and noted copy is retained with the rejected offer for a period of five years.

**12.2(15)** Failure of a licensee to comply with this rule is prima facie evidence of a violation of Iowa Code section 543B.34(4).

**12.2(16)** Failure of a licensee to act consistent with disclosure representations made pursuant to this rule is prima facie evidence of a violation of Iowa Code section 543B.34(4).

**12.2(17)** Nothing in this rule affects the validity of title to real property transferred based solely on the reason that any licensee failed to conform to the provisions of this rule.

**12.2(18)** A sole-proprietor single broker or firm is not obligated to offer or engage in more than one type of brokerage relationship as enumerated in rules 193E—12.3(543B) through 193E—12.5(543B).

**12.2(19)** The licensee offering brokerage services to a person as a buyer's or tenant's agent, or who is providing brokerage services to a person as a seller's or landlord's agent, discloses in writing to that person the type or types of brokerage relationships the broker and affiliated licensees are offering to that person before entering into a listing or brokerage agreement with that person.

**193E—12.3(543B) Single agent representing a seller or landlord.**

**12.3(1) Duty to seller or landlord.** A licensee representing a seller or landlord as an exclusive seller's agent or an exclusive landlord's agent have the following duties and obligations:

## REAL ESTATE COMMISSION[193E](cont'd)

- a. Perform the terms of the written agreement made with the seller or landlord;
- b. Exercise reasonable skill and care for the seller or landlord;
- c. Promote the interests of the seller or landlord with the utmost care, integrity, honesty, and loyalty, including but not limited to the following:
  - (1) Seeking a price and terms which are acceptable to the seller or landlord, except that the licensee is not obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;
  - (2) Presenting all written offers to and from the seller or landlord in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease, unless it is provided for by the brokerage agreement;
  - (3) Disclosing to the seller or landlord all material adverse facts pursuant to Iowa Code section 543B.56(1);
  - (4) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;
  - (5) Preserving the seller's or landlord's confidential information as defined in rule 193E—2.1(543B), unless disclosure is mandated by law or unless failure to disclose such information would constitute fraud or dishonest dealing, including but not limited to the following:
    1. Information concerning the seller or the landlord that, if disclosed to the other party, could place the seller or landlord at a disadvantage when bargaining;
    2. That the seller or landlord is willing to accept less than the asking price or lease price for the property;
    3. What the motivating factors are for the client's selling or leasing the property;
    4. That the seller or landlord will agree to sale, lease, or financing terms other than those offered;
    5. The seller's or landlord's real estate needs;
    6. The seller's or landlord's financial information;
  - (6) Accounting in a timely manner for all money and property received;
  - (7) Providing brokerage services to all parties to the transaction honestly and in good faith;
  - (8) Complying with all criteria of Iowa Code chapter 543B and all commission rules and regulations;
  - (9) Complying with any applicable federal, state, or local laws, rules, or ordinances, including fair housing and civil rights statutes and regulations.

**12.3(2) Duty to a buyer or tenant.** A licensee acting as an exclusive seller's or exclusive landlord's agent discloses to any customer all material adverse facts actually known by the licensee pursuant to Iowa Code section 543B.56.

- a. The licensee owes no duty to conduct an independent inspection of the property for the benefit of the buyer or tenant and owes no duty to independently verify the accuracy or completeness of any statement made by the seller or landlord or any independent inspector, unless the licensee knows or has reason to believe the information is not accurate.
- b. Nothing in this rule precludes the obligation of a buyer or tenant from the responsibility of protecting the buyer's or the tenant's own interest by means of, but not limited to, inspecting the physical condition of the property and verifying important information.
- c. A seller or landlord may agree in writing with an exclusive seller's or exclusive landlord's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the seller's or landlord's behalf is an agent with the same obligations and responsibilities to the seller or landlord as the primary broker of the seller or landlord.
- d. A real estate brokerage engaged by a seller or landlord in a real estate transaction may provide assistance to an unrepresented buyer or tenant by performing such acts as preparing offers and conveying those offers to the seller or landlord and providing information and assistance concerning professional services not related to real estate brokerage services.

## REAL ESTATE COMMISSION[193E](cont'd)

**12.3(3) *Alternative properties.*** The licensee may show alternative properties not owned by the seller or landlord to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the seller or landlord.

**193E—12.4(543B) Single agent representing a buyer or tenant.**

**12.4(1) *Duty to buyer or tenant.*** A licensee representing a buyer or tenant as an exclusive buyer's or an exclusive tenant's agent have the same duties and obligations as mentioned in subrule 12.3(1).

*a.* Perform the terms of any written agreement made with the client;  
*b.* Exercise reasonable skill and care for the client;  
*c.* Promote the interests of the client with the utmost good faith, loyalty, and fidelity, including but not limited to the following:

(1) Seeking a property at a price and terms which are acceptable to the buyer or tenant, except that the licensee is not obligated to seek other properties while the client is a party to a contract to purchase property, or to a lease or letter of intent to lease, unless it is provided for by the brokerage agreement;

(2) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or letter of intent to lease;

(3) Disclosing to the buyer or tenant material adverse facts concerning the property and the transaction that are actually known by the licensee, pursuant to Iowa Code section 543B.56;

(4) Advising the buyer or tenant to obtain expert advice on material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(5) Preserving the buyer's or tenant's confidential information as defined in rule 193E—2.1(543B), unless disclosure is mandated by law or unless failure to disclose such information would constitute fraud or dishonest dealing, including but not limited to the following:

1. Information concerning the buyer or the tenant that, if disclosed to the other party, could place the client at a disadvantage when bargaining;

2. That the buyer or tenant is willing to pay more than the asking price or lease price for the property;

3. What the motivating factors are for the party's buying or leasing the property;

4. That the buyer or tenant will agree to sale, lease, or financing terms other than those offered;

5. The buyer's or tenant's real estate needs;

6. The buyer's or tenant's financial qualifications;

(6) Accounting in a timely manner for all money and property received;

(7) Providing brokerage services to all parties to the transaction honestly and in good faith;

(8) Complying with all criteria of Iowa Code chapter 543B and all commission rules;

(9) Complying with any applicable federal, state, or local laws, rules, and ordinances, including fair housing and civil rights statutes and regulations.

**12.4(2) *Duty to a seller or landlord.*** A licensee acting as an exclusive buyer's or an exclusive tenant's agent discloses to any customer all material adverse facts actually known by the licensee, pursuant to Iowa Code section 543B.56.

*a.* The licensee owes no duty to conduct an independent investigation of the buyer's or tenant's financial condition for the benefit of the seller or landlord and owes no duty to verify the accuracy or completeness of any statement made by the buyer or tenant or any independent source, unless the licensee knows or has reason to believe the information is not accurate.

*b.* Nothing in this rule limits the obligation of a seller or landlord from the responsibility of protecting the seller's or landlord's own interest by means of, but not limited to, verifying information concerning or provided by the buyer or tenant.

*c.* A buyer or tenant may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the buyer's or tenant's behalf is a single agent with the same obligations and responsibilities to the buyer or tenant as the primary broker of the buyer or tenant.

## REAL ESTATE COMMISSION[193E](cont'd)

*d.* A real estate brokerage engaged by a buyer or tenant in a real estate transaction may provide assistance to an unrepresented seller or landlord by performing such acts as preparing offers and conveying those offers to the buyer or tenant and providing information and assistance concerning professional services not related to real estate brokerage services.

**12.4(3) *Competing buyers or tenants.*** The licensee may show properties in which the buyer or tenant is interested to other prospective buyers or tenants, may assist other competing buyers or tenants, and may enter into brokerage service agreements with other competing buyers or tenants without breaching any duty or obligation to the buyer or tenant.

**193E—12.5(543B) Disclosed dual agent.**

**12.5(1)** A brokerage which has a company policy that permits disclosed dual agency for in-house transactions provides a disclosed dual agency consent agreement to the client or prospective client prior to engaging in any activities of a dual agent. If any seller, landlord, buyer, or tenant rejects dual agency, or refuses to sign consent to dual agency, the licensee cannot act as a dual agent. The dual agency consent agreement complies with Iowa law and commission rules including, but not limited to, the criteria to inform the prospective clients that they are not obligated to consent to dual agency representation as provided by subrule 12.5(2).

*a.* A licensee may act as a dual agent only with the informed consent of all parties to the transaction. The informed consent is evidenced by a written agreement pursuant to Iowa law and commission rules.

*b.* A dual agent is an agent for both the seller and buyer or the landlord and tenant and has the duties and obligations needed for a single agent representing a seller or landlord and for a single agent representing a buyer or tenant, unless otherwise provided for in this rule.

*c.* A dual agent discloses to the client all material adverse facts concerning the property that are actually known by the licensee, pursuant to Iowa Code section 543B.56.

*d.* A dual agent cannot disclose to one client confidential information about the other client and preserves a seller's or a landlord's, or a buyer's or a tenant's, confidential information as defined in rule 193E—2.1(543B), unless disclosure is mandated by law, or failure to disclose such information would constitute fraud or dishonest dealing, or disclosure is authorized by express instruction. A dual agent does not terminate the dual agency relationship by making the disclosures mandatory or permitted by the dual agency consent agreement. Confidential information includes the same information as 193E—subrule 12.3(1) or 12.4(1).

*e.* In any transaction, a licensee may withdraw from representing a client who has not consented to a disclosed dual agency at any time prior to the existence of the dual agency, which is prior to discussing any seller's or landlord's property with a potential buyer or tenant and prior to discussing any potential buyer or tenant with a seller or landlord, when both the seller or landlord and the buyer or tenant are represented by and are clients of the licensee.

(1) All withdrawals are made in writing and acknowledged by the separate signatures of the clients.

(2) Such withdrawal does not prejudice the ability of the licensee to continue to represent the other client in the transaction or limit the licensee from representing the client in other transactions not involving a dual agency.

**12.5(2)** A dual agency consent agreement:

*a.* Fairly and accurately describes the type of representation the licensee will provide each client;

*b.* Contains a statement of the licensee's duties under Iowa Code section 543B.56(1);

*c.* Contains a statement of the licensee's duties under Iowa Code section 543B.56(2);

*d.* Informs the clients that representing more than one party to a transaction may present a conflict of interest;

*e.* Informs the clients that they are not obligated to consent to dual agency;

*f.* Provides additional information that the licensee determines is necessary to clarify the licensee's relationship with each client, including any changes from prior types of representation;

*g.* Describes the confidential information a dual agent will not disclose to one client about the other client; and

## REAL ESTATE COMMISSION[193E](cont'd)

*h.* Includes a statement that the clients understand the licensee's duties and consent to the licensee's providing brokerage services to more than one client.

**12.5(3)** No particular disclosure language is needed. The commission recommends use of the following sample language to satisfy the mandatory disclosure regarding conflict of interest:

Representing more than one party to a transaction can create a conflict of interest since both clients may rely upon the broker's advice and the clients' respective interests may be adverse to each other. Broker will endeavor to be impartial between seller and buyer and will not represent the interest of either the seller or buyer to the exclusion or detriment of the other.

**12.5(4)** Potential dual agency agreement. A brokerage which has a company policy that permits disclosed dual agency for in-house transactions and that elects to use a potential dual agency agreement provides the agreement to the client or prospective client prior to engaging in any activities of a dual agent. Such consent agreement complies with Iowa law and commission rules.

*a.* The potential dual agency agreement should be provided to the seller or landlord prior to entering into a listing agreement or a contract for seller or landlord brokerage services.

*b.* The potential dual agency agreement should be provided to the buyer or tenant prior to entering into a buyer or tenant agency agreement or a contract for buyer or tenant brokerage services.

*c.* If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, a dual agency consent disclosure is presented to the buyer or tenant prior to the buyer's or tenant's signing an offer to purchase or a rental or lease agreement. The buyer or tenant may accept or reject dual agency at this point in the transaction.

*d.* If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, a dual agency consent disclosure is presented to the seller or landlord prior to the seller's or landlord's signing or accepting an offer to purchase or a rental or lease agreement. The seller or landlord may accept or reject dual agency at this point in the transaction.

*e.* If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, the obligated subsequent dual agency consent disclosure is property-specific and complies with Iowa law and commission rules.

**193E—12.6(543B) Appointed agents within a brokerage.** Iowa Code section 543B.59 authorizes a designated broker to elect to appoint in writing one or more different licensees affiliated with the broker to act as agent to represent exclusively different clients in the same transaction, to the exclusion of all other affiliated licensees within the real estate brokerage. A licensee cannot disclose, except to the licensee's designated broker, information made confidential by request or instructions of the client the licensee is representing or otherwise confidential by statute or rule, except information allowed by this chapter or mandated to be disclosed by law.

**12.6(1)** The designated broker may want to include in the written company policy some or all of the appointed agents within the brokerage and may want to include the procedure by which the appointment of the agent or agents is made.

**12.6(2)** The designated broker may decide that since both seller and buyer, or landlord and tenant, brokerage relationships are being offered to consumers by the broker's company, only the affiliated licensee who, on behalf of the designated broker, entered into the listing agreement with the seller or leasing agreement with the landlord will represent the seller or landlord as that client's agent. In that scenario, all other licensees affiliated with the designated broker will represent buyers or tenants as their agents in any transactions dealing with the subject property.

**12.6(3)** If any seller, landlord, buyer, or tenant who is a client of the broker refuses to sign and consent to the appointed agent within the brokerage appointed by that same broker for the other party to the transaction, then the broker and licensees affiliated with the broker cannot act as an appointed agent for that other party.

**193E—12.7(543B) Appointed agent procedures and disclosure.**

**12.7(1)** Prior to entering into a listing or brokerage agreement, a real estate brokerage notifies a client in writing of the real estate brokerage's appointed agent policy and those affiliated licensees in

## REAL ESTATE COMMISSION[193E](cont'd)

accordance with Iowa Code section 543B.59(1). The appointed agent disclosure includes, at a minimum, the following provisions:

- a. The name of the appointed agent(s);
- b. A statement that the appointed agent will be representing the client as the client's agent and will owe the client duties as set forth in Iowa Code section 543B.56(1) and 543B.56(2);
- c. A statement that the brokerage may be representing both the seller and the buyer in connection with the sale or purchase of real estate;
- d. A statement that other affiliated licensees may be appointed during the term of the brokerage agreement should the appointed agent not be able to fulfill the terms of the brokerage agreement or as by agreement between the designated broker and the client. An appointment of another affiliated licensee or an additional affiliated licensee does not relieve the first appointed agent of any of the duties owed to the client. At any time of the appointment of the new or additional agents, the designated broker complies with the provisions of this rule; and
- e. A provision for the client to consent or not consent in writing to the appointment.

**12.7(2)** Implementation of the appointed agent within a brokerage relationship. Any broker may elect to offer the appointed agent relationship. The broker cannot implement the use of the relationship until such time as the broker has fully complied with all Iowa laws and commission rules.

a. The broker cannot, without the written consent of the clients, appoint an affiliated licensee to act as an appointed agent in any transaction involving a written exclusive single agent or dual agent brokerage agreement that was in effect prior to the broker's implementing the appointed agent relationship.

b. If the client of an appointed agent wants to consider a property on which the broker has a prior existing exclusive single agent or dual agent brokerage agreement, the broker cannot allow the use of the appointed agent without first obtaining the written consent of that particular seller or landlord to the appointed agent relationship.

c. If the written consent of the client to allow the appointed agency relationship is not given or cannot be obtained, the broker refers the client of the appointed agent to another broker for representation at least for the purpose of considering such property.

**12.7(3)** A designated broker cannot be considered to be a dual agent solely because the designated broker makes an appointment under this rule, except that any licensee who, with prior written consent of all parties, personally represents both the seller and buyer or both the landlord and tenant in a transaction is a dual agent and needs to comply with the rules governing dual agents.

**12.7(4)** Appointed agent and designated broker responsibilities.

a. A designated broker appointing an affiliated licensee(s) to act as an agent of a client takes ordinary and necessary care to protect confidential information disclosed by the client to the appointed agent.

b. An appointed agent may disclose to the brokerage's designated broker, or a designee specified by the designated broker, confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a possible transaction, or to comply with the broker's supervisory duties. Confidential information is treated as such by the designated broker or other specified representative of the broker and is not disclosed unless otherwise obligated by Iowa law and related commission rules or requested or permitted in writing by the client who originally disclosed the confidential information.

c. If a designated broker elects to use the appointed agent within a firm authority set forth in Iowa Code section 543B.59, and when the affiliated licensee appointed also acts in a supervisory capacity under the designated broker, such as branch managers, sales managers and the like, these appointed licensees may be treated in the same manner as the designated broker for purposes of determining dual agency under Iowa Code section 543B.59(2), only if the designated broker authorizes and provides for such supervisory positions in the written company policy.

(1) A designated broker may elect to authorize and appoint an affiliated licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a seller or landlord in a transaction.



REAL ESTATE COMMISSION[193E](cont'd)

(2) A designated broker may elect to authorize and appoint an affiliated licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a buyer or tenant in a transaction.

(3) A licensee in a supervisory capacity that is authorized and appointed to supervise and assist licensees appointed to represent a seller or landlord, or buyer or tenant, exclusively, have the same duties, obligations, and responsibilities as the designated broker.

(4) The use of an authorized appointed agent does not relieve the designated broker of duties, obligations, and responsibilities mandated by law or rules.

**12.7(5)** Licensee's duty to designated broker or designee. A licensee keeps the brokerage's designated broker or that broker's designee fully informed of all activities conducted on behalf of the brokerage and notifies the designated broker or that broker's designee of any other activities that might impact on the responsibility of the designated broker or that broker's designee.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7454C**

## **REAL ESTATE COMMISSION[193E]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to trust accounts and closings and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 13, "Trust Accounts and Closings," Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

#### *Purpose and Summary*

This proposed chapter articulates practice standards for brokers to maintain a trust account. The chapter provides the public and licensees with guidelines relevant to the provisions of a trust account. The consumer and public should be aware of where their money is at all times in a transaction. The Commission believes this chapter to be one that should be held to a high standard of practice. This chapter is important in protecting the public from substantial harm.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

## REAL ESTATE COMMISSION[193E](cont'd)

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13  
TRUST ACCOUNTS AND CLOSINGS

**193E—13.1(543B) Trust account.** All earnest payments, all rents collected, property management funds, and other trust funds received by the broker in such capacity or broker associate or salesperson on behalf of the broker's client are deposited in a trust account maintained by the broker in an identified trust account, with the word "trust" in the name of the account, in a federally insured depository institution and, for the purposes of this rule, may be referred to as the "depository."

**13.1(1)** All money belonging to others received by the broker, broker associate or salesperson on the sale, rental, purchase, or exchange of real property located in Iowa are trust funds and are deposited in a trust account as directed by the principals to a transaction constituting dealing in real estate. This includes, but is not limited to, receipts from property management contracts; rental or lease contracts; advance fee contracts; escrow contracts; collection contracts; earnest money contracts; or money received by a broker for future investment or other purpose, except a nonrefundable retainer need not be placed in an escrow account if specifically provided for in the written agreement between the broker and the broker's principal.

## REAL ESTATE COMMISSION[193E](cont'd)

*a.* All trust funds are deposited into the trust account no later than five banking days after the date indicated on the document that the last signature of acceptance of the offer to purchase, rent, lease, exchange, or option is obtained unless otherwise specified in the contract.

*b.* Money belonging to others cannot be invested in any type of fixed-term maturity account, security or certificate without the written consent of the party or parties to whom the money belongs.

*c.* A broker cannot commingle personal funds in a trust account unless authorized by Iowa Code section 543B.46(4).

The broker ensures that personal funds are deposited to cover bank service charges as specified in Iowa Code section 543B.46 and that at no time are trust moneys used to cover any charges. Upon notification that the broker's personal funds are not sufficient to cover service charges initiated by the bank that are above the normal maintenance charges, the broker deposits personal funds to correct the deficiency within 15 calendar days of the closing date of that bank statement.

*d.* Money held in the trust account, which becomes due and payable to the broker, is promptly withdrawn by the broker.

*e.* The broker cannot use the trust account as a business operating account or for personal use. Commissions, salaries, related items and normal business expenses are not disbursed directly from the trust account.

**13.1(2)** As authorized by Iowa Code section 543B.46(1), all interest earned on the trust account is transferred on a calendar quarter basis to the state. The amount to be remitted to the state will be the amount of interest earned less any service charges directly attributable to the criteria of maintaining an interest-bearing account and of remitting the interest to the state. The broker may have the depository remit the interest directly or the broker may remit the interest but, in either case, it is the responsibility of the broker to see that the interest is remitted.

*a.* If the interest is remitted by the broker, the broker should use the commission-approved Real Estate Interest Remittance Form and include a copy of the applicable bank statement(s) showing the interest paid and the service charges attributable to maintaining the account.

*b.* If the interest is remitted by the broker, the broker mails the interest remittance check and mandatory documentation to:

The State of Iowa  
c/o Bankers Trust Company  
P.O. Box 4686  
Des Moines, Iowa 50306

*c.* The depository should use the name "Iowa Finance Authority" and the federal tax identification number (TIN) 52-1699886 on the 1099 reporting form when reporting interest to the IRS.

*d.* The depository should send the 1099 reporting form to:

Iowa Finance Authority  
2015 Grand Avenue  
Des Moines, Iowa 50312

*e.* If the property management or rental account is interest-bearing, the interest is transferred on a calendar quarter basis to the state unless there is a written agreement paying the interest to the property owner.

*f.* A broker enters into a written agreement to pay interest to a buyer or seller in a transaction, or to a third party if requested by the parties to the contract and agreed to by the broker, if the client's trust funds can earn net interest. In determining whether a client can earn net interest on funds placed in trust, the broker takes into consideration all relevant factors including the following:

(1) The amount of interest that the funds would earn during the period in which they are reasonably expected to be deposited;

(2) The cost of establishing and administering an individual interest-bearing trust account in which the interest would be transmitted to the client, including any needed tax forms; and

(3) The capability of the financial institution to calculate and pay interest to individual clients through subaccounting or otherwise.

## REAL ESTATE COMMISSION[193E](cont'd)

**13.1(3)** With disclosure to and the written agreement of all parties, a trust account may bear interest to be disbursed to (1) the buyer or seller involved in a real estate purchase, sale or exchange transaction, or (2) the property owner, if the property management or rental contract contains this specific provision, or (3) as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2), or (4) a third party if requested by the parties to the contract and agreed to by the broker. Disbursements of interest on trust funds are subject to all provisions of law that obligate a broker to safeguard and account for the handling of funds of others.

**13.1(4)** Receipts from property management and rental account transactions may be deposited in a trust account separate from real estate transaction funds. If separately maintained, this account does not need to be an interest-bearing account.

*a.* The broker provides to the broker's client a complete accounting of all moneys received and disbursed from the trust account(s) not less often than annually.

*b.* A broker may only utilize a separate property management or rents trust account for those moneys received by a broker pursuant to a written property management or rental agreement.

**13.1(5)** A broker is needed to open and maintain one or more trust accounts if the broker is in the practice of depositing funds in a trust account. For each separate trust account opened, the broker files with the commission a written Consent to Examine and Audit Trust Account form, which irrevocably authorizes the commission to examine and audit the trust account. The form of consent is prescribed by and available from the commission and includes the account names and number and the name and address of the depository.

*a.* If the broker is not in the practice of depositing trust funds in a trust account, the broker files an affidavit with the commission on a form prescribed by and available from the commission.

*b.* If trust funds are received by the broker after filing an affidavit, the broker immediately opens a trust account and files the appropriate Consent to Examine and Audit Trust Account form with the commission.

*c.* As provided by Iowa Code section 543B.46(3), a consent to examine is not necessary for a separate farm business operating account or a separate property management account.

**13.1(6)** Each broker obligated to maintain a trust account maintains at all times a record of each account, as mandated by these rules, in the place of business, consisting of at least the following:

*a.* A record called a journal which records in chronological order all receipts and disbursements of moneys in the trust account.

(1) For receipts, the journal for each trust account includes the date, name of depositor, the check number and the amount deposited, and the name of principal or identify the property.

(2) For disbursements, the journal for each trust account includes the date, name of payee, name of principal or identify the property, the check number and the amount disbursed.

(3) The journal provides a means for monthly reconciliation on a written worksheet of the general ledger balance with the bank balance and with the individual ledger accounts to ensure agreement.

*b.* Real estate sales transactions additionally need an individual ledger account identified by the property or the principal, which records all receipts and disbursements of the transaction and clearly separates the transaction from all others. The individual ledger account includes the date, check number, amount, name of payee or depositor or explanation of activity with a running balance.

*c.* Property management trust account records additionally include an individual ledger account for each tenant, identifying the tenant's rental unit and security deposit and including all receipts and disbursements together with check number and date. The journal for each account is maintained as an owner's ledger account for all properties owned by each owner showing receipts and disbursements applicable to each property managed.

(1) All disbursements are documented by bids, contracts, invoices or other appropriate written documentation.

(2) The running balance may be determined at the time of monthly reconciliation.

*d.* Trust account supporting documents include, but are not limited to, the following:

(1) Bank statements;

(2) Canceled checks;

## REAL ESTATE COMMISSION[193E](cont'd)

- (3) Copies of contracts, listing, sales, rental and leasing;
- (4) Closing statements;
- (5) Pertinent correspondence; and
- (6) Any additional items necessary to verify or explain an entry.

**13.1(7)** Funds, including interest on trust funds, are only disbursed from the trust account as provided in Iowa Code section 543B.46(1) and by the terms and conditions of the contract or escrow agreement. No funds are disbursed from the trust account prior to the closing, or other than as provided by the terms of the escrow agreement, without the informed written consent of all the parties. In the event of a dispute over the return or forfeiture of an earnest money deposit or the disbursement of an escrow deposit held by a broker, the broker continues to hold the deposit in the trust account until one of the following conditions is met:

- a.* The broker is in receipt of a written release from all parties to the transaction consenting to the disposition of the deposit or escrow funds; or
- b.* The broker is in receipt of a final judgment of the court directing the disposition of the deposit or escrow funds; or
- c.* There is a final decision of a binding alternative dispute resolution process, or mediation directing the disposition of the deposit or escrow funds; or
- d.* A civil court action is filed by one or more of the parties to determine the disposition of the deposit or escrow funds, at which time the broker may seek court authorization to pay the deposit or escrow funds into court.

**13.1(8)** No funds are disbursed from the trust account prior to the closing without the informed written consent of all the parties to the transaction as provided in subrule 13.1(7), except in accordance with this rule. Nothing in this rule obligates a broker to remove money from the broker's trust account when the disposition of such money is disputed by the parties to the transaction. The commission will not take disciplinary action against a broker who in good faith disburses trust account moneys pursuant to this rule.

*a.* In the absence of a pending civil court action or written agreement, it is not grounds for disciplinary action when, upon passage of 30 days from the date of the dispute, a broker disburses the earnest money deposit to a buyer, renter, or lessee in a transaction based upon a good faith decision that a contingency has not been met, but disbursement is made only after the broker has given 30 days' written notice by certified mail to all parties concerned at their last-known addresses, setting forth the broker's proposed action and the grounds for the decision.

*b.* In the absence of a pending civil action or written agreement, it is not grounds for disciplinary action when, upon passage of six months from the date of the dispute, a broker disburses the earnest money deposit to a seller or landlord in a transaction based upon a good faith decision that the buyer, renter, or lessee has failed to perform as agreed, but disbursement is made only after the broker has given 30 days' written notice by certified mail to all parties concerned at their last-known addresses, setting forth the broker's proposed action and grounds for the decision.

*c.* If a buyer or seller, or a landlord or lessee, or a renter demands the return of the earnest money deposit, the broker consults with the other party who may agree or disagree with the return.

**13.1(9)** Under no circumstances is the broker entitled to withhold any portion of the earnest money when a transaction fails to consummate even if a commission is earned. The earnest money is disposed of as provided in subrule 13.1(7), 13.1(8), or 13.1(10), and the broker pursues any claim for commission or compensation against the broker's client.

**13.1(10)** Interpleader. Anytime the broker in good faith believes that the parties disputing the return of the deposit will not agree on the disposition of the deposit or file a civil court action to determine the disposition of the deposit, then the broker may elect to file an interpleader action with the appropriate court pursuant to Iowa Rules of Civil Procedure and pay the deposit into court. The broker may, in filing such an interpleader court action:

- a.* Attempt to claim a part of the deposit pursuant to the listing contract with the seller, if the seller is successful in the suit.

## REAL ESTATE COMMISSION[193E](cont'd)

*b.* Disclaim any part of the deposit and request the court to restrain the buyer and the seller from naming the broker in the civil suit and order them to litigate their claims to the deposit.

**13.1(11)** A trust account may bear interest to be disbursed to the buyers or sellers or to a third party if requested by the parties to the contract and agreed to by the broker with the written approval of all parties to the contract or to the owner if the trust account is for a property management account and the management contract so specifies, or as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2). The account is a separate account from the account(s) which is to accrue interest to the state. Interest is disbursed to the owner or owners of the funds at the time of settlement of the transaction or as agreed to in the management contract and is properly accounted for on closing statements. A broker does not disburse interest on trust funds except as provided in subrules 13.1(3) and 13.1(7). Service charges for the account are a business expense of the broker and are not deducted from the proceeds.

**13.1(12)** Property management account funds may be withdrawn at any time for the purpose of returning the funds to the payee in accordance with the terms of the contract or receipt.

**13.1(13)** Property management funds may be withdrawn when and if the broker reasonably believes, from evidence available, that the tenant has obtained a rental or lease through information supplied by or on behalf of the broker.

**13.1(14)** Trust funds that are not traceable to any individual for disbursement from the trust account are unclaimed property. In accordance with Iowa Code chapter 556, after three years, unclaimed trust funds are reported and remitted to the Treasurer, State of Iowa, Unclaimed Property Division.

**193E—13.2(543B) Closing transactions.** It is mandatory for every broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a complete detailed statement, showing all of the receipts and disbursements handled by the broker. Also, the broker at the same time delivers to the buyer a complete statement showing all moneys received in the transaction from the buyer and how and for what the same were disbursed.

**13.2(1)** In the event all funds being held by the broker for a transaction cannot be disbursed at the time of closing, the broker obtains an escrow agreement signed by both parties to the transaction which directs the broker regarding the future disbursement of the funds.

**13.2(2)** The broker retains all trust account records and a complete file, which includes but is not limited to the records mandated by rule 193E—13.5(543B), on each transaction for a period of at least five years after the date of the closing. Records mandated by this rule may be retained as an electronic record as provided by rule 193E—13.5(543B).

**13.2(3)** The listing broker is responsible for the closing even though the closing may be completed by another licensee.

**13.2(4)** If the closing transaction is handled through an unlicensed escrow agent and the escrow agent renders a closing statement, the listing broker ensures that funds which the broker has received or paid as part of the transaction are accounted for properly.

**13.2(5)** In the case of a cooperative sale between brokers, the listing broker may elect to close the transaction or, by prior agreement, authorize the selling broker to close.

*a.* If the listing broker so elects, the selling broker has the buyer make the earnest money check or money order payable to the listing broker and immediately delivers the earnest money check or money order along with the offer to purchase to the listing broker or listing agent.

*b.* Unless by prior agreement the listing broker has authorized the selling broker to close, the offer to purchase designates that the earnest money is held in trust by the listing broker.

*c.* Unless by prior agreement the listing broker has authorized the selling broker to close, when cash is accepted as earnest money by the selling agent, the selling agent deposits the money in the selling broker's trust account in accordance with commission rules, and then immediately transfers the earnest money deposit to the listing broker by issuing a check drawn on the selling broker's trust account.

**13.2(6)** Any means other than cash or an immediately cashable check are not accepted as earnest money unless that fact is communicated to the seller prior to the acceptance of the offer to purchase, and is stated in the offer to purchase.

## REAL ESTATE COMMISSION[193E](cont'd)

**13.2(7)** Brokers acting as agents for the buyer in a specific real estate transaction have the same criteria for retention of copies as stated in this rule, except that a buyer's agent who is not a party to the listing contract is not obligated to retain a copy of the listing contract or the seller's settlement statement.

**13.2(8)** Iowa Court Rule 37.5, limited real estate practice. All Iowa real estate licensees should be aware that Iowa Court Rule 37.5 authorizes nonlawyers to select, prepare, and complete certain legal documents incident to residential real estate transactions of four units or less. The preparation of documents beyond that authorized by this court rule may constitute the unauthorized practice of law.

**193E—13.3(543B) Salesperson cannot handle closing.** A salesperson cannot handle the closing of any real estate transaction except under the direct supervision or with the consent of the employing broker.

**193E—13.4(543B) Consent to return earnest money not necessary.** When an offer to purchase is withdrawn or the acceptance is revoked without liability pursuant to Iowa Code chapter 558A, any earnest money deposit is promptly returned to the buyer without delay. The seller's consent and agreement to release the funds is not necessary. A copy of the written revocation or withdrawal is retained with the trust account supporting documents.

**193E—13.5(543B) File recordkeeping.** Every broker retains for a period of at least five years true copies of all business books; accounts, including voided checks; records; contracts; closing statements; disclosures; signed documents; the listing; any offers to purchase; and all correspondence relating to each real estate transaction that the broker has handled and each property managed. The records are made available for reproduction and inspection by the commission, staff, and commission-authorized representatives at all times during usual business hours at the broker's regular place of business. If the brokerage closes, the records are made available for reproduction and inspection by the commission, staff, and commission-authorized representatives upon request.

**13.5(1)** Contracts and other documents that have been changed or altered to the point where the language is unreadable and faxed contracts and documents in which the language is unreadable are not acceptable records and are redrafted and signed by the parties.

**13.5(2)** Copies of unreadable documents are not acceptable as true copies of the originals regardless of the medium.

**13.5(3)** Electronic records. The files, records, and other documents mandated by this chapter may be stored in electronic format for convenience and efficiency in a system for electronic record storage, analysis, and retrieval.

*a.* A record obligated by this chapter may be retained as an electronic record only if the record storage medium can be easily accessed and the records can be readily retrieved and transferred to a legible printed form upon request.

*b.* The scanning or electronic generation of a record is monitored to ensure that the copy is clear, legible and true before the original is shredded.

*c.* Once the original record is transferred to the appropriate electronic storage medium consistent with this rule, the commission will no longer need the retention of the record in its original medium. For the purposes of this chapter, electronic records are considered the same as originals.

**193E—13.6(543B) Licensee acting as a principal.** When a licensee is acting in the capacity of a real estate broker, broker associate or salesperson and is also a principal in the sale, lease, rental or exchange of property owned by the licensee, all payments, rent, or security deposits received from the lessee, renter or buyer are deposited into the broker's trust account. The use of the broker's trust account is not needed if all of the following exist:

1. The sale, rental, or exchange is strictly, clearly and completely a "by owner" transaction and there is not a listing or brokerage agreement;
2. No commission or other compensation is paid to or received by the licensee; and

REAL ESTATE COMMISSION[193E](cont'd)

3. The licensee does not function throughout the transaction in any capacity requiring a real estate license.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7455C**

## **REAL ESTATE COMMISSION[193E]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to seller property condition disclosure and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 14, “Seller Property Condition Disclosure,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

#### *Purpose and Summary*

The purpose of this proposed rulemaking is to provide criteria for the seller’s property condition disclosure. The disclosure is required to be provided by the seller to the purchaser on each transaction pursuant to Iowa Code chapter 558A. This rule provides guidelines for when the disclosure must be provided, the licensee’s duties in representing the seller or buyer in a transaction and the required information that must be stated on the disclosure.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

#### *Public Hearing*



## REAL ESTATE COMMISSION[193E](cont'd)

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 14 and adopt the following new chapter in lieu thereof:

CHAPTER 14  
SELLER PROPERTY CONDITION DISCLOSURE

**193E—14.1(543B) Property condition disclosure.** The criteria of this chapter applies to transfers of real estate subject to Iowa Code chapter 558A. For purposes of this chapter, “transfer” means the same as Iowa Code section 558A.1(5) and “agent” means the same as Iowa Code section 558A.1(1).

**14.1(1) Additional disclosure.** Nothing in this rule is intended to prevent any additional disclosure or to relieve the parties or agents in the transaction from making any disclosure otherwise mandated by law or contract.

**14.1(2) Licensee responsibilities to seller.** At the time a licensee obtains a listing, the listing licensee obtains a completed disclosure signed and dated by each seller represented by the licensee.

*a.* A licensee representing a seller delivers the executed statement to a potential buyer, a potential buyer's agent, or any other third party who may be representing a potential buyer, prior to the seller's making a written offer to sell or the seller's accepting a written offer to buy.

*b.* The licensee representing a seller attempts to obtain the buyer's signature and date of signature on the statement and provides the seller and the buyer with fully executed copies of the disclosure and maintains a copy of the written acknowledgment in the transaction file. If the licensee is unable to obtain the buyer's signature, the licensee obtains other documentation establishing delivery of the disclosure and maintains the written documentation in the transaction file.

*c.* If the transaction closes, the listing broker maintains the completed disclosure statement for a minimum of five years.

*d.* The executed disclosure statement is delivered to the buyer(s) or the buyer's agent in accordance with Iowa Code section 558A.2(2). If there is more than one buyer, any one buyer or buyer's agent may accept delivery of the executed statement.

**14.1(3) Licensee responsibilities to buyer.** A licensee representing a buyer in a transfer notifies the buyer of the seller's obligation to deliver the property disclosure statement.

*a.* If the disclosure statement is not delivered when mandated, the licensee notifies the buyer that the buyer may revoke or withdraw the offer and follows Iowa Code section 558A.2(2).

*b.* Reserved.

## REAL ESTATE COMMISSION[193E](cont'd)

**14.1(4) *Inclusion of written reports.*** A written report or opinion prepared by a person qualified to render the report or opinion may be included in a disclosure statement. A report may be prepared by those authorized by Iowa Code section 228A.4(1) "b."

- a. The seller identifies the necessary disclosure items which are to be satisfied by the report.
- b. If the report is prepared for the specific purpose of satisfying the disclosure criteria, the preparer of the report follows Iowa Code section 558A.4(1) "b."
- c. A licensee representing a seller provides the seller with information on the proper use of reports if reports are used as part of the disclosure statement.

**14.1(5) *Amended disclosure statement.*** A licensee's obligations with respect to any amended disclosure statement are the same as the licensee's obligations with respect to the original disclosure statement. A disclosure statement is amended if authorized by Iowa Code section 558A.3(2).

**14.1(6) *Acknowledgment of receipt of disclosure statement by electronic means.*** Whether or not a licensee assists in a real estate transaction, electronic delivery of any property disclosure statement mandated by Iowa Code chapter 558A is not deemed completed until written acknowledgment of receipt is provided to the transferor by the transferee or the transferee's agent. Acceptable acknowledgment of receipt includes return of a fully executed copy of the property disclosure statement to the transferor by the transferee or the transferee's agent; or a letter, electronic mail, text message, or other written correspondence to the transferor from the transferee or the transferee's agent acknowledging receipt. A computer-generated read receipt, facsimile delivery confirmation, or other automated return message is not deemed acknowledgment of receipt for purposes of this rule.

**14.1(7) *Minimum disclosure statement contents for all transfers.*** All property disclosure statements, whether or not a licensee assists in the transaction, contain at a minimum the information mandated by the following sample statement. No particular language is necessary in the disclosure statement provided that the necessary disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the commission recommends use of the following sample language:

#### **RESIDENTIAL PROPERTY SELLER DISCLOSURE STATEMENT**

Property address: \_\_\_\_\_

***PURPOSE:***

Use this statement to disclose information as mandated by Iowa Code chapter 558A. This law obligates certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

***INSTRUCTIONS TO SELLER(S):***

1. Seller(s) completes this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate that it is not applicable (N/A);
4. Please provide information in good faith and make a reasonable effort to ascertain the necessary information. If the necessary information is **unknown** or is **unavailable** following a reasonable effort, use an **approximation** of the information, or indicate that the information is **unknown (UNK)**. All **approximations** are identified as **approximations (AP)**;
5. Additional pages may be attached as needed;

REAL ESTATE COMMISSION[193E](cont'd)

6. Keep a copy of this statement with your other important papers.
1. Basement/Foundation: Any known water or other problems? Yes [ ] No [ ]
  2. Roof: Any known problems? Yes [ ] No [ ]
    - Any known repairs? Yes [ ] No [ ]
    - If yes, date of repairs/replacement: \_\_\_/\_\_\_/\_\_\_
  3. Well and Pump: Any known problems? Yes [ ] No [ ]
    - If N/A check here [ ]
    - Any known repairs? Yes [ ] No [ ]
    - If yes, date of repairs/replacement: \_\_\_/\_\_\_/\_\_\_
    - Any known water tests? Yes [ ] No [ ]
    - If yes, date of last report: \_\_\_/\_\_\_/\_\_\_
    - and results: \_\_\_\_\_
  4. Septic Tanks/Drain Fields: Any known problems? Yes [ ] No [ ]
    - If N/A check here [ ]
    - Location of tank: \_\_\_\_\_
    - Date tank last cleaned: \_\_\_/\_\_\_/\_\_\_
  5. Sewer System: Any known problems? Yes [ ] No [ ]
    - Any known repairs? Yes [ ] No [ ]
    - If yes, date of repairs/replacement: \_\_\_/\_\_\_/\_\_\_
  6. Heating System(s): Any known problems? Yes [ ] No [ ]
    - Any known repairs? Yes [ ] No [ ]
    - If yes, date of repairs/replacement: \_\_\_/\_\_\_/\_\_\_
  7. Central Cooling System(s): Any known problems? Yes [ ] No [ ]
    - Any known repairs? Yes [ ] No [ ]
    - If yes, date of repairs/replacement: \_\_\_/\_\_\_/\_\_\_
  8. Plumbing System(s): Any known problems? Yes [ ] No [ ]
    - Any known repairs? Yes [ ] No [ ]
    - If yes, date of repairs/replacement: \_\_\_/\_\_\_/\_\_\_
  9. Electrical System(s): Any known problems? Yes [ ] No [ ]
    - Any known repairs? Yes [ ] No [ ]
    - If yes, date of repairs/replacement: \_\_\_/\_\_\_/\_\_\_
  10. Pest Infestation (e.g., termites, carpenter ants): Any known problems? Yes [ ] No [ ]
    - If yes, date(s) of treatment: \_\_\_/\_\_\_/\_\_\_
    - Any known structural damage? Yes [ ] No [ ]
    - If yes, date(s) of repairs/replacement: \_\_\_/\_\_\_/\_\_\_
  11. Asbestos: Any known to be present in the structure? Yes [ ] No [ ]
    - If yes, explain: \_\_\_\_\_
  12. Radon: Any known tests for the presence of radon gas? Yes [ ] No [ ]
    - If yes, date of last report: \_\_\_/\_\_\_/\_\_\_
    - and results: \_\_\_\_\_
  13. Lead-Based Paint: Any known to be present in the structure? Yes [ ] No [ ]
  14. Flood Plain: Do you know if the property is located in a flood plain? Yes [ ] No [ ]
    - If yes, what is the flood plain designation? \_\_\_\_\_
  15. Zoning: Do you know the zoning classification of the property? Yes [ ] No [ ]
    - If yes, what is the zoning classification? \_\_\_\_\_

REAL ESTATE COMMISSION[193E](cont'd)

16. Covenants: Is the property subject to restrictive covenants? Yes [ ] No [ ]

If yes, attach a copy or state where a true, current copy of the covenants can be obtained:

\_\_\_\_\_

17. Shared or Co-Owned Features: Any features of the property known to be shared in common with adjoining landowners, such as walls, fences, roads, and driveways whose use or maintenance responsibility may have an effect on the property? Yes [ ] No [ ]

Any known "common areas" such as pools, tennis courts, walkways, or other areas co-owned with others, or a Homeowner's Association which has any authority over the property? Yes [ ] No [ ]

18. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes [ ] No [ ]

19. Structural Damage: Any known structural damage? Yes [ ] No [ ]

You need to explain any "YES" response(s) above. Use the back of this statement or additional sheets as necessary: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SELLER(S) DISCLOSURE:**

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).

The Seller(s) has owned the property since \_\_\_\_/\_\_\_\_/\_\_\_\_. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.

Seller(s) acknowledges that Buyer(s) be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Health and Human Services.

Seller \_\_\_\_\_ Seller \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

**BUYER(S) ACKNOWLEDGMENT:**

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection Buyer(s) may wish to obtain.

Buyer(s) acknowledges receipt of the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Health and Human Services.

Buyer \_\_\_\_\_ Buyer \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

This rule is intended to implement Iowa Code chapters 17A, 272C, 543B, and 558A.

**ARC 7456C****REAL ESTATE COMMISSION[193E]****Notice of Intended Action****Proposing rulemaking related to property management  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 15, “Property Management,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

The purpose of this proposed chapter is to provide property management guidelines for individuals who are renting property. This chapter provides education on the property management laws and policies to enforce the management laws. This chapter only applies to the owner of the property. Tenants are covered under a separate chapter.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

## REAL ESTATE COMMISSION[193E](cont'd)

January 31, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15  
PROPERTY MANAGEMENT

**193E—15.1(543B) Property management.** A licensee cannot rent or lease real estate, offer to rent or lease real estate, negotiate or offer or agree to negotiate the rental or leasing of real estate, list or offer to list real estate for the leasing or rental of real estate, assist or direct in the negotiation of any transaction calculated or intended to result in the leasing or rental of real estate or show property to prospective renters or lessees of real estate unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

**15.1(1)** Every property management agreement or other written authorization between a broker and an owner of real estate includes, but is not limited to, the following:

- a. Proper identification of the property to be managed.
- b. All terms and conditions under which the property is to be managed and the powers and authority given to the broker by the owner.
- c. Terms and conditions under which the broker will remit property income to the owner and when the broker will provide periodic written statements of property income and expenses to the owner, which is done no less than annually.
- d. Which payments of property-related expenses are to be made by the broker to third parties.
- e. Amount of fee or commission to be paid to the broker and when it will be paid.
- f. Amount of security deposits and prepaid rents to be held by the broker or the owner.
- g. Effective date of the agreement.
- h. Terms and conditions for termination of the property management agreement by the broker or the owner of the property.
- i. Signatures of the broker and owner or the owner's authorized agent.

**15.1(2)** The licensee gives the owner or the owner's authorized agent a legible copy of every written property management agreement or written authorization at the time the signature of the owner is obtained, and the licensee's broker retains a copy.

**15.1(3)** A licensee who is managing the leasing or rental of real estate may act as an agent in the sale or exchange of that real estate only if the property management agreement clearly grants the specific authorization and contains all of the necessary elements for a listing as set forth in rule 193E—11.1(543B) or if a separate listing agreement is secured.

## REAL ESTATE COMMISSION[193E](cont'd)

**15.1(4)** The broker deposits all funds received on behalf of the owner, by no later than five banking days after receipt of the funds, into a trust account maintained by the broker, under the broker's control and in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

**15.1(5)** If the property management agreement is terminated or transferred for any reason, the property manager:

- a.* Terminates the management activities of the property as provided in the agreement and except as otherwise provided by the agreement;
- b.* Notifies the owner and any tenants of the property of the termination;
- c.* Provides the owner, not later than 30 days after the effective date of the termination, with any unobligated funds due the owner under the agreement and not later than 60 days after the effective date of the termination, provides the owner with a final accounting of the owner's ledger account, the amount of any obligated funds held in the property manager's client trust account under the agreement, a statement that explains why obligated funds are being held by the property manager and a statement of when and to whom the obligated funds will be disbursed by the property manager;
- d.* May disburse any unobligated funds only to the owner or, with the proper written authorization of the owner, to another property manager designated in writing by the owner;
- e.* Immediately notifies each tenant that the conditionally refundable deposit will be transferred to the owner or to a new property manager and, at the same time, provides the name and address of the owner or the new property manager to whom these deposits will be transferred.

**15.1(6)** If any of the unobligated funds held by the property manager under the terminated agreement represent tenants' conditionally refundable deposits received from current tenants, the property manager:

- a.* Cannot expend any tenant's conditionally refundable deposits for payment of any expenses or fees not otherwise allowed by the tenant's rental or lease agreements, and
- b.* If any tenant terminates tenancy at the same time as or prior to the termination of the management of the rented or leased property, the licensee completes any final accounting, inspection or other procedure obligated by the tenant's rental or lease agreement, by the Uniform Residential Landlord and Tenant Law, Mobile Home Parks Residential Landlord and Tenant Law, or by the property management agreement, unless the owner directs otherwise in writing.

**15.1(7)** Financial dealings under a property management agreement are conducted subject to the following:

- a.* A check is not issued or presented for payment prior to sufficient funds being in the owner's account to cover the check.
- b.* Transfers of funds between two or more accounts maintained for the same owner may be made if proper entries are made on the ledgers of the accounts affected and the broker maintains the specific written authorization of the owner.

Transfers of funds between an individual owner's accounts are done by writing billings and receipts debiting and crediting the appropriate accounts. Transfers are not done by ledger entries alone.

- c.* The broker cannot withdraw, pay or transfer money from the owner's account in excess of the remaining credit balance at the time of withdrawal, payment or transfer.
- d.* Management fees are withdrawn from the owner's account at least once a month unless the agreement provides otherwise. The fees are identified by property name or account number for which the fees were earned and withdrawn by the broker and deposited into the broker's business operating account. Fees are not paid directly from the owner's trust account to the broker.
- e.* Conditionally refundable deposits are placed in a trust account until refund is made or until all or a portion of the deposit accrues to the owner under the tenant's agreement.

If refundable deposits are not maintained in a separate trust account, the running balance of the account does not, at any time, go below the total of the refundable deposits being held in the account.

- f.* The total of balances of the individual property management accounts of the broker equals the balance shown on the journal, the account ledgers, and the reconciled bank balance of the broker.

All accounts and records are in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

REAL ESTATE COMMISSION[193E](cont'd)

g. Except as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2), if refundable deposits and funds are received from others pursuant to a property management agreement, deposited in an interest-bearing trust account, and there is not a separate written agreement to pay the interest earned to the owner or tenant, the interest is paid to the state pursuant to Iowa Code section 543B.46. The property manager does not receive or benefit from the interest.

The written approval agreement is signed by each party having an interest in the funds, fully disclosing how the funds are to be handled by the property manager, who will benefit from the interest earnings, how and when interest earnings will be paid and any limitations that may be provided for on the withdrawal of the funds deposited in the interest-bearing trust account.

This rule is intended to implement Iowa Code chapters 17A, 272C, and 543B.

**ARC 7457C**

## **REAL ESTATE COMMISSION[193E]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to prelicense education and continuing education and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 16, “Prelicense Education and Continuing Education,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

#### *Purpose and Summary*

These proposed rules set education and continuing education requirements for real estate licensees. The rules include definitions related to prelicense and continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rules, and the types of education that are permissible. The intended benefit of prelicense and continuing education is to ensure that real estate licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:



## REAL ESTATE COMMISSION[193E](cont'd)

Renee Paulsen  
 Real Estate Commission  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16  
 PRELICENSE EDUCATION AND CONTINUING EDUCATION

**193E—16.1(543B) Definitions.** For the purpose of these rules, the following definitions apply:

“*Affirmative marketing*” means the entire scope of social laws and ethics that are concerned with civil rights as they apply especially to housing and to the activities of real estate licensees.

“*Approved program, course, or activity*” means a continuing education program, course, or activity meeting the standards set forth in these rules which has received advance approval by the commission pursuant to these rules.

“*Approved provider*” means a person or an organization that has been approved by the commission to conduct continuing education activities pursuant to these rules.

“*Broker*” means any person holding an Iowa real estate broker license as defined in Iowa Code section 543B.3.

“*Commission*” means the real estate commission.

“*Continuing education*” means education needed as a condition to license renewal.

“*Credit hour*” means the value assigned by the commission to a prelicense or continuing education program, course, or activity.

“*Distance learning*” or “*online learning*” means a planned teaching/learning experience with a geographic separation of student and instructor that utilizes a wide spectrum of technology-based systems, including computer-based instruction, to reach learners at a distance. Home-study courses that include written materials, exercises and tests mailed to the provider for review are included in this definition.

REAL ESTATE COMMISSION[193E](cont'd)

“Guest speaker” means an individual who teaches a real estate education course on a one-time-only or very limited basis and who possesses a unique depth of knowledge and experience in the subject matter the individual proposes to teach.

“Hour” means 50 minutes of instruction.

“Inactive license” means the same as defined in Iowa Code section 543B.5(12).

“Licensee” means the same as defined in Iowa Code section 543B.5(13).

“Live instruction” means an educational program delivered in a traditional classroom setting or by electronic means whereby the instructor and student have real-time visual and audio contact to carry out their essential tasks.

“Prelicense course” means instruction consisting of one or more courses meeting the criteria of Iowa Code section 543B.15.

“Salesperson” means any person holding an Iowa real estate salesperson license as defined in Iowa Code section 543B.5(3).

**193E—16.2(543B) Salesperson prelicense criteria.**

**16.2(1) Mandatory course of study.**

a. The mandatory course of study for the salesperson licensing examination consists of 60 live instruction or distance/online learning hours of real estate principles and practices to comply with the criteria of Iowa Code section 543B.15. The curriculum includes, but is not limited to, the following subjects:

- Introduction to Real Estate and Iowa License Law . . . . . 12 hours
- Ownership, Encumbrances, Legal Descriptions, Transfer of Title and Closing . . . . . 12 hours
- Contracts, Agency and Antitrust . . . . . 12 hours
- Valuation, Finance and Real Estate Math . . . . . 12 hours
- Property Management/Leasing, Fair Housing, Environmental Risks  
and Health Issues. . . . . 12 hours

b. At the time of submission of an application, an applicant applying for an original salesperson license also provides evidence of the following live instruction courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. All the necessary education is completed during the 12 months prior to the date the application is postmarked or received.

**16.2(2) Completion of prelicense education.** Successful completion of the salesperson prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student’s knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

**16.2(3) Substitution of courses.** Written requests for substitution of the salesperson prelicense education courses specified in subrule 16.2(1) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in subrule 16.2(1). Courses completed more than 12 months prior to commission consideration for approval do not qualify for substitution.

**193E—16.3(543B) Broker prelicense education criteria.**

**16.3(1) Mandatory course of study.** The mandatory course of study to take the broker examination consists of Iowa Code section 543B.15(7). Approved courses include the following subjects:

- Contract Law and Contract Writing . . . . . 6 hours
- Iowa Real Estate Trust Accounts. . . . . 6 hours
- Principles of Appraising and Market Analysis. . . . . 6 hours
- Real Estate Law and Agency Law . . . . . 6 hours
- Real Estate Finance . . . . . 6 hours
- Federal and State Laws Affecting Iowa Practice . . . . . 6 hours
- Real Estate Office Organization, Administration and Human Resources . . . . . 12 hours
- Real Estate Technology and Data Security. . . . . 6 hours

REAL ESTATE COMMISSION[193E](cont'd)

Ethics and Safety Issues for Brokers. . . . . 6 hours

**16.3(2) Completion of prelicense education.** Successful completion of the broker prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student’s knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

**16.3(3) Substitution of courses.** Written requests for substitution of the broker prelicense education courses specified in subrule 16.3(1) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in subrule 16.3(1). Any course completed more than 24 months prior to commission consideration for approval does not qualify for substitution.

**193E—16.4(543B) Continuing education criteria.**

**16.4(1)** All individual real estate licenses are issued for three-year terms, counting the remaining portion of the year of issue as a full year. All individual licenses expire on December 31 of the third year of the license term.

**16.4(2)** As a criteria of license renewal in an active status, each real estate licensee completes a minimum of 36 hours of approved programs, courses or activities. The continuing education is completed during the three calendar years of the license term and cannot be carried over to another license renewal term. Approved courses in the following subjects are completed to renew a license to active status:

- Law Update . . . . . 8 hours
- Ethics . . . . . 4 hours
- Electives . . . . . 24 hours

**16.4(3)** During each three-year renewal period a course may be taken for credit only once. A course may be repeated for credit only if the course numbers and instructors are different.

**16.4(4)** A maximum of 24 hours of continuing education may be taken by distance/online learning each three-year renewal period.

**16.4(5)** A licensee unable to attend educational offerings because of a disability may make a written request to the commission setting forth an explanation and verification of the disability. Licensees making requests need to meet the definition of a person with a disability found in the Americans with Disabilities Act as amended by the ADA Amendments Act of 2008 (ADAAA).

**16.4(6)** In addition to courses approved directly by the commission, the following will be deemed acceptable as continuing education:

- a. Credits earned in a state which has a continuing education criteria for renewal of a license if the course is approved by the real estate licensing board of that state for credit for renewal. However, state-specific courses are not acceptable.
- b. Courses sponsored by the National Association of Realtors (NAR) or its affiliates.

**193E—16.5(543B) Continuing education records.** Applicants for license renewal pursuant to Iowa Code section 543B.15 certify that the number of hours of continuing education needed to renew a license was completed as described in rule 193E—16.4(543B).

**16.5(1)** The commission will verify by random audit or on a test basis the education claimed by the licensee. It is the responsibility of the licensee to maintain records that support the continuing education claimed and the validity of the credits. Documentation is retained by the licensee for a period of three years after the effective date of the license renewal.

**16.5(2)** It will not be acceptable for a licensee to include on a renewal application continuing education which has not yet been completed, is outside the renewal period, or for which prior approval or postapproval has not been previously granted.

**16.5(3)** Failure to provide necessary evidence of completion of claimed education within 30 days of the written notice from the commission results in the license’s being placed on inactive status. Prior to activating a license that has been placed on inactive status pursuant to this provision, the licensee submits to the commission satisfactory evidence that all necessary continuing education has been completed.

## REAL ESTATE COMMISSION[193E](cont'd)

**16.5(4)** Filing a false affirmation is prima facie evidence of a violation of Iowa Code section 543B.29(1).

**193E—16.6(543B) Reactivating an inactive license.** A license may be renewed without the necessary continuing education, but it is only renewed to an inactive status. Prior to reactivating a license that has been issued inactive due to failure to submit evidence of continuing education, the licensee submits evidence that all deficient continuing education hours have been completed. The maximum continuing education hours cannot exceed the prescribed number of hours of one license renewal period and are completed during the three calendar years preceding activation of the license.

**193E—16.7(543B) Full-time attendance.** Successful completion of continuing education needs full-time attendance throughout the program, course or activity. A student who arrives late, leaves during class or leaves early does not receive a certificate.

**193E—16.8(543B) Education criteria for out-of-state licensees.** Subrule 16.4(2) applies to every Iowa real estate licensee unless exempted by Iowa Code section 272C.2(5).

**193E—16.9(543B) Examination as a substitute for continuing education.**

**16.9(1)** A salesperson may satisfy all continuing education deficiencies by taking and passing the real estate salesperson examination. An authorization letter is obtained from the commission prior to scheduling the examination with the examination administrator.

*a.* If the salesperson takes and passes the salesperson examination within the six months immediately preceding the expiration of the license, the salesperson examination score report may be substituted for the necessary hours of continuing education credit for the current license term and will satisfy all previous deficiencies.

*b.* A salesperson who is otherwise qualified to be a broker and who passes the broker licensing examination is not needed to furnish evidence of credit for continuing education earned as a salesperson.

**16.9(2)** A broker may satisfy all continuing education deficiencies by taking and passing the real estate broker examination. An authorization letter is obtained from the commission prior to scheduling the examination with the examination administrator. If the broker takes and passes the broker examination within the six months immediately preceding the expiration of the license, the broker examination score report may be substituted for the necessary hours of continuing education credits for the current license term and will satisfy all previous deficiencies.

**193E—16.10(543B) Use of prelicense courses as continuing education.**

**16.10(1)** Salespersons and brokers may take up to 24 hours of the salesperson prelicense courses specified in subrule 16.2(1) as continuing education. However, a newly licensed salesperson cannot use credits from the salesperson prelicense course(s) to meet the continuing education criteria of the first renewal term.

**16.10(2)** Broker prelicense courses taken by a salesperson may be applied as continuing education for renewal of the salesperson license and also may be used as prelicense credit to qualify for a broker license.

**16.10(3)** A broker may take broker prelicense courses as continuing education, but a newly licensed broker cannot use as continuing education credits from the prelicense courses taken to qualify for the broker license.

**193E—16.11(543B) Requests for prior approval or postapproval of a course(s).** A licensee seeking credit for attendance and participation in a course, program, or other continuing education activity that is to be conducted by a school not otherwise approved by the commission may apply for approval to the commission at least 21 days in advance of the beginning of the activity. The commission approves or denies the application in writing within 14 days of receipt of the application.

**16.11(1)** The application for prior approval of a course or an activity includes the following information:

## REAL ESTATE COMMISSION[193E](cont'd)

- a. School or organization or person conducting the activity.
- b. Location of the activity.
- c. Title and brief description of the activity or title and course outline.
- d. Credit hours requested.
- e. Date of the activity.
- f. Principal instructor(s).

**16.11(2)** The application for postapproval of a course or an activity includes the following information:

- a. School, firm, organization or person conducting the activity.
- b. Location of the activity.
- c. Title, description of activity, and course outline.
- d. Credit hours requested for approval.
- e. Date of the activity.
- f. Principal instructor(s).
- g. Verification of attendance.

These rules are intended to implement Iowa Code chapters 17A, 272C, and 543B.

**ARC 7458C**

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

**Proposing rulemaking related to approval of schools, courses and instructors  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 17, “Approval of Schools, Courses and Instructors,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

This proposed chapter sets forth requirements for instructors, schools, and courses. The rules include information for schools to get approval from the Commission in order to teach prelicensing classes, continuing education and instructor workshop development courses. The intended benefit of this chapter is to ensure proper education is being made available to licensees and future licensees.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

## REAL ESTATE COMMISSION[193E](cont'd)

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
--------------------------------------	--------------------------------------

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 17 and adopt the following **new** chapter in lieu thereof:

CHAPTER 17  
APPROVAL OF SCHOOLS, COURSES AND INSTRUCTORS

**193E—17.1(543B) Administrative criteria for schools, courses and instructors.** All schools, courses and instructors of prelicense and continuing education receive advance approval of the commission.

**17.1(1)** Schools, courses and instructors are approved on forms prescribed by the commission for 24-month periods, including the month of approval. Approval is obtained for each course that an instructor proposes to teach.

**17.1(2)** A course outline and all necessary forms are submitted for approval at least 30 days prior to the first offering of the program, course or activity.

**17.1(3)** Evidence of compliance with or exemption from Iowa Code sections 714.18 through 714.25 is furnished to the commission.

**17.1(4)** Potential participants of all approved courses are clearly informed of the hours to be credited, policies concerning registration, payment of fees, refunds and attendance criteria.

**17.1(5)** School staff and instructors allow access to any classes conducted to any member of the commission or its duly appointed representatives.

**17.1(6)** No part of any approved course is used to advertise or solicit orally or in writing any product or service.

## REAL ESTATE COMMISSION[193E](cont'd)

**17.1(7)** The school shows that procedures are in place to ensure that the student who completes an approved course is the student who enrolled in the course.

**17.1(8)** School staff and instructors are available during normal business hours to answer student questions and provide assistance as necessary.

**17.1(9)** The commission may at any time evaluate an approved school or instructor. If the commission finds there is a basis for consideration of revocation of the approval of the school or the instructor, the commission gives notice by ordinary mail or email to the coordinator of that school or to the instructor of a hearing on the possible revocation at least 20 days prior to the hearing.

**17.1(10)** The commission may deny or withdraw approval of a program, course, or activity, but the decision to deny or withdraw approval may be appealed within 20 days of the date of mailing the notice of denial or withdrawal.

**17.1(11)** Each application for approval designates an individual as coordinator for the school in responsible charge of its operation who is also the contact for the commission. The coordinator is responsible for complying with the commission's rules relating to schools and for submitting reports and information if needed by the commission.

**17.1(12)** An approved school cannot apply to itself either as part of its name or in any other manner the designation of "college" or "university" in such a way as to give the impression that it is an educational institution conforming to the standards and qualifications prescribed for colleges and universities unless the school, in fact, meets those standards and qualifications.

**17.1(13)** Advertising and prospectus information. No approved school provides any information to the public or to prospective students that is misleading.

**17.1(14)** Maximum hours of instruction. There is no more than eight classroom hours in any single day of instruction.

**17.1(15)** Each approved school establishes and maintains for each student a complete, accurate and detailed record of instruction undertaken and satisfactorily completed in the areas of study prescribed by these rules. The records are maintained for a period of not less than five years. The commission assigns a number to each approved school and assigns a number to each approved program, course or activity. The approved school includes these reference numbers in correspondence with the commission and includes these numbers on certificates of attendance issued by the approved school.

**193E—17.2(543B) Certificates of attendance.**

**17.2(1)** Each approved school under rule 193E—17.1(543B) provides an individual certificate of attendance to each licensee upon completion of the program, course, or activity. The certificate contains the following information:

- a. School name and number;
- b. Program, course or activity name and number;
- c. Name and address of licensee;
- d. Date on which the program, course or activity was completed;
- e. Number of approved credit hours;
- f. Instructor's name;
- g. Signature of coordinator or other person authorized by the commission; and
- h. A notation as to whether credit hours are to be used as distance learning or as live instruction.

**17.2(2)** An attendance certificate is not issued to a licensee who is absent from a continuing education program, course, or activity. The program, course, or activity is completed in its entirety. A student who arrives late, leaves during class or leaves early does not receive an attendance certificate.

**193E—17.3(543B) Instructors taking license examinations for auditing purposes.**

**17.3(1)** Instructors who take the salesperson or broker examination for auditing purposes first obtain written consent from the commission.

**17.3(2)** Any instructor who wishes to retake an examination for auditing purposes may be granted permission after 12 months have passed.

## REAL ESTATE COMMISSION[193E](cont'd)

**193E—17.4(543B) Continuing education credit for instructors.**

**17.4(1)** Commission-approved instructors may receive up to six hours of continuing education credit toward renewal of a real estate license for verified attendance at an instructor development workshop approved by the commission. The instructor may use continuing education credit only once in each three-year renewal period.

**17.4(2)** An instructor may receive continuing education credit for approved education courses that the instructor teaches, but not more than six hours of credit in any three-year license renewal period.

**193E—17.5(543B) Acceptable course topics.**

**17.5(1)** The commission will consider courses in the following areas to be acceptable for approval:

- a.* Real estate ethics;
- b.* Legislative issues that influence real estate practice, including both pending and recent legislation;
- c.* The administration of licensing provisions of real estate law and rules, including compliance and regulatory practices;
- d.* Real estate financing, including mortgages and other financing techniques;
- e.* Real estate market analysis and evaluation, including site evaluations, market data, and feasibility studies;
- f.* Real estate brokerage administration, including office management, trust accounts, and employee contracts;
- g.* Real estate mathematics;
- h.* Real property management, including leasing agreements, accounting procedures, and management contracts;
- i.* Real property exchange;
- j.* Land use planning and zoning;
- k.* Real estate securities and syndications;
- l.* Estate building and portfolio management;
- m.* Accounting and taxation as applied to real property;
- n.* Land development;
- o.* Market analysis;
- p.* Real estate market procedures;
- q.* Technology and the practice of real estate;
- r.* Safety;
- s.* Fair housing; and
- t.* Diversity, equity and inclusion.

**17.5(2)** Other course topics. A course topic may be approved if it is determined that it includes such facts, concepts and current information about which licensees are knowledgeable to conduct real estate negotiations and transactions and better protect client, customer and public interest. The same criteria will be used to evaluate courses that do not otherwise qualify under rule 193E—17.5(543B).

**193E—17.6(543B) Nonqualifying courses.** The following course offerings do not qualify as continuing education:

**17.6(1)** Courses of instruction designed to prepare a student for passing the real estate salesperson examination;

**17.6(2)** Sales promotion or other meetings held in conjunction with a licensee's general business;

**17.6(3)** A course certified by the use of a challenge examination. All students complete the necessary number of classroom hours to receive certification;

**17.6(4)** Meetings which are a normal part of in-house staff or employee training;

**17.6(5)** Orientation courses for licensees, such as those offered through local real estate boards.



## REAL ESTATE COMMISSION[193E](cont'd)

**193E—17.7(543B) Standards for approval of courses of instruction.** The commission may approve live classroom instruction, distance education programs and paper and pencil home-study courses, subject to the following conditions:

**17.7(1)** The course pertains to real estate topics that are integrally related to the real estate industry; and

**17.7(2)** The course allows the participants to achieve a high level of competence in serving the objectives of consumers who engage the services of licensees; and

**17.7(3)** The course qualifies for at least one credit hour.

**193E—17.8(543B) Responsibilities of instructors and course developers.**

**17.8(1)** Instructors are competent in the subject matter and skilled in the use of appropriate teaching methods that have been proven effective through educational research and development.

**17.8(2)** Course content and materials are accurate and consistent with currently accepted standards relating to the program's subject matter.

**17.8(3)** Instructor and student materials are updated no later than 30 days after the effective date of a change in standards, laws or rules. Course content will not be considered current and up-to-date unless the new standards have been incorporated into the course or the instructor informs the participants of the new standards.

**17.8(4)** Instructors attend workshops or instructional programs, as reasonably requested by the commission, to ensure that effective teaching techniques are used and current, relevant and accurate information is taught.

**17.8(5)** All courses have an appropriate means of written evaluation by the participants. Evaluations include but are not limited to relevance of material, effectiveness of presentation and course content.

**193E—17.9(543B) Standards for approval of classroom courses.**

**17.9(1)** The commission may approve live classroom courses, subject to the following criteria.

**17.9(2)** The course application is accompanied by a comprehensive course outline that includes:

- a. Description of course.
- b. Purpose of course.
- c. Level of difficulty.
- d. Detailed learning objectives for each major topic that specify the level of knowledge or competency the student should demonstrate upon completing the course.
- e. Description of the instructional methods utilized to accomplish the learning objectives.
- f. Copies of all instructor and student course materials.
- g. Course examination(s) or the diagnostic assessment method(s) utilized to achieve the course learning objectives, when applicable.
- h. A description of the plan in place to periodically review course material with regard to changing federal and state statutes.
- i. A statement of any attendance make-up policy that the school has in place.

**193E—17.10(543B) Standards for approval of distance learning courses.** The commission may approve distance learning courses, subject to the following criteria:

**17.10(1)** The provider's purpose or mission statement is available to the public.

**17.10(2)** The course outline includes clearly stated learning objectives and desired student competencies for each module of instruction and a description of how the program promotes interaction between the learner and the program.

**17.10(3)** The course content is accurate and up-to-date. The provider describes the plan in place to periodically review course material with regard to changing federal and state statutes.

**17.10(4)** The course is designed to ensure that student progress is evaluated at appropriate intervals and mastery of the material is achieved before a student can progress through the course material.

## REAL ESTATE COMMISSION[193E](cont'd)

*a.* Students completing distance learning continuing education complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

*b.* A passing score of 80 percent is needed for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

**17.10(5)** The provider shows that qualified individuals are involved in the design of the course.

**17.10(6)** The provider lists individuals who provide technical support to students and state the specific times when support is available.

**17.10(7)** A manual is provided to each registered student. It includes, but is not limited to, faculty contact information, student assignments and course criteria, broadcast schedules, testing information, passing scores, resource information, fee schedule and refund policy.

**17.10(8)** The provider retains a statement signed by the student that affirms that the student completed the necessary work and examinations.

**17.10(9)** The provider states in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.

**17.10(10)** Courses submitted for approval are sufficient in scope and content to justify the hours requested by the provider.

**17.10(11)** Courses that have obtained approval from the Association of Real Estate License Law Officials (ARELLO) are automatically approved in Iowa.

**17.10(12)** All computer-based continuing education and prelicense courses are completed within six months of the date of purchase.

**193E—17.11(543B) Standards for approval of paper and pencil home-study courses.** The commission may approve paper and pencil home-study courses, subject to the following criteria:

**17.11(1)** Courses are arranged in chapter format and include a table of contents.

**17.11(2)** Overview statements that preview the content of the chapter are included for each chapter.

**17.11(3)** Courses are designed to ensure that student progress is evaluated at appropriate intervals. The assessment process measures what each student has learned and not learned at regular intervals throughout each module of the course. The student completes and returns quizzes to the provider to receive credit for the course.

**17.11(4)** Students completing paper and pencil home-study continuing education complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

**17.11(5)** A passing score of 80 percent is needed for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

**17.11(6)** A licensee has six months from the date of purchase to complete all quizzes and assignments and to pass the final examination.

**17.11(7)** The provider includes information that clearly informs the licensee of the course completion deadline, passing score needed, chapter quiz completion criteria and any other relevant information regarding the course.

**17.11(8)** The provider states in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.

**17.11(9)** The provider retains a statement signed by the student that affirms that the student completed the necessary work and examinations.

**17.11(10)** The provider is available to answer student questions or provide assistance as necessary during normal business hours.

**17.11(11)** Courses submitted for approval are sufficient in scope and content to justify the hours requested by the provider.

**193E—17.12(543B) Qualifying as an instructor.**

## REAL ESTATE COMMISSION[193E](cont'd)

**17.12(1)** Individuals may be approved to teach prelicense and continuing education when they have shown proof of attendance of six hours at an instructor development workshop approved by the commission within 12 months preceding approval and have met the instructor qualification criteria.

**17.12(2)** Guest speakers and individuals currently certified by a nationally recognized organization, such as a DREI, that has similar instructor standards are exempt, with prior approval of the commission, from the instructor qualification criteria and the instructor development workshop criteria.

**17.12(3)** An applicant may be approved as an instructor when it is determined that the applicant evidences the ability to teach and communicate and possesses in-depth knowledge of the subject matter to be taught.

*a.* The applicant demonstrates the ability to teach by meeting at least one of the following criteria:

(1) Holds a bachelor's degree or higher in education from an accredited college (copy(ies) of transcript(s) to be attached); or

(2) Holds a current teaching credential or certificate in any field (copy to be attached); or

(3) Holds a certificate of completion from a real estate instructor institute, workshop or school approved by the real estate commission and has experience in the area of instruction (specific teaching experiences to be detailed); or

(4) Holds a full-time current appointment to the faculty of an accredited college; or

(5) Holds a current teaching designation from an organization approved by the real estate commission (evidence to be attached).

*b.* The applicant demonstrates in-depth knowledge of the subject matter by meeting at least one of the following criteria:

(1) Holds a bachelor's degree or higher from an accredited college with a major in a field of study directly related to the subject matter of the course the applicant proposes to teach, such as business, economics, accounting, real estate or finance (copy of transcript to be attached); or

(2) Holds a bachelor's degree or higher from an accredited college and five years of real estate experience directly related to the subject matter of the course the applicant proposes to teach (copy of transcript to be attached and documentation to explain how applicant's experience is directly related to the subject matter the applicant proposes to teach); or

(3) Be a licensed attorney in practice for at least three years in an area directly related to the subject matter of the course the applicant proposes to teach; or

(4) Be a highly qualified professional with a generally recognized professional designation such as, but not limited to, FLI, MAI, SIOR, SREA, CRB, CRS, CPM, but not including GRI, and two years of education from a postsecondary institution (evidence of both to be attached); or

(5) Have extensive instructional background in real estate education and experience in real estate as evidenced by a valid broker's license or five years of active real estate experience as a salesperson (evidence to be provided). In addition, three recently written letters of recommendation that attest to the applicant's in-depth knowledge combined with the ability to teach and communicate the subject the applicant proposes to teach; or

(6) Other, as the commission may determine.

These rules are intended to implement Iowa Code chapters 17A, 272C, and 543B.

**ARC 7459C**

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

**Proposing rulemaking related to investigations and disciplinary procedures  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 18, "Investigations and Disciplinary Procedures," Iowa Administrative Code, and to adopt a new chapter with the same title.

REAL ESTATE COMMISSION[193E](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

This proposed chapter provides guidelines for investigations and complaints. The rules also provide guidelines for discipline that the Commission may impose following a complaint and investigation. The Commission receives 300 to 400 complaints per year. This is a necessary chapter to protect the public.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's

## REAL ESTATE COMMISSION[193E](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 18 and adopt the following **new** chapter in lieu thereof:

CHAPTER 18  
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

**193E—18.1(17A,272C,543B) Disciplinary and investigative authority.** The commission is empowered to administer Iowa Code chapters 17A, 272C, and 543B and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals for the performance of real estate services within this state or for clients in this state. To perform these functions, the commission is broadly vested with authority, pursuant to Iowa Code sections 17A.13, 272C.3 through 272C.6, 272C.10, 543B.9, 543B.29, 543B.34 to 543B.41, and 543B.61 to review and investigate alleged acts or omissions of licensees, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline.

**193E—18.2(17A,272C,543B) Grounds for discipline.** The commission may initiate disciplinary action against a licensee on any of the following grounds:

1. All grounds set forth in Iowa Code sections 543B.29, 543B.34 and 543B.61.
2. A violation of the rules of professional and business conduct described in 193E—Chapters 6 through 8, 10 through 15, and 19.
3. Failure to comply with an order of the commission imposing discipline.
4. Violation of Iowa Code sections 272C.3(2) and 272C.10.
5. Continuing to practice real estate with an expired or inactive license, or without satisfying the continuing education mandated by 193E—Chapter 16 or the errors and omissions insurance mandated by 193E—Chapter 19.
6. Knowingly aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is a ground for discipline under this rule or otherwise knowingly aiding or abetting the unlicensed practice of real estate in Iowa.
7. Failure to fully cooperate with a licensee disciplinary investigation, including failure to respond to a commission inquiry within 14 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file at the commission office.
8. A violation of one or more of the acts or omissions upon which civil penalties may be imposed, as described in subrule 18.14(5).

**193E—18.3(17A,272C,543B) Initiation of disciplinary investigations.** The commission may initiate a licensee disciplinary investigation upon the commission's receipt of information suggesting that a licensee may have violated a law or rule enforced by the commission which, if true, would constitute a ground for licensee discipline.

**193E—18.4(272C,543B) Sources of information.** Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. News articles or other media sources.
2. Reports filed with the commission by the commissioner of insurance pursuant to Iowa Code section 272C.4(9).
3. Complaints filed with the commission by any member of the public.
4. License applications or other documents submitted to the commission.
5. Reports to the commission from any regulatory or law enforcement agency from any jurisdiction.

## REAL ESTATE COMMISSION[193E](cont'd)

6. Commission audits of licensee compliance, such as those involving continuing education, trust accounts, or errors and omissions insurance.

**193E—18.5(17A,272C,543B) Conflict of interest.** If the subject of a complaint is a member of the commission, or if a member of the commission has a conflict of interest in any disciplinary matter before the commission, that member abstains from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

**193E—18.6(272C,543B) Complaints.** Written complaints may be submitted to the commission office by mail, email, online via the commission's website, or personal delivery by any member of the public with knowledge of possible law or rule violations by licensees. Timely filing is encouraged to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may become substantially altered during a period of delay.

**18.6(1) Contents of a written complaint.** Written complaints may be submitted on forms provided by the commission which are available from the commission office and on the commission's website. Written complaints, whether submitted on a commission complaint form or in other written medium, contains the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (licensee against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrates that the respondent has violated or is violating laws or rules enforced by the commission.
- d. If known, citations to the laws or rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.
- g. The address of the property involved.

**18.6(2) Immunity.** A person is not civilly liable for filing a complaint unless such act is done with malice as provided by Iowa Code section 272C.8(1) "a." Employees cannot be discriminated against as a result for filing a complaint as provided by Iowa Code section 272C.8(1) "c."

**18.6(3) Role of complainant.** The role of the complainant in the disciplinary process is limited to providing the commission with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the commission based in whole or in part on information provided by the complainant.

**18.6(4) Role of the commission.** The commission does not act as an arbiter of disputes between private parties, nor does the commission initiate disciplinary proceedings to advance the private interests of any person or party. The role of the commission in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The commission possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

**18.6(5) Initial complaint screening.** All written complaints received by the commission are initially screened by the commission's administrator or designated staff to determine whether the allegations of the complaint fall within the commission's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the commission's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous may be closed by the commission administrator or may be referred by the commission administrator to the commission for closure at the next scheduled commission meeting. All other complaints are referred by the commission administrator to the commission's disciplinary committee for committee review as described in rule 193E—18.9(17A,272C,543B). If a complainant objects in writing to the closure of the complaint by

## REAL ESTATE COMMISSION[193E](cont'd)

the commission administrator, the administrator will refer the objection to the disciplinary committee or commission for reconsideration.

**18.6(6) *Withdrawal or amendment.*** A complaint may be amended or withdrawn at any time prior to official notification of the respondent and thereafter at the sole discretion of the commission. The commission may choose to pursue a matter even after a complaint has been withdrawn.

**193E—18.7(272C,543B) Case numbers.** Whether based on a written complaint received by the commission or a complaint initiated by the commission, all complaint files are tracked by a case numbering system. Complaints are assigned case numbers in chronological order with the first two digits representing the year in which the complaint was received or initiated, and the second three digits representing the order in which the case file was opened (e.g., 01-001, 01-002, 01-003). The commission's administrator maintains a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the commission regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

**193E—18.8(272C,543B) Confidentiality of complaint and investigative information.** All complaint and investigative information received or created by the commission is privileged and confidential pursuant to Iowa Code section 272C.6(4) and as such is not subject to discovery, subpoena, or other means of legal compulsion for release to any person except as provided in Iowa Code section 272C.6.

**193E—18.9(17A,272C,543B) Investigation procedures.**

**18.9(1) *Disciplinary committee.*** The commission chair may appoint two members of the commission to serve on a commission disciplinary committee. The chair may appoint a standing committee or may appoint different members to serve on the committee on an as-needed basis. The disciplinary committee is a purely advisory body which reviews complaint files referred by the commission's administrator, generally supervises the investigation of complaints, and makes recommendations to the full commission on the disposition of complaints. Except as provided by rule 193E—18.10(17A,272C,543B), members of the committee do not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the commission.

**18.9(2) *Committee screening of complaints.*** Upon the referral of a complaint from the commission's administrator or from the full commission, the committee determines whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the commission. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee refers the complaint to the full commission with the recommendation that it be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full commission recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

**18.9(3) *Committee procedures.*** If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193E—18.10(17A,272C,543B) or request commission staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or commission staff presents a report to the committee. The committee reviews the report and determines what further action is necessary. The committee may:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full commission with the recommendation of closure.

## REAL ESTATE COMMISSION[193E](cont'd)

c. Determine there is probable cause to believe that a law or rule enforced by the commission has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full commission with the recommendation of closure. The committee may also recommend that the licensee be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.

d. Determine there is probable cause to believe a disciplinary violation has occurred and either attempt informal settlement, subject to approval by the full commission, or refer the case to the full commission with the recommendation that the commission initiate a disciplinary proceeding (contested case).

e. Stay further action on the complaint if, for instance, there is a pending criminal case or civil litigation and the committee feels it would be in the best interest of the public and respondent to await the final outcome of the litigation. Additionally, the committee may stay further action on a complaint when the respondent's license is expired or revoked.

**18.9(4) Subpoena authority.** The commission is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the commission deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding, pursuant to Iowa Code sections 17A.13(1), 272C.6(3) and 543B.36. Commission procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

**193E—18.10(17A,272C,543B) Informal discussion.** If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

**18.10(1)** An informal discussion is intended to provide a licensee an opportunity to share the licensee's side of a complaint in an informal setting before the commission determines whether probable cause exists to initiate a disciplinary proceeding. Licensees are not obligated to attend an informal discussion. Because disciplinary investigations are confidential, the licensee cannot bring other persons to an informal discussion, but licensees may be represented by legal counsel. When an allegation is made against a firm, the firm may be represented by the designated broker, a managing partner, member or other firm representative.

**18.10(2)** Unless disqualification is waived by the licensee, commission members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because commission members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all commission members to participate in commission decision making and to receive the advice of staff, licensees who desire to attend an informal discussion therefore waive their right to seek disqualification of a commission member or staff based solely on the commission member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that a participating commission member or staff person is not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

**18.10(3)** Because an informal discussion constitutes a part of the commission's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the commission in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

**18.10(4)** The disciplinary committee, subject to commission approval, may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges is filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).



REAL ESTATE COMMISSION[193E](cont'd)

**193E—18.11(17A,272C,543B) Closing complaint files.**

**18.11(1) *Grounds for closing.*** Upon the recommendation of the administrator pursuant to subrule 18.6(5), the recommendation of the disciplinary committee pursuant to rule 193E—18.9(17A,272C,543B), or on its own motion, the commission may close a complaint file, with or without prior investigation. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the commission may close a complaint file. The commission will take into consideration the severity of the alleged violation, the sufficiency of the evidence, the possibility that the problem can be better resolved by other means available to the parties, whether the matter has been the subject of a local board proceeding, the clarity of the laws and rules which support the alleged violation, whether the alleged violation is likely to recur, the past record of the licensee, whether the licensee has previously received a cautionary letter concerning the act or omission at issue, and other factors relevant to the specific facts of the complaint. The following nonexclusive list illustrates the grounds upon which the commission may close a complaint file:

- a. The complaint alleges matters outside the commission's jurisdiction.
- b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the commission.
- c. The complaint is frivolous or trivial.
- d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rulemaking.

- e. The matters raised in the complaint are situational, isolated, or unrepresentative of a licensee's typical practice, and the licensee has taken appropriate steps to ensure future compliance and prevent public injury.

- f. Resources are unavailable or better directed to other complaints or commission initiatives in light of the commission's overall budget and mission.

- g. Extenuating factors exist which weigh against the imposition of public discipline.

**18.11(2) *Closing orders.*** The commission's administrator may enter an order stating the basis for the commission's decision to close a complaint file. If entered, the order cannot contain the identity of the complainant or the respondent, and cannot disclose confidential complaint or investigative information. If entered, closing orders will be indexed by case number and are a public record pursuant to Iowa Code section 17A.3(1) "d." A copy of the order may be mailed to the complainant, if any, and to the respondent. The commission's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

**18.11(3) *Cautionary letters.*** When a complaint file is closed, the commission may issue a confidential letter of caution to a licensee which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the commission may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

**18.11(4) *Reopening closed complaint files.*** The commission may reopen a closed complaint file if, after closure, additional information arises which provides a basis to reassess the merits of the initial complaint.

**193E—18.12(17A,272C,543B) Initiation of disciplinary proceedings.** Disciplinary proceedings may only be initiated by the affirmative vote of a majority of a quorum of the commission at a public meeting. Commission members who are disqualified are not included in determining whether a quorum exists. When two or more members of the commission are disqualified or otherwise unavailable for any reason, the administrator may request the special appointment of one or more substitute commission members pursuant to Iowa Code section 17A.11(5).

REAL ESTATE COMMISSION[193E](cont'd)

**193E—18.13(17A,272C,543B) Disciplinary contested case procedures.** Unless in conflict with a provision of Iowa Code chapter 543B or commission rules in this chapter, all of the procedures set forth in 193—Chapter 7 applies to disciplinary contested cases initiated by the commission.

**193E—18.14(272C,543B) Disciplinary sanctions.**

**18.14(1) *Type of sanctions.*** The commission has authority to impose, alone or in combination, the following disciplinary sanctions:

- a. Revocation of a license.
- b. Suspension of a license for a period of time or indefinitely.
- c. Nonrenewal of a license.
- d. Ban permanently, until further order of the commission, or for a specified period of time, the engagement in specified procedures, methods or acts.
- e. Probation. As a condition to a period of probation, the commission may impose terms and conditions deemed appropriate by the commission including, but not limited to, substance abuse evaluation and such care and treatment as recommended in the evaluation or otherwise appropriate under the circumstances.
- f. Mandate additional continuing education. The commission may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The commission may also specify whether this continuing education be in addition to the continuing education routinely needed for license renewal. The commission may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a license.
- g. Require reexamination.
- h. Impose a monitoring or supervision arrangement.
- i. Downgrade a license from a broker license to a salesperson license.
- j. Issue a reprimand.
- k. Order a physical or mental examination with periodic reports to the commission, if deemed necessary.
- l. Impose civil penalties, the amount of which is at the discretion of the commission, but does not exceed \$2,500 per violation as authorized by Iowa Code section 543B.48. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193E—18.2(17A,272C,543B) and as listed in subrule 18.14(5).

**18.14(2) *Imposing discipline.*** Discipline may only be imposed against a licensee by the authorization of Iowa Code section 272C.6(5). When determining the nature and severity of the sanction to be imposed against a particular licensee or groups of licensees, the commission may consider the following factors:

- a. The relative seriousness of the violation as it relates to assuring the citizens of this state professional competency.
- b. The facts of the particular violation.
- c. Number of prior violations.
- d. Seriousness of prior violations.
- e. Whether remedial action has been taken.
- f. The impact of the particular activity upon the public.
- g. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee, including those listed in subrule 18.14(6).

**18.14(3) *Voluntary surrender.*** The commission may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The commission cannot accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and is published in the same manner as is applicable to any other form of disciplinary order.

## REAL ESTATE COMMISSION[193E](cont'd)

**18.14(4) Notification criteria.** Whenever a broker's license is revoked, suspended, limited, or voluntarily surrendered under this chapter, the licensee follows the procedures set forth in rule 193E—7.3(543B). Strict compliance with these procedures is a condition for an application for reinstatement. Whenever a salesperson's or broker associate's license is revoked, suspended, limited, or voluntarily surrendered under this chapter, the licensee immediately notifies the licensee's broker, and:

*a.* Within seven days of receipt of the commission's final order, notifies in writing all clients of the fact that the license has been revoked, suspended, limited, or voluntarily surrendered. Such notice advises the client to immediately contact the broker, unless the limitation at issue would not impact the real estate services provided for that client.

*b.* Within 30 days of receipt of the commission's final order, the licensee files with the commission copies of the notices sent pursuant to paragraph 18.14(4) "a." Compliance with this criteria is a condition for an application for reinstatement.

**18.14(5) Violations for which civil penalties may be imposed.** The following is a nonexclusive list of violations upon which civil penalties may be imposed:

- a.* Engaging in activities requiring a license when license is inactive.
- b.* Failing to maintain a place of business.
- c.* Improper care and custody of license:
- (1) Failing to properly display license(s).
  - (2) Failing to return license in a timely manner (received within 72 hours as provided by 193E—subrules 6.1(1) and 6.1(2)).
  - (3) Failing to notify associate when license is returned.
  - (4) Failing to provide mailing address of associate when license is returned.
- d.* Failing to inform commission and remit necessary fees if appropriate:
- (1) When changing business address (five working days).
  - (2) When changing status (five working days).
  - (3) When changing form of firm (five working days).
  - (4) When opening a trust account by not filing a consent to examine for the account.
  - (5) When changing residence address or mailing address (five working days).
  - (6) When independently obtained errors and omissions insurance status, coverage or provider changes (five working days).
- e.* Maintaining inadequate transaction records such as:
- (1) Failing to maintain a general ledger.
  - (2) Failing to maintain individual account ledgers.
  - (3) Failing to retain records on file.
- f.* Improper trust account and closing procedures:
- (1) Failing to deposit funds as necessary.
  - (2) Disbursing trust funds prior to closing without written authorization.
  - (3) Withholding earnest money unlawfully when the transaction fails to consummate.
  - (4) Failing to obtain escrow agreement for undisbursed funds.
  - (5) Failing to remit and account for interest on closing statements.
  - (6) Computing closing statements improperly.
  - (7) Failing to provide closing statements.
  - (8) Retaining excess personal funds in the trust account.
  - (9) Failing as a salesperson or broker associate to immediately turn funds over to the broker.
  - (10) Failing to deposit trust funds in interest-bearing account in accordance with Iowa Code section 543B.46.
  - (11) Failing to account for and remit to the state accrued interest due in accordance with Iowa Code section 543B.46.
- g.* Failing to immediately present offer.
- h.* Advertising without identifying broker or clearly indicating advertisement is by a licensee.
- i.* Failing to provide information to the commission when requested relative to a complaint (14 calendar days).

## REAL ESTATE COMMISSION[193E](cont'd)

- j.* Failing to obtain all signatures needed on contracts or to obtain signatures or initials of all parties to changes in a contract.
- k.* Placing a sign on property without consent, or failure to remove a sign when requested.
- l.* Failing to furnish a progress report when requested.
- m.* Failing by a broker to supervise salespersons or broker associates.
- n.* Failing by a broker associate or salesperson to keep the employing broker informed.
- o.* Issuing an insufficient funds check to the commission for any reason or to anyone else in the individual's capacity as a real estate licensee.
- p.* Issuing an insufficient funds check on the broker's trust account.
- q.* Engaging in conduct which constitutes a barred practice or tying arrangement as banned by these rules.
- r.* Failing to inform clients of real estate brokerage firm of the date the firm will cease to be in business and the effect upon sellers' listing agreements.
- s.* Violating any of the remaining provisions in 193E—Chapters 1 through 20 inclusive that have not heretofore been specified in this rule.

**18.14(6) *Amount of civil penalties.*** Factors the commission may consider when determining whether to assess and the amount of civil penalties include:

- a.* Whether other forms of discipline are being imposed for the same violation.
- b.* Whether the amount imposed will be a substantial deterrent to the violation.
- c.* The circumstances leading to the violation.
- d.* The severity of the violation and the risk of harm to the public.
- e.* The economic benefits gained by the licensee as a result of the violation.
- f.* The interest of the public.
- g.* Evidence of reform or remedial action.
- h.* Time elapsed since the violation occurred.
- i.* Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j.* The clarity of the issues involved.
- k.* Whether the violation was willful and intentional.
- l.* Whether the licensee acted in bad faith.
- m.* The extent to which the licensee cooperated with the commission.
- n.* Whether the licensee with a lapsed, inactive, suspended, limited or revoked license improperly engaged in practices which need licensure.

**193E—18.15(17A,272C,543B) Reinstatement.** The term “reinstatement” as used in this rule includes both the reinstatement of a suspended license and the issuance of a new license following the revocation, voluntary revocation, or voluntary surrender of a license.

**18.15(1)** Any person whose license has been revoked or suspended by the commission, or who has voluntarily surrendered a license to the commission or has agreed to a voluntary revocation of a license, may apply to the commission for reinstatement in accordance with the terms of the order of revocation, voluntary surrender, voluntary revocation, or suspension.

**18.15(2)** Unless otherwise provided by law, if the order of revocation, voluntary revocation, voluntary surrender, or suspension did not establish terms upon which reinstatement might occur, initial application for reinstatement cannot be made until at least two years have elapsed from the date of the order or the date the commission accepted the order.

**18.15(3)** Following the revocation or surrender of a broker or salesperson license, an applicant for reinstatement, as a condition of reinstatement, start over as an original applicant for a salesperson license, regardless of the type of license the applicant previously held. The applicant is obligated to satisfy all preconditions for licensure as a salesperson.

**18.15(4)** In addition to the provisions of rule 193—7.38(17A,272C), the following provisions apply to license reinstatement proceedings:

## REAL ESTATE COMMISSION[193E](cont'd)

*a.* The commission may grant an applicant's request to appear informally before the commission prior to the issuance of a notice of hearing on an application to reinstate if the applicant requests an informal appearance in the application and agrees not to seek to disqualify, on the ground of personal investigation, commission members or staff before whom the applicant appears.

*b.* An order granting an application for reinstatement may impose such terms and conditions as the commission deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193E—18.14(272C,543B).

*c.* The commission cannot grant an application for reinstatement when the initial order which revoked, suspended or limited the license; denied license renewal; or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the commission's satisfaction that:

- (1) All terms of the sentencing or other criminal order have been fully satisfied;
- (2) The applicant has been released from confinement and any applicable probation or parole; and
- (3) Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7460C**

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

**Proposing rulemaking related to mandatory errors and omissions insurance  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 19, "Requirements for Mandatory Errors and Omissions Insurance," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

These proposed rules provide definitions and requirements for licensees to carry errors and omissions (E&O) insurance. The rules specify the minimum amount of insurance that is required and the minimum deductible required for each policy. The rules also set the guidelines for compliance with E&O insurance requirements.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

REAL ESTATE COMMISSION[193E](cont'd)

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19

REQUIREMENTS FOR MANDATORY ERRORS AND OMISSIONS INSURANCE

**193E—19.1(543B) Insurance definitions.**

*“Aggregate limit”* is a provision in an insurance contract limiting the maximum liability of an insurer for a series of losses in a given time period such as the policy term.

*“Claims-made”* means policies written under a claims-made basis will cover claims made (reported or filed) during the year the policy is in force for incidents which occur that year or during any previous period the policyholder was insured under the claims-made contract. This form of coverage is in contrast to the occurrence policy which covers today's incident regardless of when a claim is filed even if it is one or more years later.

*“Extended reporting period”* is a designated period of time after a claims-made policy has expired during which a claim may be made and coverage triggered as if the claim had been made during the policy period.

*“Licensee”* is any active individual broker, broker associate, or salesperson; any partnership; or any corporation.

## REAL ESTATE COMMISSION[193E](cont'd)

*“Per claim limit”* means the maximum limit payable, per licensee, for damages arising out of the same error, omission, or wrongful act.

*“Prior acts coverage”* applies to policies on a claims-made versus occurrence basis. Prior acts coverage responds to claims which are made during a current policy period, but the act or acts causing the claim or injuries for which the claim is made occurred prior to the inception of the current policy period.

*“Proof of coverage”* means a copy of the actual policy of insurance, a certificate of insurance or a binder of insurance.

*“Retroactive date”* is a provision found in many claims-made policies. The policy will not cover claims for injuries or damages that occurred prior to the retroactive date even if the claim is first made during the policy period.

*“Umbrella type coverage”* means a policy that provides insurance coverage for the broker or firm and all licensees assigned.

**193E—19.2(543B) Insurance criteria—general.** The group coverage insurance policy selected by the commission is approved by the Iowa insurance division. As a condition of licensure, all active real estate licensees follow Iowa Code section 543B.47(1) regarding mandatory errors and omissions insurance.

**19.2(1)** Who submits plan of coverage. The following persons submit proof of insurance when needed or when requested:

- a. Any active individual broker, broker associate, broker sole proprietor or salesperson.
- b. Any active firm.

**19.2(2)** Inactive status. Individuals whose licenses are on inactive status as defined in Iowa Code section 543B.5(12) do not need to carry errors and omissions insurance as authorized by Iowa Code section 543B.47(1).

**19.2(3)** Territory. All resident Iowa licensees are covered for activities contemplated under Iowa Code chapter 543B both in and out of the state of Iowa. Nonresident licensees participating under the state plan are not covered both in and out of the state of Iowa unless the state plan selected by the commission will cover participating nonresidents when involved in real estate activities in the nonresident state.

**19.2(4)** Insurance form. Licensees may obtain errors and omissions coverage through the insurance carrier selected by the commission to provide the group policy coverage. The following are minimum criteria of the group policy to be issued to the Iowa real estate commission including, as named insureds, all licensees who have paid the necessary premium:

- a. All activities contemplated under Iowa Code chapter 543B are included as covered activities;
- b. A per claim limit is not less than \$100,000;
- c. An annual aggregate limit is not less than \$100,000;
- d. Limits are to apply per licensee, per claim;
- e. Defense costs are to be payable in addition to damages;
- f. The contract of insurance pays, on behalf of the insured person(s), liabilities owed.

**19.2(5)** Contract period. The contract between the insurance carrier or program manager and the commission may be written for a one- to three-year period with the option to renew or renegotiate each year thereafter. The commission reserves the right to terminate the contract after written notice to the carrier at least 120 days prior to the end of any policy term and place the contract out for bid.

- a. Policy periods are not less than 12-month policy terms.
- b. The policy provides full and complete prior acts coverage.

(1) If the licensee purchased full prior acts coverage on or after July 1, 1991, that licensee continues to be guaranteed full prior acts coverage if insurance carriers are changed in the future.

(2) The retroactive date of the master policy is never later than July 1, 1991, for those that can provide proof of continuous coverage to that date.

(3) The retroactive date for each licensee is individually determined by the inception date of coverage and proof of continuous coverage to that date.

## REAL ESTATE COMMISSION[193E](cont'd)

(4) The retroactive date for any new licensee who first obtains a license after July 1, 1991, is individually determined by the effective date of the license, the inception date of coverage, and proof of continuous coverage to that date.

**19.2(6)** Any licensee insured in the state selected program whose license becomes inactive will not be charged an additional premium if the license is reinstated during the policy period.

**19.2(7)** Any licenses issued other than at renewal and insured by the state selected program are subject to a pro-rata premium.

**193E—19.3(543B) Other coverage.** Licensees are not mandated to purchase insurance coverage through the group policy selected by the commission and may obtain errors and omissions coverage independently if the coverage contained in the policy complies with the following:

**19.3(1)** For active individual licensees, all provisions of Iowa Code section 543B.47 apply.

If the other coverage is an individual policy, it is each licensee's responsibility to provide proof of independently carried insurance coverage to the Iowa real estate commission when needed.

**19.3(2)** For all active partnerships and corporations, otherwise known as firms, all provisions of Iowa Code section 543B.47 apply.

*a.* If the other coverage is an individual policy covering the firm, it is the designated broker's responsibility to provide proof of the firm's independently carried insurance coverage to the Iowa real estate commission when needed.

*b.* If the other coverage is an umbrella type policy covering the firm and all licensees assigned that perform real estate activities, it is the responsibility of the designated broker of the firm to provide a list of licensees assigned to the firm that are covered under the firm's insurance policy to the Iowa real estate commission when needed.

**19.3(3)** For sole-proprietor single license brokers, all provisions of Iowa Code section 543B.47 apply.

*a.* If the broker's other coverage is an individual policy, it is each licensee's responsibility to provide proof of the independently carried insurance coverage to the Iowa real estate commission when needed, as provided in subrule 19.3(1).

*b.* If the other coverage is an umbrella type policy covering the broker and all licensees assigned that perform real estate activities, it is the responsibility of the broker to provide a list of licensees assigned to the broker that are covered under the broker's insurance policy to the Iowa real estate commission when needed.

**19.3(4)** For independently carried individual type coverage, the following apply:

*a.* All activities contemplated under Iowa Code chapter 543B are included as covered activities.

*b.* A per claim limit is not less than \$100,000.

*c.* The maximum deductible for an individual policy for damages and defense, each licensee, and each claim is not more than the deductible of the commission group policy for the current policy term.

**19.3(5)** For firms and sole-proprietor brokerages with independently carried firm umbrella type coverage, the following apply:

*a.* All activities contemplated under Iowa Code chapter 543B are included as covered activities.

*b.* A per claim limit is not less than \$100,000.

*c.* An aggregate limit is:

(1) Not less than \$250,000 for a broker or firm with two through ten licensees;

(2) Not less than \$500,000 for a broker or firm with 11 through 40 licensees;

(3) Not less than \$1,000,000 for a broker or firm with 41 or more licensees.

*d.* There is no maximum deductible limit for firm umbrella type coverage policy.

*e.* If a firm size change or a sole-proprietor brokerage size change results in a higher aggregate minimum criteria, that firm or broker corrects the deficiency within one year, or the next renewal term of the insurance policy, whichever comes first.

**19.3(6)** To comply with the provisions of the Iowa errors and omissions law, if other independently carried insurance is provided, as proof of errors and omissions coverage for individual or firm umbrella



## REAL ESTATE COMMISSION[193E](cont'd)

type coverage, the other insurance carrier agrees to either a noncancelable policy, or provides a letter of commitment to notify the Iowa real estate commission 30 days prior to the intention to cancel the policy.

**19.3(7)** Whenever commission criteria, coverage, or limits change, the commission provides a reasonable transition period to allow the licensee or firm with other coverage the opportunity to change carriers or coverage to comply with all criteria and limits, providing the present policy was in effect and in compliance with all prior criteria. The licensee or firm corrects the deficiency within one year, or not later than the next renewal term of the insurance policy, whichever comes first.

**19.3(8)** It is the responsibility of each individual licensee to notify the commission when changing insurance status, coverage, or provider when necessary or when requested.

**19.3(9)** It is the responsibility of the designated broker of the firm to notify the commission when changing insurance status, coverage, or provider when necessary or when requested.

**19.3(10)** Self-insurance does not comply with the provisions of the Iowa errors and omissions insurance law.

**193E—19.4(543B) Administrative criteria—general.**

**19.4(1)** It is the responsibility of the insurance carrier or program manager to obtain approval from the Iowa division of insurance for the group policy before inception of the program or policy period.

**19.4(2)** It is the responsibility of the insurance carrier or program manager to handle administrative duties relative to operation of the program selected by the commission, including billing and premium collection, toll-free access for questions, and claim processing and general informational mailings.

**19.4(3)** It is the responsibility of the insurance carrier or program manager to send a billing notice to each licensee.

**19.4(4)** It is the responsibility of the insurance carrier or program manager to collect all premiums due and verify proper payment.

A schedule of licensees who have paid the proper premium and who have coverage in force is provided electronically to the commission at agreed time intervals.

**19.4(5)** It is the responsibility of the insurance carrier or program manager to issue individual certificates to each licensee and a master policy to the commission.

**19.4(6)** It is the responsibility of the insurance carrier or program manager to market its program and to develop and distribute informational brochures about the coverages provided, services available and criteria of Iowa Code section 543B.47.

*a.* The content of any brochures or other literature provided is the responsibility of the insurance carrier or program manager.

*b.* Advertising materials may be reviewed by the executive officer for the commission or appropriate staff person for content only and not for a legal determination of compliance with Iowa law or division of insurance criteria.

**19.4(7)** It is the responsibility of the insurance carrier or program manager to provide educational seminars in the state of Iowa at the request of the commission and subject to terms and conditions agreeable to each party involved.

**193E—19.5(543B) Commission responsibilities.** The commission provides the insurance carrier or program manager an electronic schedule of all active licensees approximately three months in advance of inception (or renewal), or as otherwise agreed upon, which the insurance carrier or program manager may use to issue billing notices.

**19.5(1)** The insurance carrier or program manager provides the commission with a schedule of insured licensees. The commission will be responsible for comparing this schedule against its own records to determine which licensees elected not to participate in the state program and those that have failed to furnish the commission with acceptable proof of insurance necessary for continued licensure.

**19.5(2)** It is the responsibility of the commission to review proof of other insurance received from licensees not participating in the state program and to confirm that the other insurance meets the minimum criteria of these rules.

## REAL ESTATE COMMISSION[193E](cont'd)

**19.5(3)** The commission may mandate that an approved standard form be used to submit proof of other insurance coverage for review.

**193E—19.6(543B) Compliance.**

**19.6(1)** The commission needs receipt of proof of errors and omissions insurance from new licensees before the license is issued.

**19.6(2)** The commission needs receipt of proof of errors and omissions insurance from the applicant before reinstating an expired license.

**19.6(3)** The commission needs receipt of proof of errors and omissions insurance before reactivating an inactive status license to active status.

**19.6(4)** Applicants for license renewal attest and certify that they have current errors and omissions insurance in effect that meets Iowa insurance criteria.

*a.* The commission will verify by random audit or on a test basis the insurance compliance attested to by the licensee.

*b.* Licensees participating in the state group program cannot be audited if commission records indicate the insurance carrier or program manager has submitted current proof of coverage.

*c.* Licensees with other insurance coverage cannot be audited if commission records indicate the current proof of coverage has been submitted.

*d.* The commission may random audit by any factor as will provide a reasonable sampling given the volume, purpose and scope of audit.

*e.* The commission may random audit as the result of any complaint filed with the commission whether or not adequate insurance coverage was questioned in the complaint.

*f.* The commission may audit compliance with insurance coverage at any time the commission has reasonable cause to question a licensee's compliance.

**19.6(5)** A licensee is needed to carry insurance on an uninterrupted basis and cannot avoid discipline simply by acquiring insurance after receipt of an audit notice.

**19.6(6)** Failure to comply with Iowa Code section 543B.47(6) within 20 calendar days of the commission's request is prima facie evidence of a violation of Iowa Code sections 543B.15(5) and 543B.47(1) and is grounds for the denial of an application for licensure, the denial of an application to renew a license, or the suspension or revocation of a license.

**19.6(7)** Submitting false documentation of insurance coverage, or falsely claiming to have or attesting to having insurance coverage, is prima facie evidence of violation of Iowa Code sections 543B.29(1) and 543B.34(1).

**19.6(8)** Failure to provide required proof of insurability within 30 days of written notice by the commission results in the placement of the license on inactive status. A license that has been placed on inactive status pursuant to this provision is not reactivated until satisfactory evidence has been provided verifying that coverage is current and in full force and effect.

**193E—19.7(543B) Records and retention.** It is the responsibility of the licensee to maintain records which support the validity of the insurance. Documentation is retained by the licensee for a period of three years after the license renewal date or the anniversary of the license renewal date.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

**ARC 7461C****REAL ESTATE COMMISSION[193E]****Notice of Intended Action****Proposing rulemaking related to time-share filing  
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 20, “Time-Share Filing,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 557A.11.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 557A.11.

*Purpose and Summary*

This proposed chapter sets forth time-share filing requirements for time-share companies. This is strictly a marketing chapter for time-share companies to follow. Iowa Code chapter 557A covers laws by which the companies will have to abide. The intended benefit of this chapter is to provide information to the public regarding marketing in Iowa.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

## REAL ESTATE COMMISSION[193E](cont'd)

January 31, 2024  
11 to 11:20 a.m.

6200 Park Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193E—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20  
TIME-SHARE FILING

**193E—20.1(557A) Time-share interval filing fees.** Each initial filing made pursuant to Iowa Code sections 557A.11 and 557A.12 are accompanied by a basic filing fee of \$100 plus \$25 for every 100 time-share intervals or fraction thereof included in the offering.

**20.1(1)** A registration fee is paid with the filing of an application for registration consolidating additional time-share intervals with a prior registration and a fee of \$50 plus an additional fee of \$25 for every 100 time-share intervals or fraction thereof included in the offering.

**20.1(2)** A fee is not charged for amendments to the property report as a result of amendments to the initial filing, unless the commission determines the amendments are made for the purpose of avoiding the payment of a fee, in which event the amendment may be treated as an application for registration consolidating additional time-share intervals with a prior registration.

This rule is intended to implement Iowa Code chapter 557A.

**ARC 7462C**

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

**Proposing rulemaking related to enforcement proceedings against  
unlicensed persons and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 21, “Enforcement Proceedings Against Unlicensed Persons,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 543B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

*Purpose and Summary*

## REAL ESTATE COMMISSION[193E](cont'd)

This proposed chapter provides Iowans protection from unlicensed real estate practice. The chapter allows the Commission enforcement against unlicensed practice. The Commission sees a number of complaints against unlicensed individuals and companies every year. The rules provide guidelines for discipline the Commission may impose following a complaint and investigation.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen  
Real Estate Commission  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [renee.paulsen@iowa.gov](mailto:renee.paulsen@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 11 to 11:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## REAL ESTATE COMMISSION[193E](cont'd)

ITEM 1. Rescind 193E—Chapter 21 and adopt the following **new** chapter in lieu thereof:

CHAPTER 21  
ENFORCEMENT PROCEEDINGS AGAINST UNLICENSED PERSONS

**193E—21.1(17A,543B) Civil penalties against unlicensed persons.**

**21.1(1) *Commission authority.*** The commission is authorized to issue a cease and desist order and to impose a civil penalty as authorized by Iowa Code section 543B.34(3) against any person who is not licensed by the commission but who acts in the capacity of a real estate broker or salesperson.

**21.1(2) *Unlicensed person.*** An “unlicensed person” includes any individual or business entity that has never been licensed by the commission, has voluntarily surrendered a license issued by the commission, or has allowed a license issued by the commission to lapse and the time in which the license could have been reinstated pursuant to rule 193E—3.6(272C,543B) or 193E—4.6(272C,543B) has passed.

**193E—21.2(17A,543B) Unlawful practices.** Practices by unlicensed persons which are subject to civil penalties include, but are not limited to:

1. Acts or practices by unlicensed persons which need licensure pursuant to Iowa Code sections 543B.1, 543B.3, and 543B.6, which do not fall into the exceptions listed in Iowa Code section 543B.7.
2. Violating Iowa Code section 543B.1.
3. Violating one or more of the provisions of Iowa Code section 543B.34 as they relate to acts or practices by unlicensed persons.
4. Use or attempted use of a licensee’s license or an expired, suspended, revoked, or nonexistent license.
5. Falsely impersonating a licensed real estate professional.
6. Providing false or forged evidence of any kind to the commission in obtaining or attempting to obtain a license.
7. Knowingly aiding or abetting an unlicensed person in any activity identified in this rule.

**193E—21.3(17A,543B) Investigations.** The commission is authorized by Iowa Code sections 17A.13(1) and 543B.34(3) to conduct such investigations as are needed to determine whether grounds exist to issue a cease and desist order and to impose civil penalties against an unlicensed person. Such investigations conform to the procedures outlined in 193—Chapter 6 and 193E—Chapter 18. Complaint and investigatory files concerning unlicensed persons are not confidential except as may be provided in Iowa Code chapter 22.

**193E—21.4(17A,543B) Subpoenas.** Pursuant to Iowa Code sections 17A.13(1) and 543B.34, the commission is authorized in connection with an investigation of an unlicensed person to issue subpoenas to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the commission deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Commission procedures concerning investigatory subpoenas are set forth in 193—Chapter 6.

**193E—21.5(17A,543B) Notice of intent to impose civil penalty.** Prior to issuing a cease and desist order and imposing a civil penalty against an unlicensed person, the commission provides the unlicensed person written notice and the opportunity to request a contested case hearing. Notice of the commission’s intent to issue a cease and desist order and to impose a civil penalty are served by certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the unlicensed person may accept service personally or through authorized counsel. The notice includes the following:

## REAL ESTATE COMMISSION[193E](cont'd)

1. A statement of the legal authority and jurisdiction under which the proposed cease and desist order would be issued and the civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to obligate compliance with Iowa Code chapter 543B.
5. Notice of the unlicensed person's right to a hearing and the time frame in which hearing is requested.
6. The address to which written request for hearing is made.

**193E—21.6(17A,543B) Requests for hearings.**

**21.6(1)** Unlicensed persons request a hearing within 30 days of the date the notice is received if served through certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing is in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

**21.6(2)** If a request for hearing is not timely made, the commission chair or the chair's designee may issue an order imposing a civil penalty and compliance with Iowa Code chapter 543B, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

**21.6(3)** If a request for hearing is timely made, the commission issues a notice of hearing and conducts a contested case hearing in the same manner as applicable to disciplinary cases against licensees. Rules governing such hearings may be found in 193—Chapter 7 and 193E—Chapter 18.

**21.6(4)** An unlicensed person who fails to timely request a contested case hearing has failed to exhaust "adequate administrative remedies" as that term is used in Iowa Code section 17A.19(1).

**21.6(5)** An unlicensed person who is aggrieved or adversely affected by the commission's final decision following a contested case hearing may seek judicial review as provided in Iowa Code section 17A.19.

**21.6(6)** An unlicensed person may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and compliance with Iowa Code chapter 543B at any stage of the proceeding upon mutual consent of the commission.

**21.6(7)** The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in 193—subrule 7.30(2). Hearings are open to the public.

**193E—21.7(17A,543B) Alternative procedure.** The commission may, as an alternative to the notice and request for hearing procedures described in rules 193E—21.5(17A,543B) and 193E—21.6(17A,543B), issue a statement of charges and notice of hearing in a format similar to that used for licensee discipline.

**193E—21.8(17A,543B) Factors to consider.** The commission may consider the following when determining the amount of civil penalty to impose, if any:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of noncompliance.
5. The interest of the public.
6. The time lapsed since the unlawful practice occurred.
7. Evidence of reform or remedial actions.
8. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
9. Whether the violation involved an element of deception.

REAL ESTATE COMMISSION[193E](cont'd)

10. Whether the unlawful practice violated a prior order of the commission, court order, cease and desist agreement, consent order, or similar document.
11. The clarity of the issue involved.
12. Whether the violation was willful and intentional.
13. Whether the unlicensed person acted in bad faith.
14. The extent to which the unlicensed person cooperated with the commission.

**193E—21.9(17A,543B) Enforcement options.** In addition, or as an alternative, to the administrative process described in these rules, the commission may seek an injunction in district court, enter into a consent agreement with the unlicensed person, or issue an informal cautionary letter.

These rules are intended to implement Iowa Code chapters 17A and 543B.

**ARC 7490C**

## **REVENUE DEPARTMENT[701]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to property assessment appeal board and providing an opportunity for public comment**

The Revenue Department hereby proposes to rescind Chapter 115, “Property Assessment Appeal Board,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 421.1A and 441.37A.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 421.1A, 427.1, 441.37A and 441.37B.

#### *Purpose and Summary*

These proposed rules primarily implement Iowa Code sections 421.1A, 441.37A, and 441.37B. They establish necessary processes for adjudication of contested case appeals before the Property Assessment Appeal Board (PAAB). This rulemaking is proposed pursuant to Executive Order 10.

A Regulatory Analysis, including the proposed rule text, was published on September 20, 2023. A public hearing was held on October 12, 2023. No public comments directly related to the Regulatory Analysis were received at the hearing or in writing; however, other general comments were received and considered by the PAAB. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on November 3, 2023.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the PAAB for a waiver of the discretionary provisions, if any.



REVENUE DEPARTMENT[701](cont'd)

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the PAAB no later than 4:30 p.m. on February 1, 2024. Comments should be directed to:

Jessica Braunschweig-Norris  
Property Assessment Appeal Board  
Hoover State Office Building  
P.O. Box 10486  
Des Moines, Iowa 50306  
Phone: 515.725.0338  
Email: [jessica.braunschweig-norris@iowa.gov](mailto:jessica.braunschweig-norris@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be had as follows:

February 5, 2024 11 a.m. to 12 noon	Via video/conference call
February 5, 2024 4 to 4:30 p.m.	Via video/conference call

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Persons who wish to participate in a video/conference call should contact Jessica Braunschweig-Norris before 4:30 p.m. on February 1, 2024, to facilitate an orderly hearing. A video link will be provided to participants prior to the hearing.

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 701—Chapter 115 and adopt the following **new** chapter in lieu thereof:

CHAPTER 115  
PROPERTY ASSESSMENT APPEAL BOARD

**701—115.1(421,441) Applicability and definitions.**

**115.1(1) *Applicability and scope.*** The rules in this chapter govern the proceedings for appeals filed under Iowa Code section 441.37A before the property assessment appeal board (board). In cases filed under Iowa Code section 427.1(40), Iowa Code section 441.42, or other applicable provision, the board may use these rules and issue other necessary orders consistent with law.

**115.1(2) *Definitions.*** For the purpose of these rules, the following definitions apply:

“*Appellant*” means the party filing the appeal with the board.

“*Appellee*” means the party responding to the appeal.

“*Board*” means the property assessment appeal board created by Iowa Code section 421.1A.

## REVENUE DEPARTMENT[701](cont'd)

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) or 17A.10A.

“*Custodian*” means the board or a person lawfully delegated authority by the board to act for the board in implementing Iowa Code chapter 22.

“*Decision*” means the board’s findings of fact, conclusions of law, decision, and order in a contested case.

“*Electronic filing*” means the electronic transmission of a document to the electronic filing system together with the production and transmission of a notice of electronic filing.

“*Electronic filing system*” means the system established by the board for the filing of papers and service of the same to opposing parties.

“*Electronic record*” means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

“*Electronic service*” means the electronic transmission of a notification to the registered users who are entitled to receive notice of the filing.

“*Local board of review*” means the board of review as defined by Iowa Code section 441.31.

“*Nonelectronic filing*” means a process by which a paper document or other nonelectronic item is filed with the board.

“*Notice of electronic filing*” means an email notification generated by the electronic filing system when a document is electronically filed.

“*Party*” means each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*PDF*” means an electronic document filed in a portable document format which is readable by the free Adobe® Acrobat® Reader.

“*Public access terminal*” means a computer located at the board’s office where the public may view, print, and electronically file documents.

“*Registered user*” means an individual who can electronically file documents and electronically view and download files through the use of a username and password.

“*Signature*” means a registered user’s username and password accompanied by one of the following:

1. “Digitized signature” means an embeddable image of a person’s handwritten signature;
2. “Electronic signature” means an electronic symbol (“/s/” or “/registered user’s name/”) executed or adopted by a person with the intent to sign; or
3. “Nonelectronic signature” means a handwritten signature applied to an original document.

“*Written consideration*” means the board’s consideration of an appeal without a hearing.

**115.1(3) Waiver of procedures.** A party may seek waiver from a rule adopted by the board following Iowa Code section 17A.9A.

**115.1(4) Time requirements.** Time is computed as provided in Iowa Code section 4.1(34). For good cause, the board may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the board will afford all parties an opportunity to be heard or file written arguments.

**701—115.2(421,441) Appeal and answer.**

**115.2(1) Appeal and jurisdiction.** The deadline for filing an appeal is as stated in Iowa Code section 441.37A. The appeal may be filed through the board’s electronic filing system, delivered in person, mailed by first-class mail, or delivered to an established courier service for immediate delivery. An appeal filed using the electronic filing system must be filed by 11:59 p.m. on the last day for filing.

**115.2(2) Form of appeal.** The appeal should include:

- a. The appellant’s name, mailing address, email address, and telephone number;
- b. The address of the property being appealed and its parcel number;
- c. The grounds for appeal;
- d. A short and plain statement of the claim;
- e. The relief sought; and
- f. If the party is represented by an attorney or designated representative, the attorney or designated representative’s name, mailing address, email address, and telephone number.

## REVENUE DEPARTMENT[701](cont'd)

**115.2(3) Amendment of appeal.** The appellant may amend the appeal once as a matter of course within 20 days after it is filed to add or modify the grounds for appeal. Otherwise, the appellant may only amend the appeal by leave of the board or by written consent of the adverse party.

**115.2(4) Scope of review.**

*a.* Grounds for appeal. The board considers grounds for appeal as listed in Iowa Code sections 441.37(1)“a”(1)(a) through (e) and 441.37(2)“a” in the manner described in Iowa Code section 441.37A(1)“b.” The board may order the appellant to clarify the grounds on which the appellant seeks relief.

*b.* Burden of proof. The burden of proof is as stated in Iowa Code section 441.21(3).

**115.2(5) Notice to local board of review.** The board will serve, through the electronic filing system, a copy of the appellant’s appeal to the local board of review.

**115.2(6) Answer by local board of review.** Using the form provided by the board or a conforming document, the local board of review’s attorney or representative shall file an answer within 30 days after service of the notice of appeal, unless the time period is shortened or extended by the board. The answer should include:

- a.* The subject property’s current assessed value;
- b.* A statement regarding the timeliness of the protest to the local board of review and the timeliness of the appeal to the board;
- c.* How the local board of review will participate in the hearing; and
- d.* The local board of review’s attorney or designated representative’s name, mailing address, email address, and telephone number.

**115.2(7) Docketing.** Appeals are assigned docket numbers. The board will maintain electronic records of the appeal name, the docket number, and all filings made in the appeal.

**115.2(8) Consolidation and severance.**

*a.* *Consolidation.* The board may consolidate any or all matters at issue in two or more appeals where:

- (1) The matters at issue involve common parties or common questions of fact or law;
- (2) Consolidation would expedite and simplify consideration of the issues involved; and
- (3) Consolidation would not adversely affect the rights of any of the parties to those appeals.

*b.* *Severance.* The board may, for good cause shown, order any appeals or portions thereof severed.

**115.2(9) Appearances.** Any party may appear and be heard on its own behalf, or by its attorney or designated representative. Attorneys and designated representatives both shall file a notice of appearance with the board for each appeal. A designated representative who is not an attorney shall also file a power of attorney. When acting as a designated representative on behalf of a party, the designated representative acknowledges the representative has read and will abide by the board’s rules.

**701—115.3(421,441) Nonelectronic service and filing of documents.**

**115.3(1) Applicability.** This rule applies to all nonelectronic filings made with the board by parties not voluntarily using the electronic filing system. Electronic filing and service of documents using the board’s electronic filing system is governed by rule 701—115.4(421,441).

**115.3(2) Service and filing of paper documents.** All motions, pleadings, briefs, and other papers shall be served upon each of the parties of record contemporaneously with their filing with the board.

*a.* *Service on parties.* All documents are deemed served at the time they are delivered in person to the opposing party; delivered to an established courier service for immediate delivery; mailed by first-class mail, so long as there is proof of mailing; or emailed to the opposing party per mutual agreement.

*b.* *Filing with the board.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for immediate delivery; or mailed by first-class mail, so long as there is proof of mailing. A registered user of the board’s electronic filing system may electronically file documents with the board pursuant to rule 701—115.4(421,441).

## REVENUE DEPARTMENT[701](cont'd)

*c. Proof of mailing.* Proof of mailing includes: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Property Assessment Appeal Board and to the names and addresses of the parties listed below by depositing the same in a (United States post office mailbox with correct postage properly affixed).  
 (Date) (Signature)

**115.3(3) Board-generated documents.** The board will mail copies of all board-generated documents to any party not served by the board's electronic filing system.

**115.3(4) Conversion of filed paper documents.** The board will convert all filed paper documents to an electronic record in the electronic filing system.

**115.3(5) Form of paper documents.** Each document delivered to the board should be printed on one side and have no tabs, staples, or permanent clips. It may be organized with paper clips, clamps, or another type of temporary fastener or be contained in a file folder.

**115.3(6) Return of copies by mail.** If a party requests a paper document be returned by mail, the party must provide a postage-paid, self-addressed envelope large enough to accommodate the returned document.

**701—115.4(421,441) Electronic filing system.**

**115.4(1) Electronic filing and applicability.**

*a. Electronic filing.* The board will maintain an electronic filing system, which is the preferred method for filing documents with the board.

*b. Applicability.* This rule applies to electronic filing and service of documents using the board's electronic filing system. Nonelectronic filing and service are governed by rule 701—115.3(421,441).

(1) The board may order the conversion of any appeal to an electronic file. Upon such an order, all future filings must be made using the board's electronic filing system in compliance with this rule, unless a filing is subject to the exception in paragraph 115.4(1) "c."

(2) In all other cases, a party or parties to a proceeding may voluntarily choose to use the electronic filing system in compliance with this rule.

*c. Exceptions.* Any item not capable of electronic filing shall be filed in a nonelectronic format pursuant to rule 701—115.3(421,441).

**115.4(2) Registration.**

*a. Registration required.* Every individual filing, viewing, or downloading appeal documents must register as a registered user of the electronic filing system.

*b. How to register.* An individual must complete the registration process online at [efile-paab.iowa.gov](http://efile-paab.iowa.gov), consent to the user agreement, and obtain a username and password for the electronic filing system.

*c. Changing passwords.* Once registered, the user may change the user's password. If the registered user believes the security of an existing password has been compromised, the registered user should change the password immediately. The board may require password changes periodically.

*d. Changes in a registered user's contact information.* If a registered user's email address, mailing address, or telephone number changes, the registered user should promptly change the information in the electronic filing system. The registered user should promptly notify any nonregistered party of changes in contact information in every active proceeding in which the registered user is a party.

*e. Duties of a registered user.* Each registered user will ensure the user's email account information is current, the account is monitored regularly, and email notices sent to the account are timely opened.

*f. Canceling registration.* Withdrawal from participation in the electronic filing system cancels the registered user's profile but does not authorize nonelectronic filing of documents and is not a withdrawal from a proceeding.

## REVENUE DEPARTMENT[701](cont'd)

*g. Use of username and password.* A registered user is responsible for all documents filed with the registered user's username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

*h. Username and password security.* If a username or password is lost, misappropriated, misused, or compromised, the registered user will notify the board promptly.

*i. Denial of access.* The board may refuse to allow an individual to electronically file or download information in the electronic filing system due to misuse, fraud or other good cause.

**115.4(3) Signatures.**

*a. Registered user.* A username and password accompanied by a digitized, electronic, or nonelectronic signature serve as the registered user's signature on all electronically filed documents.

*b. Documents requiring oaths, affirmations or verifications.* Any document filed requiring a signature under oath or affirmation or with verification may be signed electronically or nonelectronically but shall be filed electronically.

*c. Format.* Any filing requiring a signature must be signed, with either a nonelectronic signature, an electronic signature, or a digitized signature.

*d. Multiple signatures.* By filing a document containing multiple signatures, the registered user confirms the content of the document is acceptable to all persons signing the document and all such persons consent to having their signatures appear on the document.

**115.4(4) Format and redaction of electronic documents.** Except proposed orders, all electronically filed documents must be filed as a PDF. Before filing any document, the registered user shall ensure the document is certified as confidential or that the confidential information is omitted or redacted.

**115.4(5) Exhibits and other attachments.** Any attachments to a filing, such as an exhibit, shall be uploaded and electronically attached to the filing. Each exhibit should be filed as a separate PDF. Exhibits should be labeled as required by paragraph 115.7(3) "d."

**115.4(6) Filing and service using electronic filing.**

*a. What constitutes filing.* The electronic transmission of a document to the electronic filing system following the procedures specified in these rules, together with the production and transmission of a notice of electronic filing, constitutes the filing of the document.

*b. Electronic file stamp.* Electronic documents are officially filed when affixed with an electronic file stamp. Filings so endorsed shall have the same force and effect as documents time-stamped in a nonelectronic manner.

*c. Email or fax.* Emailing or faxing a document to the board will not generate a notice of electronic filing and does not constitute electronic filing of the document unless otherwise authorized by the board.

*d. Public access terminal.* A public access terminal is available at the reception desk on the first floor of the Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319.

*e. Service of filings.* When a document is electronically filed, the electronic filing system will produce and transmit a notice of electronic filing to all parties who are registered users. The notice of electronic filing shall constitute service of the filing on registered users. No other service is required on registered users unless ordered by the board. The filing party is responsible for ensuring service, pursuant to paragraph 115.3(2) "a," on any party that is not a registered user. Notices of electronic filing will continue to be sent to registered users appearing or intervening in a proceeding until the users have filed a withdrawal of appearance.

*f. Proof of service of nonelectronic filings.* Parties filing a document nonelectronically pursuant to paragraph 115.3(2) "c" and rule 701—115.3(421,441) shall electronically file a notice of nonelectronic filing along with proof of service.

*g. Electronic filing and service of board-generated documents.* All board-generated documents issued in an appeal governed by this chapter will be electronically filed and served. The board will only mail paper copies of documents as provided in subrule 115.3(3).

**115.4(7) Filing by the board on behalf of a party.**

*a.* Board staff may file a motion on behalf of a party to an appeal pursuant to this subrule.

*b.* When a party contacts board staff via telephone or other means and indicates the party's desire to file a motion specified in paragraph 115.4(7) "c," board staff may file the motion in the electronic

## REVENUE DEPARTMENT[701](cont'd)

filing system on behalf of the party. The motion will be consistent with the instructions and information provided by the party and shall only be filed with the permission of the party. Board staff will not file any motions on behalf of a party if any opposing party requires nonelectronic service under subrule 115.3(2).

c. Only the following motions may be filed by board staff on behalf of a party:

- (1) Motion to participate in a hearing in person, by telephone, or by video;
- (2) Motion for hearing;
- (3) Motion for continuance;
- (4) Motion to withdraw appeal.

d. Upon filing of the motion, board staff will provide a courtesy copy of the filing to the party.

**701—115.5(421,441) Motions and settlements.**

**115.5(1) Authority of board to issue procedural orders.** The board may issue preliminary orders regarding procedural matters.

**115.5(2) Motions.** No technical form for motions is required. All prehearing motions be in writing, filed with the board and contain the reasons and grounds supporting the motion. The board will act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit. Any party may file a written response to a motion no later than ten days from the date the motion is filed, unless the time period is extended or shortened by the board. The board may schedule oral argument on any motion.

a. *Filing of motions.* Motions pertaining to the hearing, except motions discussed in paragraph 115.5(2) “b,” must be filed and served at least ten days before the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by the board.

b. *Motions for summary judgment and motions to dismiss for lack of jurisdiction.*

(1) Motions for summary judgment and motions to dismiss for lack of jurisdiction should comply with the requirements of Iowa Rule of Civil Procedure 1.981. Notwithstanding the time for filing motions in Iowa Rule of Civil Procedure 1.981, motions should be filed within ten days of issuance of a notice of hearing or written consideration. Responses should follow the provisions of Iowa Rule of Civil Procedure 1.981. Motions will be disposed of according to the requirements of that rule, unless such requirements are inconsistent with this chapter or any other provision of law governing in contested cases.

(2) Reserved.

c. *Motions to withdraw.* An appellant may withdraw the appeal. A withdrawal of an appeal must be in writing and signed by the appellant or the appellant’s designated representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal. Within 20 days of the board’s granting of a withdrawal of appeal, the appellant may make a motion to reopen the file and rescind the withdrawal based upon fraud, duress, undue influence, or mutual mistake.

d. *Motions for refund.* If the board reduces an assessment following a contested case hearing, the appellant shall be notified in the board’s final agency action of the appellant’s right to elect to be refunded for taxes already paid by filing a motion with the board. Such a motion shall be filed within ten days of the board’s final agency action. If the appellant does not timely file a motion for refund, any change in taxes resulting from the assessment reduction shall be credited toward future tax payments.

**115.5(3) Settlements.** Parties to an appeal may propose to settle all or some of the issues in the appeal at any time before the issuance of a final decision. A settlement of an appeal shall be jointly signed by the parties, or their designated representatives, and filed with the board. The settlement filed with the board shall indicate whether the assessment modification will result in a tax refund or a credit toward future tax payments. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

**701—115.6(421,441) Hearing scheduling and discovery plan.**

**115.6(1) When required.** For appeals involving properties assessed at \$3 million or more, the parties shall file a hearing scheduling and discovery plan within 60 days of the notice provided in subrule 115.2(5). In any other appeal, the parties may jointly file a hearing scheduling and discovery plan or the board may, on its own motion or the motion of any party, require parties to file a hearing scheduling

## REVENUE DEPARTMENT[701](cont'd)

and discovery plan. The dates established in a hearing scheduling and discovery plan under this rule shall supersede any dates set forth in this chapter.

**115.6(2) *Prehearing conference.*** A party may request a prehearing conference to resolve any disputed issue pertaining to the plan.

**115.6(3) *Modification.*** The parties may jointly agree to modify the plan. If one party seeks to modify the plan, the party must show good cause for the modification.

**115.6(4) *Failure to comply.*** A party that does not comply with a plan must show good cause for not complying and that the other party is not substantially prejudiced by the noncompliance. Failing to comply with a plan may result in sanctions including, but not limited to, the exclusion of evidence or dismissal of the appeal.

**701—115.7(421,441) Discovery and evidence.**

**115.7(1) *Discovery procedure.*** The scope of discovery described in Iowa Rule of Civil Procedure 1.503 applies to board appeals. When considering relevancy, the board shall consider the provisions of Iowa Code chapter 441, 701—Chapter 102, and other applicable law. The following discovery procedures in the Iowa Rules of Civil Procedure are available to the parties in an appeal: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; entry upon land for inspection and other purposes; and requests for admission. The time frames for discovery in the Iowa Rules of Civil Procedure govern, unless lengthened or shortened by the board.

*a.* Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions apply to any depositions taken in an appeal. Any party taking a deposition in an appeal is responsible for any deposition costs. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

*b.* Subject to the limitations in paragraph 115.7(1) “*h*,” Iowa Rule of Civil Procedure 1.509 applies to any interrogatories propounded.

*c.* Subject to the limitations in paragraph 115.7(1) “*h*,” Iowa Rule of Civil Procedure 1.512 applies to any requests for production of documents, electronically stored information, and things; and entry upon land for inspection and other purposes.

*d.* Iowa Rule of Civil Procedure 1.510 applies to any requests for admission. Iowa Rule of Civil Procedure 1.511, regarding the effect of an admission, applies.

*e.* The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to appeals before the board.

*f.* Iowa Rule of Civil Procedure 1.508 applies to discovery of any experts identified by a party.

*g.* Discovery shall be served on all parties but should not be filed with the board. Parties should file a notice with the board when a notice of deposition or a discovery request or response is served on another party. The notice filed with the board should include the date, the manner of service, and the names and addresses of the persons served. Other discovery materials should not be filed unless ordered by the board.

*h.* In addition to the limits on discovery requests in Iowa Rules of Civil Procedure 1.509 and 1.512, the following limits apply to appeals of property assessed for less than \$1 million:

(1) A party shall not serve on any other party more than 15 interrogatories, including all discrete subparts.

(2) A party shall not serve on any other party more than ten requests for production of documents, electronically stored information, and things.

A party to the appeal may file a motion with the board requesting leave to serve additional discovery requests. The motion must include the proposed interrogatories or requests for production of documents and the reasons establishing good cause for their use.

**115.7(2) *Discovery motions.*** Before filing any motion related to discovery, parties must make a good-faith effort to resolve discovery disputes without the involvement of the board. Any motion related to discovery should state the moving party has made a good-faith attempt to resolve the discovery issues involved with the opposing party. Opposing parties may respond within ten days of the filing of the

## REVENUE DEPARTMENT[701](cont'd)

motion unless the time is shortened by order of the board. The board may rule on the basis of the written motion and any response or may have a hearing or other proceedings on the motion.

**115.7(3) Evidence.**

*a. Admissibility.* The board will rule on admissibility of evidence and may take official notice of facts in accordance with applicable legal requirements. Evidence obtained in discovery may be used in the appeal if that evidence would otherwise be admissible.

*b. Stipulations.* Stipulation of facts by the parties is encouraged. The board may make a decision based on stipulated facts.

*c. Scope of admissible evidence.* Admission of evidence is governed by Iowa Code section 17A.14. Upon an objection pursuant to paragraph 115.7(3) "e," evidence may be excluded. Hearsay evidence is admissible.

*d. Exhibits, exhibit and witness lists, and briefs.* The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit before the ruling on its admissibility. Copies of documents to be used as evidence, exhibit lists, and a list of witnesses intended to be called at hearing shall be served on the opposing party at least 21 calendar days before the hearing, unless the time period is extended or shortened by the board or the parties have filed a hearing scheduling and discovery plan under rule 701—115.6(421,441). Upon an objection pursuant to paragraph 115.7(3) "e," late-filed exhibits may be excluded. Rebuttal evidence need not be exchanged or served on the opposing party before the hearing. All exhibits and briefs admitted into evidence will be appropriately marked and be made part of the record. The appellant should mark each exhibit with consecutive numbers. The appellee should mark each exhibit with consecutive letters.

The local board of review must file the following exhibits:

(1) The appealed property's property record card after implementation of the final decision of the board of review, including the cost report showing the property listing, costs, and multipliers.

(2) The final decision of the local board of review.

(3) The appellant's petition to the local board of review.

*e. Objections.* Any party may object to specific evidence or request limits on the scope of examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds for the objection. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The board may rule on the objection at the time it is made or may reserve a ruling until the written decision.

*f. Offers of proof.* Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the board, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

*g. Judicial notice of property record cards.* Without additional notice, the board may take judicial notice of the property record card or cost report of the subject property if electronically available to the public through the assessor's website. At its discretion, the board may take judicial notice of property record cards or cost reports of comparable properties identified by the parties as provided under Iowa Code section 17A.14(4) if electronically available to the public through the assessor's website. Where such information is not publicly available or the public information lacks the formulas and methods used to determine the actual value, including all listing data, costs, and multipliers, the board may order a party to file the full property record card. If the board takes judicial notice or orders the filing of any property record card or cost report, such card or report shall become part of the appeal record.

**115.7(4) Subpoenas.***a. Issuance.*

(1) Pursuant to Iowa Code section 17A.13(1), a subpoena shall be issued to a party on request, unless otherwise excluded pursuant to this subrule. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least 14 days before the scheduled hearing.



## REVENUE DEPARTMENT[701](cont'd)

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

(3) The board will refuse to issue a subpoena when there is reasonable ground to believe the subpoena is requested for the purpose of harassment; may seek irrelevant information as provided under Iowa Code section 441.21, 701—Chapter 102, or other applicable law; or is untimely. If the board refuses to issue a subpoena, the board shall provide a written statement of the ground for refusal. A party to whom a refusal is issued may obtain a prompt hearing before the board regarding the refusal by filing with the board and serving on all parties a written request for hearing.

*b. Motion to quash or modify.* Upon motion, the board may quash or modify a subpoena for any lawful reason in accordance with the Iowa Rules of Civil Procedure or pursuant to this subrule.

**701—115.8(421,441) Hearings before the board.**

**115.8(1) Prehearing conference.** An informal conference of parties may be ordered at the discretion of the board or at the request of any party for any appropriate purpose. Any agreement reached at the conference shall be made a part of the record in the manner directed by the board.

**115.8(2) Notice of hearing.** The notice of hearing will contain information required by Iowa Code section 17A.12.

**115.8(3) Waiver of 30-day notice.** The parties may jointly waive the 30-day written notice requirement for a hearing in Iowa Code section 441.37A by submitting a mutually agreed upon hearing date approved by the board.

**115.8(4) Continuance.** A motion to continue the hearing or written consideration shall be in writing and, except in the case of unanticipated emergencies, filed not later than seven days before the hearing or written consideration. The motion should state the specific reason for the request and indicate whether the opposing party was contacted and agrees to a continuance. An emergency oral continuance may be obtained from the board. In determining whether to grant a continuance, the board may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The likelihood of informal settlement;
- d.* The existence of an emergency;
- e.* Any objection;
- f.* Any applicable time requirements;
- g.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h.* The timeliness of the request; and
- i.* Other relevant factors, including the existence of a hearing scheduling and discovery plan.

**115.8(5) Hearing procedures.** Hearings and any preliminary proceedings may be conducted in person, by telephone, or by video, or the appeal may proceed as a written consideration.

*a. Representation.* Parties have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or by a designated representative. A partnership, corporation, or association may be represented by any member, officer, director, or duly authorized agent.

*b. Participation in hearing.* Parties have the right to introduce evidence relevant to the grounds on appeal. Subject to terms and conditions prescribed by the board, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument. The hearing will proceed as provided by Iowa Code sections 17A.12 and 17A.14.

**115.8(6) Dismissal.** If a party fails to appear, the appeal may be dismissed under Iowa Code section 441.37A(2)“a.”

**115.8(7) Hearing recordings.** Any party may request a copy of the hearing recording and pay a fee associated with preparing the copy. Any party may provide a certified court reporter at the party’s own expense.

**115.8(8) Ex parte communications with board members.** Ex parte communications are prohibited in appeals before the board following the provisions of Iowa Code section 17A.17.

## REVENUE DEPARTMENT[701](cont'd)

**115.8(9) Disqualification of board member.** A board member or members must, on their own motion or on a motion from a party in the proceeding, withdraw from participating in an appeal if there are circumstances that warrant disqualification under Iowa Code sections 17A.11(2) through 17A.11(4) and 17A.17(8).

**701—115.9(421,441) Posthearing motions.**

**115.9(1) Motion to reopen records.** On its own motion or on the motion of a party, the board may reopen the record for the reception of further evidence. A motion to reopen the record may be made any time before the issuance of a final decision. A motion to reopen the record filed after issuance of the final decision will not be considered. In ruling on a motion to reopen the record from a party filed before issuance of the final decision, the board may consider:

- a. Whether the information sought to be admitted is material;
- b. The timeliness of the motion;
- c. Whether the information sought to be admitted was available as of the date for hearing or written consideration and whether there is good cause for failing to present it;
- d. The prejudice on the other party; and
- e. Any and all other factors deemed relevant by the board.

**115.9(2) Rehearing and reconsideration.**

a. *Application for rehearing or reconsideration.* Any party may file an application for rehearing or reconsideration of the final decision under Iowa Code section 17A.16. The board's consideration of the application shall be limited to the admitted exhibits and testimony offered at the hearing. No new evidence will be accepted or considered.

b. *Contents of application.* Applications for rehearing or reconsideration shall comply with Iowa Code section 17A.16. If a claim of error of fact is asserted, the application should clearly specify the factual error and cite to admitted exhibits or testimony in support of the claim. If a claim of error of law is asserted, the application should clearly specify the legal error and cite statutes, case law, administrative rules, or other sources of law in support of the claim.

c. *Notice to other parties.* The applicant shall serve a copy of the application on all parties to the contested case in accordance with rules 701—115.3(421,441) and 701—115.4(421,441). If the application does not contain a certificate of service, the board shall serve copies on all parties.

d. *Resistance to applications for rehearing or reconsideration.* A resistance to an application for rehearing or reconsideration must be filed within ten days of the date the application was filed with the board, unless otherwise ordered by the board.

e. *Disposition.* Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

**701—115.10(17A,441) Judicial review.****115.10(1) Appeals of board decisions.**

a. A party may seek judicial review of a decision rendered by the board under Iowa Code sections 441.37B and 17A.19.

b. The party or parties seeking judicial review shall bear the costs of preparing the transcription of the board hearing, if a transcription is required by the reviewing court.

**115.10(2) Stays of agency actions.** The board may grant a stay during the pendency of judicial review under Iowa Code section 17A.19(5). In determining whether to grant a stay, the board shall consider the factors listed in Iowa Code section 17A.19(5) "c." A stay may be vacated by the board upon application of any other party.

**701—115.11(22,421) Records access.**

**115.11(1) Location of record.** A request for access to a record should be directed to the custodian.

**115.11(2) Office hours.** Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. Monday through Friday excluding holidays.

## REVENUE DEPARTMENT[701](cont'd)

**115.11(3) *Request for access.*** Requests for access to open records may be made in writing, in person, by email, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail, email, and telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

**115.11(4) *Response to requests.*** Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The custodian of a record may deny access by members of the public to the record only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), that it is a confidential record, or that its disclosure is prohibited by a court or board order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the applicable provisions of law. Open records are routinely disclosed without the consent of the parties.

**115.11(5) *Security of record.*** No person may, without permission from the custodian, search or remove any record from board files. Examination and copying of board records shall be supervised by the custodian. Records shall be protected from damage and disorganization.

**115.11(6) *Copying.*** A reasonable number of copies of an open record may be made in the board's office. If photocopy equipment is not available, the custodian shall permit examination of the record and shall arrange to have copies promptly made elsewhere.

**115.11(7) *Fees.***

*a. When charged.* The board may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

*b. Copying and postage costs.* Price schedules for published materials and for photocopies of records supplied by the board are available from the custodian. Copies of records may be made by or for members of the public on board photocopy machines or from electronic storage systems at cost as determined and made available by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

*c. Supervisory fee.* An hourly fee may be charged for actual board expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one hour. The custodian shall provide the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of a board clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

*d. Advance deposits.*

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

**115.11(8) *Retention of board records.*** The board will follow the records retention schedule for administrative case files established by the state records commission.

These rules are intended to implement Iowa Code sections 421.1, 421.1A, 421.2, 441.37A, 441.38 and 441.49 and chapters 17A and 22 and 2017 Iowa Acts, House File 478.

**ARC 7491C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rulemaking related to special permits and commercial driver licensing  
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 511, “Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight,” and Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12, 321.176B, 321.187, 321.188, 321.207 and 321E.15; 2023 Iowa Acts, House File 335, section 2; 2023 Iowa Acts, House File 257; and 2023 Iowa Acts, House File 258, sections 2 and 3.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 321.176B, 321.187, 321.188, 321.207, 321E.9 and 321E.15; 2023 Iowa Acts, House File 335, section 2; 2023 Iowa Acts, House File 257; 2023 Iowa Acts, House File 258, sections 2 and 3; 2023 Iowa Acts, Senate File 153; 49 CFR 382.107; 49 CFR 382.501(a); 49 CFR 383.3(f); 49 CFR 383.5; 49 CFR 384.228; 49 CFR Part 383, Subpart E; 49 CFR Part 384, Subpart B.

*Purpose and Summary*

This proposed rulemaking makes the necessary changes within Chapters 511 and 607 to comply with 2023 Iowa Acts, House Files 257, 258, and 335, and Senate File 153, and adds a date certain to applicable citations to Title 49 of the Code of Federal Regulations to comply with 2023 Iowa Acts, House File 688, section 8. The Department will be reviewing whether other Code of Federal Regulations citations within these two chapters need to include a date certain in future rulemakings.

Senate File 153 amended Iowa Code section 321E.9 to create a new option for the Department to issue a single-trip permit for overweight loads in special or emergency situations.

The proposed amendments to Chapter 511 include the following:

- Incorporate the amended law into existing rules related to validity periods, issuance procedures, insurance requirements, and maximum dimensions for single-trip permits for indivisible loads.
- Provide an exemption from the existing gross axle weight limit for single-trip permits, if authorized under the newly amended Iowa Code section 321E.9(2).

House File 257 amended Iowa Code section 321.187 to allow the Department to establish rules regarding the entities eligible to become a third-party tester. Under prior law, the only entities eligible to be a third-party tester included the following: a community college, an Iowa-based motor carrier with permanent training facilities in the state, a public or regional transit system, and an Iowa nonprofit that serves as a trade association for Iowa motor carriers. The following proposed amendments pertain to rule 761—607.30(321) related to third-party testers:

- Allow the following entities to be eligible as a third-party tester: a college or university, a community college, a government agency, an Iowa business, a nonprofit, or a public or regional transit system.
  - Add definitions for each entity.
  - Eliminate the restriction that Iowa-based motor carriers may only administer tests to individuals enrolled in their training programs.
  - Provide that any new third-party tester would be required to administer at least 50 percent of all knowledge and skills tests to Iowa applicants to maintain certification. However, third-party testers

## TRANSPORTATION DEPARTMENT[761](cont'd)

would only be required to administer 10 percent of all knowledge and skills tests to Iowa applicants if the remainder of the tests are administered to current or prospective employees of the tester.

House File 258 amended Iowa Code sections 321.188 and 321.207 requiring the Department to implement federal Drug and Alcohol Clearinghouse (DACH) requirements for commercial driver's license (CDL) applicants and holders. Under federal regulations, states are required to comply with these requirements by November 18, 2024. The following proposed amendments pertain to rule 761—607.3(321) or new proposed rule 761—607.51(321):

- Establish the procedures that the Department will follow when issuing, renewing, upgrading or transferring any type of CDL or commercial learner's permit (CLP) and when downgrading a CDL or CLP holder due to a notification from the DACH that a driver is in a "prohibited" status.
- Clarify which individuals are subject to DACH requirements and clarify the scope of hearings and appeals concerning DACH-initiated denials or downgrades. Definitions concerning CDL downgrades and the DACH are included to conform with federal regulations.

House File 335 amended Iowa Code section 321.176B to expand eligibility for the restricted CDL to include drivers in all federally eligible farm-related service industries. Prior law only allowed suppliers of agricultural inputs or their employees to obtain a restricted CDL. The proposed amendments to rule 761—607.49(321) remove references to "agricultural inputs" and instead adopts the federal language for restricted CDL eligibility, which includes "employees of...agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders."

A Regulatory Analysis, including the proposed amendments, was published in the October 18, 2023, Iowa Administrative Bulletin. A public hearing was held on November 13, 2023. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication in the Notice of Intended Action on November 21, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found beyond that of the legislation it is intended to implement.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Government and Community Relations  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

*Public Hearing*

## TRANSPORTATION DEPARTMENT[761](cont'd)

If requested, a public hearing to hear requested oral presentations will be held as follows:

February 2, 2024  
10 a.m.

First Floor Training Room  
Iowa Department of Transportation  
Motor Vehicle Division  
6320 SE Convenience Boulevard  
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs. The public hearing will be canceled without further notice if no oral presentation is requested.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend rule **761—511.4(321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321E.2, 321E.3, 321E.8, 321E.9 as amended by 2023 Iowa Acts, Senate File 153, and 321E.29B.

ITEM 2. Amend rule **761—511.5(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.12, 321.122, 321E.8, 321E.9 as amended by 2023 Iowa Acts, Senate File 153, 321E.14, 321E.29, 321E.29A and 321E.30.

ITEM 3. Amend rule **761—511.6(321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321E.8, 321E.9 as amended by 2023 Iowa Acts, Senate File 153, 321E.13 and 321E.29B.

ITEM 4. Amend rule **761—511.13(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, and 321E.3 and section 321E.9 as amended by 2023 Iowa Acts, Senate File 153.

ITEM 5. Amend paragraph **511.17(4)“a”** as follows:

*a.* For movement under a single-trip permit, the gross weight on any axle shall not exceed 20,000 pounds unless authorized under Iowa Code section 321E.9(2) as amended by 2023 Iowa Acts, Senate File 153.

ITEM 6. Amend rule **761—511.17(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.463, 321E.7, 321E.8, 321E.9 as amended by 2023 Iowa Acts, Senate File 153, 321E.9A, 321E.26, 321E.29B and 321E.32.

ITEM 7. Amend rule **761—607.3(321)**, definition of “Commercial driver’s license downgrade,” as follows:

“Commercial driver’s license downgrade” or “CDL downgrade” means ~~either:~~ the same as defined in 49 CFR Section 383.5 (October 1, 2023).

~~1. The driver changes the driver’s self-certification of type of driving from non-excepted interstate to excepted interstate, non-excepted intrastate, or excepted intrastate driving, or~~

~~2. The department removed the CDL privilege from the driver’s license.~~

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 8. Adopt the following **new** definition of “National drug and alcohol clearinghouse” in rule **761—607.3(321)**:

“*National drug and alcohol clearinghouse*” means the database maintained by the Federal Motor Carrier Safety Administration as defined in 49 CFR Section 382.107 (October 1, 2023).

ITEM 9. Amend rule **761—607.3(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.174, 321.188 as amended by 2023 Iowa Acts, House File 258, section 2, 321.191, 321.193, 321.207 as amended by 2023 Iowa Acts, House File 258, section 3, and 321.208.

ITEM 10. Adopt the following **new** paragraph **607.10(1)“e”**:

e. 49 CFR Part 384, Subpart B (October 1, 2023).

ITEM 11. Amend rule 761—607.30(321) as follows:

**761—607.30(321) Third-party testing.**

**607.30(1) Purpose and definitions.** The knowledge tests required by rule 761—607.27(321) and the skills test required by rule 761—607.28(321) may be administered by third-party testers and third-party test examiners approved and certified by the department. For the purpose of administering third-party testing and this rule, the following definitions shall apply:

“*College or university*” means an Iowa postsecondary school established under Iowa Code chapter 261B.

“*Community college*” means an Iowa community college established under Iowa Code chapter 260C.

“*Iowa-based motor carrier*” means a motor carrier or its subsidiary that has its principal place of business in the state of Iowa and operates a permanent commercial driver training facility in the state of Iowa.

“*Iowa nonprofit corporation*” means a nonprofit corporation that serves as a trade association for Iowa-based motor carriers.

“*Government agency*” means the same as defined in Iowa Code section 553.3.

“*Iowa business*” means a corporation, association, partnership, company, firm, or other aggregation of individuals that has an established place of business in this state and that is authorized to conduct business in this state.

“*Knowledge test*” means the knowledge tests required by rule 761—607.27(321).

“*Motor carrier*” means the same as defined in 49 CFR Section 390.5.

“*Nonprofit*” means a corporation or association that satisfies the requirements under Iowa Code chapter 498 or 504.

“*Permanent commercial driver training facility*” means a facility dedicated to a program of commercial driving instruction that is offered to employees or potential employees of the motor carrier as incident to the motor carrier’s commercial operations, that requires at least 40 hours of instruction, and that includes fixed and permanent structures and facilities for the off-road portions of commercial driving instruction, including classroom, pretrip inspection, and basic vehicle control skills. A permanent commercial driver training facility must include a fixed and paved or otherwise hard-surfaced area for basic vehicle control skills testing that is permanently marked and capable of inspection and measurement by the department.

“*Public transit system*” means the same as defined in Iowa Code section 324A.1.

“*Regional transit system*” means the same as defined in Iowa Code section 324A.1.

“*Skills test*” means the skills test required by rule 761—607.28(321).

“*Subsidiary*” means a company that is partly or wholly owned by a motor carrier that holds a controlling interest in the subsidiary company.

“*Third-party test examiner*” means the same as defined in Iowa Code section 321.187 as amended by 2022 Iowa Acts, Senate File 2337.

“*Third-party tester*” means the same as defined in Iowa Code section 321.187 as amended by 2022 Iowa Acts, Senate File 2337.

## TRANSPORTATION DEPARTMENT[761](cont'd)

**607.30(2) Certification of third-party testers.**

*a.* The department may certify as a third-party tester ~~a community college, Iowa-based motor carrier, Iowa nonprofit corporation, public transit system or regional transit system~~ testers to administer knowledge tests and skills tests. A community college, Iowa-based motor carrier, Iowa nonprofit corporation, public transit system or regional transit system third-party tester must be one of the following entities:

- (1) A college or university.
- (2) A community college.
- (3) A government agency.
- (4) An Iowa business.
- (5) A nonprofit.
- (6) A public transit system or regional transit system.

*b.* An entity listed in paragraph 607.30(2)“*a*” that seeks certification as a third-party tester shall contact the motor vehicle division and schedule a review of the proposed testing program, which shall include the proposed testing courses and facilities, information sufficient to identify all proposed third-party test examiners, and any other information necessary to demonstrate compliance with 49 CFR Parts 383 and 384 as amended to October 1, 2023, applicable to knowledge and skills testing.

*b. c.* ~~No community college, Iowa-based motor carrier, Iowa nonprofit corporation, public transit system or regional transit system~~ entity shall be certified to conduct third-party testing unless and until the community college, Iowa-based motor carrier, Iowa nonprofit corporation, public transit system or regional transit system entity enters an agreement with the department that meets the requirements of 49 CFR Section 383.75 and demonstrates sufficient ability to conduct knowledge and skills tests in a manner that consistently meets the requirements of 49 CFR Parts Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing.

*e. d.* The department shall issue a certified third-party tester a certificate of authority that identifies the classes and types of vehicles for which knowledge and skills tests may be administered. The certificate shall be valid for the duration of the agreement executed pursuant to paragraph 607.30(2)“*b*,” 607.30(2)“c,” unless revoked by the department for engaging in fraudulent activities related to conducting knowledge and skills tests or failing to comply with the requirements, qualifications, and standards of this chapter, the agreement, or 49 CFR Parts Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing.

*e.* The department shall revoke a certificate of authority issued after July 1, 2023, to a third-party tester if the third-party tester fails to administer a minimum of 50 percent of all knowledge and skills tests given in a calendar year to Iowa applicants. However, the department shall not revoke a certificate of authority of a third-party tester who administers a minimum of 10 percent of all knowledge and skills tests given in a calendar year to Iowa applicants if the remainder of the tests are given to current or prospective employees of the third-party tester. For the purpose of this paragraph, an “Iowa applicant” is defined as an individual who holds a valid commercial learner’s permit, commercial driver’s license, noncommercial driver’s license, or nonoperator identification card issued by the department or who otherwise qualifies as a resident of this state under Iowa Code section 321.1A(1).

**607.30(3) Certification of third-party test examiners.**

*a.* A certified third-party tester shall not employ or otherwise use as a third-party test examiner a person who has not been approved and certified by the department to administer knowledge or skills tests. Each certified third-party tester shall submit for approval the names of all proposed third-party test examiners to the department. The department shall not approve as a third-party test examiner a person who does not meet the requirements, qualifications, and standards of 49 CFR Parts Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing, including but not limited to all required training and examination and a nationwide criminal background check. The criteria for passing the nationwide criminal background check shall include no felony convictions within the last ten years and no convictions involving fraudulent activities.

*b.* No change.



## TRANSPORTATION DEPARTMENT[761](cont'd)

c. The department shall revoke the certificate of authority for a third-party test examiner to administer skills tests if the person holding the certificate does not administer skills tests to at least ten different applicants per calendar year; does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years; is involved in fraudulent activities related to conducting knowledge or skills tests; or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR ~~Parts~~ Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing. Notwithstanding anything in this paragraph to the contrary, as provided in 49 CFR Section 383.75, if the person does not administer skills tests to at least ten different applicants per calendar year, the certificate will not be revoked for that reason if the person provides proof of completion of the examiner refresher training in 49 CFR Section 384.228 to the department or successfully completes one skills test under the observation of a department examiner.

d. The department shall revoke the certificate of authority for a third-party test examiner to administer knowledge tests if the person holding the certificate does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years, is involved in fraudulent activities related to conducting knowledge or skills tests or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR ~~Parts~~ Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge testing.

e. and f. No change.

**607.30(4)** No change.

~~**607.30(5)** *Limitation applicable to Iowa-based motor carriers.* An Iowa-based motor carrier certified as a third-party tester may only administer the knowledge or skills test to persons who are enrolled in the Iowa-based motor carrier's commercial driving instruction program and shall not administer knowledge or skills tests to persons who are not enrolled in that program.~~

**607.30(6)** **607.30(5)** *Training and refresher training for third-party test examiners.* All training and refresher training required under this rule shall be provided by the department, in form and content that meet the recommendations of the American Association of Motor Vehicle Administrators' International Third-Party Examiner/Tester Certification Program.

This rule is intended to implement Iowa Code section 321.187 as amended by ~~2022 Iowa Acts, Senate File 2337, section 1~~ 2023 Iowa Acts, House File 257.

ITEM 12. Amend rule 761—607.49(321) as follows:

**761—607.49(321) Restricted commercial driver's license.**

**607.49(1)** *Scope.* This rule pertains to the issuance of restricted commercial driver's licenses to ~~suppliers or employees of suppliers of agricultural inputs.~~ issuance is the following designated farm-related service industries: agrichemical businesses, custom harvesters, farm retail outlets and suppliers and livestock feeders as permitted by 49 CFR 383.3(f). A restricted commercial driver's license shall meet all requirements of a regular commercial driver's license, as set out in Iowa Code chapter 321 and this chapter of rules, except as specified in this rule.

~~**607.49(2)** *Agricultural inputs.* The term "agricultural inputs" means suppliers or applicators of agricultural chemicals, fertilizer, seed or animal feeds.~~

~~**607.49(3)**~~ **607.49(2)** *Validity.*

a. A restricted commercial driver's license allows the licensee to drive a commercial motor vehicle for agricultural input purposes. The license is valid to:

(1) Operate Group B and Group C commercial motor vehicles including tank vehicles and vehicles equipped with air brakes, except passenger vehicles.

(2) Transport the hazardous materials listed in paragraph ~~607.49(3) "b."~~ 607.49(2) "b."

(3) Operate only during the current, validated seasonal period.

(4) Operate between the employer's place of business and the farm currently being served, not to exceed 150 miles.

b. and c. No change.

~~**607.49(4)**~~ **607.49(3)** *Requirements.*

a. No change.

## TRANSPORTATION DEPARTMENT[761](cont'd)

*b.* The applicant must have a good driving record for the most recent two-year period, as defined in subrule ~~607.49(5)~~ 607.49(4).

*c.* No change.

~~607.49(5)~~ 607.49(4) *Good driving record.* A “good driving record” means a driving record showing:

*a. to d.* No change.

~~607.49(6)~~ 607.49(5) *Issuance.*

*a. to h.* No change.

This rule is intended to implement Iowa Code section 321.176B as amended by 2023 Iowa Acts, House File 335, section 2.

ITEM 13. Renumber rule ~~761—607.51(321)~~ as ~~761—607.52(321)~~.

ITEM 14. Adopt the following new rule 761—607.51(321):

**761—607.51(321) National drug and alcohol clearinghouse.**

**607.51(1) *Applicability.*** This rule applies to:

- a.* An applicant for or holder of a commercial learner’s permit,
- b.* An applicant for or holder of a commercial driver’s license,
- c.* An applicant seeking to transfer a commercial driver’s license from a prior state of domicile to the state of Iowa,
- d.* An applicant seeking renewal of a commercial driver’s license,
- e.* An applicant seeking to upgrade a commercial driver’s license or add an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver’s license, or
- f.* An applicant for or holder of a restricted commercial driver’s license.

**607.51(2) *Issuance procedures.*** Prior to issuing the license or permit, the department shall request information from the national drug and alcohol clearinghouse to determine if the person is prohibited from operating a commercial motor vehicle pursuant to 49 CFR 382.501(a). The department shall not issue, renew, transfer, or upgrade the license or permit if the person is prohibited from operating a commercial motor vehicle pursuant to 49 CFR 382.501(a). However, this subrule shall not take effect prior to the date established by the Federal Motor Carrier Safety Administration in 49 CFR Section 383.73 for state driver’s license agency compliance with national drug and alcohol clearinghouse requirements.

**607.51(3) *CDL downgrade.*** Upon receiving notification that pursuant to 49 CFR 382.501(a) the person is prohibited from operating a commercial motor vehicle, the department shall downgrade the license or permit and record the downgrade on the CDLIS driver record within 60 days of the department’s receipt of such notification. However, this subrule shall not take effect prior to the date established by the Federal Motor Carrier Safety Administration in 49 CFR Section 383.73 for state driver’s license agency compliance with national drug and alcohol clearinghouse requirements. The downgrade will be initiated and completed as follows:

*a.* The department shall give the person written notice that the person is prohibited from operating a commercial motor vehicle due to notification the department received from the national drug and alcohol clearinghouse that the person has engaged in conduct prohibited by 49 CFR 382.501(a) and that upon receipt of the notification, the department initiated a downgrade of the person’s CLP or CDL.

*b.* If the department receives notification that the person is no longer prohibited from operating a commercial motor vehicle before the downgrade is completed, the department shall terminate the downgrade process without removing the CLP or CDL privilege from the driver’s license, transmit the information to the person’s CDLIS driver record, and send written notice to the person.

*c.* If, after the downgrade is completed, the department receives notification from the national drug and alcohol clearinghouse that a driver is no longer prohibited from operating a commercial motor vehicle, the department shall record the end of the downgrade on the person’s CDLIS driver record, reinstate the CLP or CDL privilege to the driver’s license, and send written notice to the person.

## TRANSPORTATION DEPARTMENT[761](cont'd)

*d.* If, after the downgrade is completed, the department receives notification from the national drug and alcohol clearinghouse that the person was erroneously identified as prohibited from operating a commercial motor vehicle, the department shall reinstate the CLP or CDL privilege to the driver's license as expeditiously as possible and remove from the CDLIS driver record and driving record any reference related to the person's erroneous prohibited status.

**607.51(4)** *Limitation on hearing and appeal.* An informal settlement, hearing, or appeal to contest the downgrade is limited to a determination of whether the facts required by Iowa Code sections 321.188 and 321.207 and this rule are true. The merits of the information conveyed by the national drug and alcohol clearinghouse to the department shall not be considered.

This rule is intended to implement Iowa Code section 321.188 as amended by 2023 Iowa Acts, House File 258, section 2, and section 321.207 as amended by 2023 Iowa Acts, House File 258, section 3.

**ARC 7492C****ECONOMIC DEVELOPMENT AUTHORITY[261]****Adopted and Filed****Rulemaking related to tax credit programs**

The Economic Development Authority (IEDA) hereby amends Chapter 43, “Hoover Presidential Library Tax Credit,” Chapter 47, “Endow Iowa Tax Credits,” Chapter 48, “Workforce Housing Tax Incentives Program,” and Chapter 116, “Tax Credits for Investments in Certified Innovation Funds,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 15.106A, 15.356, 15E.305 and 15E.364.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 15E.364 as amended by 2023 Iowa Acts, House File 703; section 15E.305 as amended by 2023 Iowa Acts, House File 710; and sections 15.353 and 15E.52 as amended by 2023 Iowa Acts, Senate File 575.

*Purpose and Summary*

This rulemaking implements changes to multiple tax credit programs administered by IEDA to conform to 2023 Iowa Acts, House Files 703 and 710 and Senate File 575. The changes in the legislation include:

- House File 703 extends the availability of the Hoover presidential library tax credit until the end of calendar year 2024.
- House File 710 increases the allocation of available endow Iowa tax credits from \$6 million to \$13 million for tax year 2023. House File 710 also changes the applicability of 2022 Iowa Acts, chapter 1002, division VIII, to specify that the change to the maximum amount of tax credits granted to a taxpayer applied to endowment gifts made to an endow Iowa-qualified community foundation on or after January 1, 2023.
- Senate File 575 changes the workforce housing tax incentives program by adding construction of new dwelling units in urban areas as an eligible project type. Previously, greenfield development was an eligible project type in only small cities.
- Senate File 575 also changes the innovation investment tax credit by removing the requirement for IEDA to establish a wait list for fiscal years in which the amount of tax credit certificates applied for exceeds the amount allocated. Senate File 575 also extends the authority of IEDA to continue certifying new funds for the innovation fund tax credit until June 30, 2028. Previously, new certifications would have ceased as of June 30, 2023.

This rulemaking updates the rules for each affected program to be consistent with the Iowa Code and, pursuant to Executive Order 10, removes statutory language.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 1, 2023, as **ARC 7106C**.

IEDA received the following public comment:

“I don’t know that this would cause hardship for any particular person, but it certainly does appear to show favoritism and highly preferential treatment to a relatively small group of wealthy individuals benefiting causes not picked on the basis of demonstrated need. The Herbert Hoover Museum renovation fund is estimated at 65% of the way to their \$20 million goal. They’ve already received a big \$5 million

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

grant, post a healthy profit, and hold almost \$16 million in assets. And regarding the workforce housing units, as a member of the common working class and confident when I say that I speak for many, but the housing that is being built according to the investor's preferred financial interest and not with the worker occupants personal and financial preferences. The American Dream is to own your own home, not pay half their income towards a 750-1250sq. ft. that will never belong to them. Further, these massive big box apartment/condo projects in urban areas are still likely to obtain the private funding that's needed so why add pages to the already hundreds and thousands of administrative rules for something not absolutely essential for the public's overall benefit?"

The person making the comment provided no identifying information. IEDA has not made any changes in response to the comment because IEDA is directed to adopt rules for both referenced programs by Iowa Code sections 15.356 and 15E.364(6).

No changes from the Notice have been made.

#### *Adoption of Rulemaking*

This rulemaking was adopted by the Authority Board on December 15, 2023.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

#### *Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend rule 261—43.3(15E) as follows:

#### **261—43.3(15E) Authorization of tax credits.**

**43.3(1)** For tax years beginning on or after January 1, 2021, but before January 1, ~~2024~~ 2025, a tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, equal to 25 percent of a donor's charitable donation made on or after July 1, 2021, to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund.

**43.3(2)** A donor shall not claim a tax credit for a donation made during a tax year beginning before January 1, 2021, or after December 31, ~~2023~~ 2024.

**43.3(3)** No change.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 2. Amend subrule 47.3(3) as follows:

**47.3(3)** ~~The aggregate amount of tax credits available under this rule annually is \$6 million. For tax credits issued on or before December 31, 2022, the maximum amount of tax credit that may be granted to an individual taxpayer is limited to 5 percent of the aggregate amount available each year. For tax credits issued on or after January 1, 2023, the maximum amount of tax credit that may be granted to an individual taxpayer is limited to \$100,000. If the authority receives applications for tax credits in excess of the amount available, the applications shall be prioritized by the date the authority received the applications. Applications received on or before June 30, 2023, will be placed on a waitlist for a subsequent year's allocation of tax credits if the number of applications exceeds the amount of annual tax credits available. Applications placed on the waitlist shall first be funded in the order listed on the waitlist. Applications received on or after July 1, 2023, in excess of the amount of tax credits available will not be placed on the waitlist and will be denied by the authority. For endowment gifts made on or after June 30, 2023, a taxpayer shall submit an application to the authority for the tax credit no later than 12 months from the date of the donation which qualifies the taxpayer for the tax credit.~~

ITEM 3. Rescind subrule 48.4(1) and adopt the following **new** subrule in lieu thereof:

**48.4(1)** *Eligible project types.*

*a.* To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the requirements of Iowa Code section 15.353. Projects located in a 100-year floodplain are not eligible.

*b.* The authority will determine whether a dwelling unit should be classified as a single-family dwelling unit for the purposes of this subrule. The authority may consider factors such as:

- (1) Whether a unit is separated from other units by a ground-to-roof wall;
- (2) Whether the unit has a separate heating system;
- (3) Whether the unit has an individual meter for public utilities; and
- (4) Whether the unit has other units above or below.

ITEM 4. Rescind subrule **116.3(6)**.

ITEM 5. Rescind rule 261—116.6(15E) and adopt the following **new** rule in lieu thereof:

**261—116.6(15E) Approval, issuance and distribution of investment tax credits.**

**116.6(1)** *Approval.* Upon certification and registration by the authority of an innovation fund and approval of the taxpayer's application, the board will approve the issuance of a tax credit certificate to the applicant.

**116.6(2)** *Preparation of the certificate.* The tax credit certificate shall be in a form approved by the authority and shall contain the taxpayer's name, address, and tax identification number; the amount of credit; the name of the innovation fund; the year in which the investment was made and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:

Neither the authority nor the board has recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this fund.

[Filed 12/15/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7493C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rulemaking related to renewable chemical production tax credit program**

The Economic Development Authority (IEDA) hereby rescinds Chapter 81, “Renewable Chemical Production Tax Credit Program,” Iowa Administrative Code, and adopts a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 15.106A and 15.321.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 15.316 to 15.320 as amended by 2023 Iowa Acts, Senate File 575.

*Purpose and Summary*

Pursuant to Executive Order 10, the IEDA has rescinded Chapter 81 relating to the Renewable Chemical Production Tax Credit Program and adopted a new chapter in lieu thereof.

The new chapter incorporates changes to the program in 2023 Iowa Acts, Senate File 575. Changes in the legislation include:

- The maximum tax credit amount is now \$1 million for all businesses. Previously, businesses that have been in operation for more than five years were eligible for a maximum tax credit of \$500,000 and businesses in operation for five years or less were eligible for a maximum tax credit of \$1 million.
- The requirement that the IEDA maintains a wait list if demand for credits exceeds the annual allocation is eliminated.
- A requirement that the IEDA award credits via a competitive process is created.
- The definition of “building block chemical” is amended to exclude serine, threonine, and lysine. Production of those chemicals will no longer be eligible for a tax credit.
- The credit will be allowed for renewable chemical production until 2035. Previously, the credit was allowed only for production until 2026.

The new chapter also omits rule language that is duplicative of statutory language and Iowa Department of Revenue (IDR) rules. Other nonsubstantive clarifying updates from the existing chapter are also adopted.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 1, 2023, as **ARC 7105C**. Public hearings were held on November 28, 2023, and December 4, 2023. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Authority Board on December 15, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 261—Chapter 81 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 81 RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

**261—81.1(15) Purpose.** The purpose of this chapter is to encourage development of the renewable chemicals industry and stimulate job growth using the renewable chemical production tax credit program to incentivize new and existing businesses to produce high-value renewable chemicals in Iowa from biomass feedstock.

**261—81.2(15) Definitions.** As used in this chapter, unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Authority's website*” means the information and related content found at [www.iowaeda.com](http://www.iowaeda.com) and may include integrated content at affiliate sites.

“*Biomass feedstock*” means the same as defined in Iowa Code section 15.316(2).

“*Board*” means the members of the economic development authority board appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Building block chemical*” means the same as defined in Iowa Code section 15.316(3) as amended by 2023 Iowa Acts, Senate File 575, and also includes benzene, toluene, xylene, ethylbenzene, butanoic acid, hexanoic acid, octanoic acid, pentanoic acid, heptanoic acid, ethylene glycol, and 1,4 butanediol, or such additional molecules as may be included by the authority following the procedure in rule 261—81.8(15).

“*Director*” means the director of the authority.

“*Eligible business*” means the same as defined in Iowa Code section 15.316(5).

“*Pre-eligibility production threshold*” means the same as defined in Iowa Code section 15.316(8).

“*Production year*” means any calendar year after the year in which the eligible business's pre-eligibility production threshold was established and in which the eligible business produces renewable chemicals.

“*Program*” means the renewable chemical production tax credit program administered pursuant to Iowa Code sections 15.315 through 15.322 and this chapter.

“*Renewable chemical*” means the same as defined in Iowa Code section 15.316(10).

**261—81.3(15) Eligibility requirements.** To be eligible to receive the renewable chemical production tax credit pursuant to the program, a business shall meet all of the eligibility requirements in Iowa Code section 15.317.



## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**261—81.4(15) Application process and review.**

**81.4(1)** Applications for tax credits may be submitted to the authority electronically by eligible businesses from February 15 to March 15 of each calendar year. The authority may adjust the annual filing window dates under extenuating circumstances and will provide notice of adjustments on the authority's website.

**81.4(2)** The application shall include all information required by Iowa Code section 15.318(1) "e" and all of the following information:

*a.* The name of the qualifying building block chemical produced by the eligible business for which the business is claiming a tax credit.

*b.* The amount of renewable chemicals produced in the state from biomass feedstock by the eligible business during the calendar year prior to the year in which the business first qualified as an eligible business under the program.

*c.* The city or county where the plant producing renewable chemicals is located.

*d.* The type of feedstock used to produce the renewable chemicals.

*e.* The date on which the eligible business organized, expanded or located in the state.

*f.* Any other information reasonably required by the authority in order to establish and verify the amount of the tax credit under the program.

**81.4(3)** Applications will be reviewed and scored on a competitive basis by a review committee established by the authority with relevant expertise and experience. If the authority deems that additional information is needed before reviewing and scoring can be completed, and the authority makes a written request for additional information from the applicant, the applicant must provide the requested information within 30 days of the date that the written request from the authority was made. If an applicant does not provide the requested information within 30 days, the application may be rejected by the authority.

**81.4(4)** Applications determined by the authority to be complete and eligible will be reviewed and scored using criteria established by the authority to evaluate the economic impact of an eligible business's production of renewable chemicals.

**81.4(5)** The authority will notify an applicant when the applicant has been approved by the director to receive a tax credit.

**261—81.5(15) Agreement and fees.** An eligible business approved to receive a tax credit shall enter into an agreement and pay applicable fees pursuant to Iowa Code section 15.318(2) as amended by 2023 Iowa Acts, Senate File 575. Eligible businesses must sign the agreement within 60 days of being notified of approval for the tax credit. Upon request by an eligible business, the authority may extend the time period for signing the agreement by an additional 30 days.

**261—81.6(15) Renewable chemical production tax credit.****81.6(1) Calculation of tax credit amount.**

*a.* An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) may be issued a tax credit certificate in an amount calculated as described in Iowa Code section 15.319(1). For example, if an eligible business produced three million pounds of renewable chemicals during calendar year 2016 and first became an eligible business under this chapter in calendar year 2017, the pre-eligibility production threshold for the business is three million pounds. If the same eligible business produced ten million pounds of renewable chemicals during calendar year 2017, the eligible business could receive a tax credit for the amount produced over the pre-eligibility production threshold, which in this example equals seven million pounds.

*b.* If a business has facilities located in more than one state, only those renewable chemicals produced at facilities physically located in the state of Iowa may be counted for the purpose of calculating the tax credit.

*c.* If the same eligible business has an ownership or equity interest in multiple facilities at which renewable chemicals are produced, the facilities under common ownership will be considered a single eligible business for purposes of calculating the maximum tax credit amount. In calculating the

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

maximum tax credit amount, only the pro rata share of each eligible business's ownership in a facility will be attributed to that eligible business.

*d.* The maximum amount of tax credit that may be issued under the program to an eligible business for the production of renewable chemicals in a calendar year shall not exceed the amount authorized by Iowa Code section 15.318(3) "a" as amended by 2023 Iowa Acts, Senate File 575.

**81.6(2) *Eligible business only.*** An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business pursuant to rule 261—81.3(15).

**81.6(3) *Maximum number of credits.*** An eligible business shall not receive more tax credit certificates under the program than specified in Iowa Code section 15.318(3) "d" as amended by 2023 Iowa Acts, Senate File 575. Each tax credit must be applied for separately, and each application will be reviewed independently of past tax credits. Receipt of a tax credit in one year does not guarantee receipt of a tax credit in a subsequent year.

**81.6(4) *Termination and repayment.*** Tax credits may be reduced, terminated, or rescinded pursuant to Iowa Code section 15.318(4).

**261—81.7(15) Claiming the tax credit.**

**81.7(1) *Maximum tax credit claimed.*** An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) and been issued a tax credit certificate pursuant to subrule 81.6(1) may claim a tax credit as described in Iowa Code section 15.319(1) as amended by 2023 Iowa Acts, Senate File 575.

**81.7(2) *Claiming the credit.*** To receive the tax credit, an eligible business shall file a claim in accordance with any applicable administrative rules adopted by the department of revenue.

**261—81.8(15) Process to add building block chemicals.**

**81.8(1) *General process.*** The authority may add additional molecules to the definition of "building block chemical" in rule 261—81.2(15) pursuant to Iowa Code section 15.316(3) as amended by 2023 Iowa Acts, Senate File 575. The authority may initiate the administrative rulemaking process for the addition of such molecules to this chapter.

**81.8(2) *Request to include additional molecules.*** Any individual or business may request that an additional molecule be added to the definition of "building block chemical" by submitting a written request to the authority. Such requests shall be made in the form prescribed by the authority and may be submitted to the authority between April 1 and May 1 of each calendar year and October 1 and November 1 of each calendar year. The authority may adjust these dates under extenuating circumstances and will provide notice of adjustments on the authority's website.

**81.8(3) *Consultation with experts.*** Prior to initiating a rulemaking to add molecules to the definition of "building block chemical" in rule 261—81.2(15), the authority shall consult with appropriate experts from Iowa state university, including but not limited to the Iowa state university center for biorenewable chemicals. The authority shall conduct an initial staff review of any requests received by the authority pursuant to subrule 81.8(2). Following the initial staff review, the authority shall consult with the experts at Iowa state university regarding the molecules that the authority believes are consistent with the definitions under this chapter. The experts at Iowa state university shall provide a written recommendation to the authority indicating which chemicals, in the experts' opinion, meet the definition of "building block chemical" consistent with this chapter.

**81.8(4) *Initiation of rulemaking proceedings.*** Following the consultation and review process set forth in subrule 81.8(3), the authority may initiate the administrative rulemaking process to amend the definition of "building block chemical" to add molecules that the authority, in the authority's sole discretion, finds to be consistent with the definitions in this chapter.

**261—81.9(15) Additional information.** The authority may at any time request additional information and documentation from an eligible business regarding the operations, job creation, and economic impact of the eligible business, and the authority may use the information in preparing and publishing any reports

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

to be provided to the governor and the general assembly to the extent consistent with Iowa Code section 15.318(5).

These rules are intended to implement Iowa Code sections 15.315 through 15.322 as amended by 2023 Iowa Acts, Senate File 575.

[Filed 12/15/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7494C**

## **MANAGEMENT DEPARTMENT[541]**

### **Adopted and Filed**

#### **Rulemaking related to organization and operation**

The Department of Management hereby rescinds Chapter 1, "Organization and Operation," Iowa Administrative Code, and adopts a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 8.6 and 25.1.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 8.

#### *Purpose and Summary*

This chapter describes the organization of the Department for the public, including coordination of policy planning, reports, program development, and interagency programs.

#### *Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 15, 2023, as **ARC 7113C**. Public hearings were held on December 6, 2023, at 1 p.m. and December 8, 2023, at 1 p.m. in Room G14, State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rulemaking*

This rulemaking was adopted by the Department on December 20, 2023.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

*Review by Administrative Rules Review Committee*

## MANAGEMENT DEPARTMENT[541](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 541—Chapter 1 and adopt the following new chapter in lieu thereof:

CHAPTER 1  
ORGANIZATION AND OPERATION

**541—1.1(8) Purpose.** This chapter describes the organization and operation of the department of management (department), including the coordination of policy planning, management of interagency programs, economic reports and program development.

**541—1.2(8) Scope of the rules.** The rules for the department are promulgated under Iowa Code chapter 8 and apply to all matters before the department. No rule, in any way, relieves a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various divisions of the department, from any duty under the laws of this state.

**541—1.3(8) Waiver.** The purpose of these rules is to facilitate the business before the department and to promote a just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise provided for by law, may be waived by the department to prevent undue hardship to a party, to a departmental proceeding, or to a person transacting business with the department. The reasons for granting a waiver of an administrative rule stated in writing will be a part of the record of the proceeding or a part of the departmental file in other matters.

**541—1.4(8) Duties of the department.** The department plans, develops, and recommends policy decisions for management of state government; administers local budget laws (cities, counties, and schools); oversees and ensures compliance with affirmative action; implements policies through coordination and budget processes; and monitors and evaluates the consistent, efficient, and effective operation of state government. The department consists of budgeting, planning, and early childhood operations and the following agencies or boards: state appeal board, city finance committee, county finance committee, and early childhood Iowa state board.

**541—1.5(8) Definitions.**

“*City budget*” means the budget adopted by city officials that incorporates specified requirements as stated in Iowa Code section 384.16.

“*Contract compliance director*” means the individual designated to oversee and impose sanctions in connection with state programs emphasizing equal opportunity through affirmative action, contract compliance, policies, and procurement set-aside requirements.

“*County budget*” means the budget adopted by the board of supervisors pursuant to Iowa Code chapter 331.

“*Department*” means the department of management.

“*Director*” means the director of the department of management as appointed by the governor and subject to senate confirmation.

**1.5(1) State appeal board—fees.** The state appeal board considers the protests of local government budgets, as well as all general and tort claims against the state, as interpreted by the three members:

## MANAGEMENT DEPARTMENT[541](cont'd)

treasurer of state, auditor of state and director of the department of management. Department of management staff implement proper procedures as directed by the state appeal board as assigned by Iowa Code chapter 24. The processing fee for filing a general claim with the state appeal board is \$5, which is billed and paid quarterly by the state agency that incurred the liability of the claim. This fee is not reimbursable from the vendor to the state agency.

**1.5(2) City finance committee.** The city finance committee promulgates rules relating to city budget amendments, establishes guidelines for the capital improvement program, reviews and comments on city budgets and conducts studies of municipal revenues and expenditures as specified in Iowa Code section 384.13.

**1.5(3) County finance committee.** The county finance committee establishes guidelines for program budgeting and accounting, reviews and comments on county budgets, and conducts studies of county revenues and expenditures. In addition, the committee performs other duties as assigned by law pursuant to Iowa Code section 333A.4.

**541—1.6(8) Central office and communications.** Correspondence and communications with the department, state board of appeals, county finance committee, or city finance committee are to be addressed or directed to the department's office located at Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015; telephone 515.281.3322.

These rules are intended to implement Iowa Code sections 8.6 and 25.1.

[Filed 12/20/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7495C**

**MANAGEMENT DEPARTMENT[541]**

**Adopted and Filed**

**Rulemaking related to petitions for rulemaking**

The Department of Management hereby rescinds Chapter 5, "Petitions for Rule Making," and adopts a new Chapter 5, "Petitions for Rulemaking," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 8.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 8.

*Purpose and Summary*

This chapter clarifies the rulemaking procedure for the Department.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 15, 2023, as **ARC 7114C**. Public hearings were held on December 6, 2023, at 1 p.m. and December 8, 2023, at 1 p.m. in Room G14, State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on December 20, 2023.

MANAGEMENT DEPARTMENT[541](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 541—Chapter 5 and adopt the following new chapter in lieu thereof:

CHAPTER 5  
PETITIONS FOR RULEMAKING

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf).

**541—5.1(17A) Petition for rulemaking.** In lieu of “(designate office)”, insert “State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”. In lieu of “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

**541—5.3(17A) Inquiries.** In lieu of “(designate official by full title and address)”, insert “Director, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

These rules are intended to implement Iowa Code section 8.6 and chapter 17A.

[Filed 12/20/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7496C****MANAGEMENT DEPARTMENT[541]****Adopted and Filed****Rulemaking related to declaratory orders**

The Department of Management hereby rescinds Chapter 6, “Declaratory Orders,” Iowa Administrative Code, and adopts a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 17A.9.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

*Purpose and Summary*

This chapter clarifies uniform rules and agency procedure in regard to declaratory orders.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 15, 2023, as **ARC 7115C**. Public hearings were held on December 6, 2023, at 1 p.m. and December 8, 2023, at 1 p.m. in Room G14, State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on December 20, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

MANAGEMENT DEPARTMENT[541](cont'd)

ITEM 1. Rescind 541—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6  
DECLARATORY ORDERS

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf).

**541—6.1(17A) Petition for declaratory order.** In lieu of “(designate agency)”, insert “department”. In lieu of “(designate office)”, insert “the Director’s Office, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”. In lieu of “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

**541—6.2(17A) Notice of petition.** In lieu of “\_\_ days (15 or less)”, insert “15 days”. In lieu of “(designate agency)”, insert “the department”.

**541—6.3(17A) Intervention.**

**6.3(1)** In lieu of “within \_\_ days”, insert “within 15 days”. Strike “(after time for notice under X.2(17A))”. In lieu of “X.8(17A))”, insert “6.8(17A))”.

**6.3(2)** In lieu of “(designate agency)”, insert “the department”.

**6.3(3)** In lieu of “(designate office)”, insert “the Director’s Office, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”. In lieu of “(designate agency)”, insert “department”. In lieu of “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

**541—6.4(17A) Briefs.** In lieu of “(designate agency)”, insert “department”.

**541—6.5(17A) Inquiries.** In lieu of “(designate official by full title and address)”, insert “the Director, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

**541—6.6(17A) Service and filing of petitions and other papers.**

**6.6(2)** In lieu of “(specify office and address)”, insert “the Director’s Office, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”. In lieu of “(agency name)”, insert “department”.

**6.6(3)** In lieu of “(uniform rule on contested cases X.12(17A))”, insert “rule 481—10.12(17A))”.

**541—6.7(17A) Consideration.** In lieu of “(designate agency)”, insert “department”.

**541—6.8(17A) Action on petition.**

**6.8(1)** In lieu of “(designate agency head)”, insert “director”.

**6.8(2)** In lieu of “(contested case uniform rule X.2(17A))”, insert “rule 481—10.1(10A))”.

**541—6.9(17A) Refusal to issue order.**

**6.9(1)** In lieu of “(designate agency)”, insert “department”.



MANAGEMENT DEPARTMENT[541](cont'd)

**541—6.12(17A) Effect of a declaratory order.** In lieu of “(designate agency)”, insert “department”.  
These rules are intended to implement Iowa Code section 17A.9.

[Filed 12/20/23, effective 2/14/24]

[Published 1/10/24]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7497C**

## **MANAGEMENT DEPARTMENT[541]**

### **Adopted and Filed**

#### **Rulemaking related to agency procedure for rulemaking**

The Department of Management hereby rescinds Chapter 7, “Agency Procedure for Rule Making,” and adopts a new Chapter 7, “Agency Procedure for Rulemaking,” Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and section 25B.6.

#### *Purpose and Summary*

This chapter clarifies uniform rules and agency procedure in regard to rulemaking.

#### *Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 15, 2023, as **ARC 7116C**. Public hearings were held on December 6, 2023, at 1 p.m. and December 8, 2023, at 1 p.m. in Room G14, State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rulemaking*

This rulemaking was adopted by the Department on December 20, 2023.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s

MANAGEMENT DEPARTMENT[541](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 541—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7  
AGENCY PROCEDURE FOR RULEMAKING

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rulemaking, which are published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf).

**541—7.5(17A) Public participation.**

**7.5(1) *Written comments.*** In lieu of the words “(identify office and address)”, insert “Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

**7.5(5) *Accessibility.*** In lieu of the words “(designate office and telephone number)”, insert “the department of management at 515.281.3322”.

**541—7.6(17A) Regulatory analysis.**

**7.6(2) *Mailing list.*** In lieu of the words “(designate office)”, insert “Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

**541—7.10(17A) Exemptions from public rulemaking procedures.**

**7.10(1) *Omission of notice and comment.*** The department may adopt a rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption pursuant to Iowa Code section 17A.4(3) “a” when the statute so provides or with the approval of the administrative rules review committee.

**7.10(2) *Public proceedings on rules adopted without them.*** The department may, at any time, commence a standard rulemaking proceeding for the adoption of a rule that is identical or similar to a rule it adopts in reliance upon subrule 7.10(1). After a standard rulemaking proceeding commenced pursuant to this subrule, the department may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 7.10(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

**541—7.11(17A) Concise statement of reasons.**

**7.11(1) *General.*** In lieu of the words “(specify office and address)”, insert “Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

These rules are intended to implement Iowa Code chapter 17A and section 25B.6.

[Filed 12/20/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7498C****MANAGEMENT DEPARTMENT[541]****Adopted and Filed****Rulemaking related to public records and fair information practices**

The Department of Management hereby rescinds Chapter 8, “Public Records and Fair Information Practices,” Iowa Administrative Code, and adopts a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 22.11.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 22.11.

*Purpose and Summary*

This chapter clarifies uniform rules and agency procedure in regard to public records and fair information practices.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 15, 2023, as **ARC 7117C**. Public hearings were held on December 6, 2023, at 1 p.m. and December 8, 2023, at 1 p.m. in Room G14, State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on December 20, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

MANAGEMENT DEPARTMENT[541](cont'd)

ITEM 1. Rescind 541—Chapter 8 and adopt the following new chapter in lieu thereof:

CHAPTER 8  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to public records and fair information practices, which are published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf).

**541—8.1(17A,22) Definitions.** As used in this chapter:

“*Agency.*” In lieu of “(official or body issuing these rules)”, insert “department of management”.

“*Nonincidental retrieval or supervisory service*” means services provided to persons requesting access to public documents by the department's staff (or staff from the department of administrative services), and where such retrieval or supervisory services exceed 20 hours of total staff time.

“*Nonproprietary records*” means those records that are in the possession of the department but that are generated for the purposes of other units of government.

“*Public record*” means a record as defined in Iowa Code section 22.1. A public record includes both confidential and open records.

**541—8.2(17A,22) Public record retention and access.**

**8.2(1) Record policy.** The department of management is committed to ensuring that the workings of the department are open to public inspection. To that end, a public record in the custody of the department will be maintained and archived through a standard record retention policy, with public access to be given in full compliance with applicable provisions of law.

The record retention program will provide economy and efficiency in the creation, organization, administrative use, maintenance, security, availability, and disposition of public records to ensure that a needless record will not be created or retained, and a valuable record will be preserved, as provided under Iowa law. The department will preserve the integrity of public records, and reply to all open records requests in a timely, responsive, and efficient manner in full compliance with applicable provisions of law.

**8.2(2) Record retention requirements.** Every record made or received under the authority of, or coming into the custody, control, or possession of, department of management personnel, in connection with the transaction of official business of state government, and that has sufficient legal, fiscal, administrative, or historical value will be retained in accordance with Iowa law. The director of the department of management will designate a records retention officer to oversee the department's record retention program and to serve as the primary point of contact with the state archives.

The department will follow the records retention protocol that is established by the Iowa records retention commission. The department of management records retention officer will select retention mechanisms that are designed to implement the commission protocol and arrange for training for the department's personnel on each selected mechanism.

**8.2(3) Confidential records.** Confidential records may be withheld, and confidential information within an otherwise open record may be redacted, prior to a record's release for public examination and copying. If a confidential record is withheld from examination and copying, or confidential information within an otherwise open record is redacted, the department of management will identify the document(s) and cite the applicable provision of law that supports the decision to withhold the confidential information from public examination.

**541—8.3(17A,22) Requests for access to records.**

**8.3(1) Open records.** Open records will be available to the public during customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday (except holidays). Immediate access to records

## MANAGEMENT DEPARTMENT[541](cont'd)

may be affected by a good-faith effort to verify the scope of the records requested and to determine whether any of the records or information contained therein is confidential in nature.

In the event circumstances prolong a timely response, the department will notify the requester at once and attempt an alternate arrangement to provide the response in a manner satisfactory to the requester. For nonproprietary records, the department is only a repository and is not the "lawful custodian" of the records under the meaning of Iowa Code chapter 22. Nonproprietary records will be provided only to the unit of state government that is the lawful custodian of such records under Iowa Code chapter 22.

**8.3(2) *Requesting records.*** Requests for access to a public record may be made by mail, electronically, by telephone or in person. A request for access to a public record should be made to the director, who will be responsible for implementing the requirements of public records laws inside the department.

*a.* A person who submits a request for public records will provide the person's name, address, and telephone number in order to facilitate effective communication with the department regarding the request.

*b.* Mail requests will be addressed to: Director, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015.

*c.* Electronic requests will include the term "Public Records Request" in the subject field and should be sent to the director's email address as found on the department's website at [dom.iowa.gov](http://dom.iowa.gov).

*d.* Telephone requests should be made to 515.281.3322.

*e.* A person who submits a request orally will receive a verification letter or electronic communication, whichever is preferred by the requester, from the department verifying the specific scope of the search requested. The verification letter or electronic communication will be transmitted before the request for documents is processed.

In the event that a request cannot be fulfilled within a reasonable time, the requester will be so notified and an estimated completion date will be provided.

**8.3(3) *Record identification.*** Requests for access to a public record will identify the particular public record to which access is requested by name or description in order to identify efficiently the desired record.

*a.* The requester's description should specify:

(1) The particular type of record sought.

(2) The particular time period to be searched by start and end date.

(3) The author or recipient, or both, of the record requested, to the extent possible.

(4) To the extent possible, the particular records medium to be searched (e.g., letters, memoranda, reports, recordings).

(5) Any other pertinent information that will assist the department in locating the record requested.

*b.* The requester will specify if the request applies to a record stored in an electronic form and shall list the search terms to be used.

**8.3(4) *Record search.*** Department of management personnel should direct public records requests to the director for docketing and processing. Before a search is conducted, the director may contact the requester if there are questions concerning the scope of the record request. The department of management will employ a staff member who is proficient in conducting electronic records searches within the department. This individual will be responsible for conducting all searches for electronic records that are accessible inside the department of management.

*a.* Upon receipt of a request for access to a public record, the department will promptly take all reasonable steps to preserve a public record while the request is pending.

*b.* Every public record that is gathered pursuant to a records request will be examined to determine whether the record is confidential and for completeness in response to the request.

*c.* Every record that is presented to the public for review will be attached to a transmittal letter that specifies the manner in which the records search was performed.

*d.* Questions by the public regarding the scope of a records search or requests for an expanded search should be submitted to the director in writing.

## MANAGEMENT DEPARTMENT[541](cont'd)

**8.3(5) Fees.** A fee for time spent retrieving an open record or supervising the public examination of an open record, or both, may be charged to the requester of the record in an amount equal to the actual cost of time spent providing nonincidental retrieval or supervisory services, or both, as provided under applicable law. Whenever possible, an estimate of fees will be provided to the requester before a search is initiated.

*a.* The actual cost for nonincidental retrieval or supervisory services, or both, may vary according to the nature of the search that is specified by the requester. However, the fees for nonincidental retrieval or supervisory services, or both, performed by department of management staff pursuant to a request for records that are accessible inside the department of management will ordinarily be set at \$15 per hour. The fees for department of management records that are accessible only with the assistance of department of administrative services or state archives personnel will be based on the fee structure that is established by those agencies. Requesters are generally billed for fees after their request has been processed. However, if total fees are expected to exceed \$250, the department of management may need payment in advance of processing.

*b.* Photocopies of open records located in the department office will be provided at no charge for the first 25 pages, and 20 cents per page for each additional page.

**541—8.9(17A,22) Disclosures without the consent of the subject.**

**8.9(1)** Open records are routinely disclosed without the consent of the subject.

**8.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

*a.* For a routine use as defined in rule 541—8.10(17A,22) or in any notice for a particular record system.

*b.* To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

*c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

*d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

*e.* To the legislative services agency under Iowa Code section 2A.3.

*f.* Disclosures in the course of employee disciplinary proceedings.

*g.* In response to a court order or subpoena.

**541—8.10(17A,22) Routine use.**

**8.10(1)** “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures obligated to be made by statute other than the public records law, Iowa Code chapter 22.

**8.10(2)** To the extent allowed by law, the following uses are considered routine uses of all agency records:

*a.* Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

*b.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

## MANAGEMENT DEPARTMENT[541](cont'd)

- c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.
- d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
- e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
- f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

**541—8.11(17A,22) Consensual disclosure of confidential records.**

**8.11(1)** *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 541—8.7(17A,22).

**8.11(2)** *Complaints to public officials.* A letter from a subject of a confidential record to a public official who seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

**541—8.12(17A,22) Release to subject.**

**8.12(1)** The agency need not release records to the subject in the following circumstances:

- a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.
- c. Peace officers' investigative reports may be withheld from the subject, except as mandated by the Iowa Code. (More information can be found in Iowa Code section 22.7(5).)
- d. As otherwise authorized by law.

**8.12(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

**541—8.13(17A,22) Availability of records.**

**8.13(1)** *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

**8.13(2)** *Confidential records.* The department of management may withhold information reflecting departmental budget recommendations for the following fiscal year until the information is made public by the governor.

**8.13(3)** *Authority to release confidential records.* The agency may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law.

**541—8.14** Reserved.

**541—8.15(17A,22) Other records.** The agency maintains a variety of records that do not generally contain information pertaining to named individuals. The agency maintains the following records, not heretofore listed, which do not generally contain personally identifiable or confidential information: annual reports; press releases; budget information (following presentation by the governor); receipt statements; revenue information; newsletters; public meeting agendas and minutes; budget information relating to cities, counties or school districts; state revenue forecasts; policy information as recommended to the governor; progress review materials and targeted small business compliance reports.

**541—8.16(17A,22) Applicability.** This chapter does not:

1. Mandate the agency to index or retrieve records that contain information about individuals by that person's name or other personal identifier.

MANAGEMENT DEPARTMENT[541](cont'd)

2. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency that are governed by the rules of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings will be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

These rules are intended to implement Iowa Code section 22.11.

[Filed 12/20/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7499C**

## **MANAGEMENT DEPARTMENT[541]**

**Adopted and Filed**

### **Rulemaking related to grants enterprise management system**

The Department of Management hereby rescinds Chapter 11, "Grants Enterprise Management System," Iowa Administrative Code, and adopts a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 8.6.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 8.9 and 8.10.

#### *Purpose and Summary*

The Grants Enterprise Management System (GEMS) is used by Iowans and Iowa businesses to apply for grants offered by or managed by state government entities. These rules provide for the ability to implement GEMS for use by state agencies to provide grants for which Iowans, including businesses and individual Iowans, can apply and seek grant funds.

As of November 2022, there were 17 participating agencies, 26,498 users, and 4,249 participating organizations.

#### *Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 15, 2023, as **ARC 7118C**. Public hearings were held on December 6, 2023, at 1 p.m. and December 8, 2023, at 1 p.m. in Room G14, State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rulemaking*

This rulemaking was adopted by the Department on December 20, 2023.

#### *Fiscal Impact*



## MANAGEMENT DEPARTMENT[541](cont'd)

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 541—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11  
GRANTS ENTERPRISE MANAGEMENT SYSTEM

**541—11.1(8) Purpose.** These rules are designed to establish a grants enterprise management system (GEMS) under Iowa Code sections 8.9 and 8.10. The primary goals of GEMS include:

1. Securing additional nonstate funding;
2. Fostering cooperation and coordination between state agencies;
3. Discouraging duplication of competitive grant application efforts;
4. Providing a mechanism for the timely exchange of information among state agencies on proposals potentially affecting the agencies; and
5. Providing policy makers, legislators and the citizens of Iowa with information on grant funds received and state agencies' competitive grant applications.

**541—11.2(8) Definitions.** As used in this chapter:

“*Applicant agency*” means the agency intending to apply for, or applying for, a competitive grant.

“*Competitive grant application*” means a grant application that is in competition with other applications for limited funds.

“*Federal Executive Order 12372*” means the federal executive order that provides for the establishment of a process for the coordination and review of proposed federal financial assistance. In the order, states are encouraged to develop their own processes, and federal agencies, to the extent permitted by law, utilize the state process.

“*GEMS coordinator*” means the person appointed by the director of the department of management to coordinate GEMS.

“*I/3 grant tracking module*” means Integrated Information for Iowa (I/3) and the portion of the I/3 cost accounting module designed to collect data on all nonstate funds received by state government agencies.

“*Single point of contact*” means the GEMS coordinator.

“*State agency*” means any department or agency of state government except the board of regents.

MANAGEMENT DEPARTMENT[541](cont'd)

**541—11.3(8) GEMS coordinator.** The GEMS facilitator will coordinate all aspects of GEMS under Iowa Code sections 8.9 and 8.10. The GEMS coordinator will:

1. Identify and execute strategies to secure nonstate funds;
2. Ensure that all agencies utilize the Iowa grants database to track all competitive grant applications;
3. Ensure that all agencies utilize the I/3 grant tracking module for all grants received;
4. Operate as the state's single point of contact, pursuant to Federal Executive Order 12372;
5. Establish a grants network, representing all state agencies, to operate in an advisory capacity;
6. Assign a state application identifier (SAI) number at each stage of the application process: notification of intent, application submitted, and final status;
7. Review competitive grant applications of special significance, at the coordinator's discretion;
8. Serve as liaison with the state single point of contact in contiguous states;
9. In cooperation with other state agencies, monitor and refine the GEMS competitive grants review procedures;
10. Maintain a list of state agency grants coordinators;
11. Ensure, to the greatest degree practicable, that all GEMS competitive grants reviews are conducted in accordance with these rules;
12. Provide training and policy guidance; and
13. Provide status and results reports to appropriate contacts on an as-needed basis.

**541—11.4(8) Grants network.** The grants network includes representation from all state agencies. Agency representatives will serve as agency grants coordinators. All agency grants coordinators will work with the GEMS coordinator to implement Iowa Code section 8.10 and do the following:

1. Communicate relevant information to the GEMS coordinator;
2. Utilize the Iowa grants database to track all competitive grant applications;
3. Utilize the I/3 grant tracking module for all grants received;
4. Inform the Iowa office for state-federal relations of initiatives for which the agency is seeking federal funds; and
5. Participate in issue-specific federal legislation work groups.

**541—11.5(8) GEMS competitive grants review system.** The purpose of the GEMS competitive grants review system is to allow state government coordination and review of all competitive grant applications in order to avoid duplication and conflicts.

**11.5(1) Agency competitive grants review coordinator.** Agency grants coordinators will:

- a. Serve as the agency's competitive grants review coordinator and as liaison between the agency and the GEMS coordinator for the GEMS competitive grants review process.
- b. Assist in the evaluation of the GEMS competitive grants review process.

**11.5(2) GEMS competitive grants review process.** The following is a generalized summary of the GEMS competitive grants review process that will be followed by state agencies with respect to review of applications for competitive grants.

a. *Step 1—intent to apply.*

- (1) The applicant agency will complete the intent to apply section of the Iowa grants database when the applicant agency identifies a competitive grant opportunity.
- (2) Upon submission of the intent to apply, a notification will be sent to all state agencies.
- (3) Any state agency, or the GEMS coordinator, may request a GEMS competitive grants review meeting to explore the project in greater detail, identify opportunities for collaboration and resolve possible conflicts.
- (4) The applicant agency and the GEMS office will receive the agency request for a GEMS competitive grants review meeting within two working days of submission of the intent to apply notification.
- (5) The GEMS review meeting will be held within 12 working days of submission of the intent to apply notification. The applicant agency will work with the GEMS office to schedule the meeting.

MANAGEMENT DEPARTMENT[541](cont'd)

*b. Step 2—application submitted.*

(1) Upon completion of the GEMS competitive grants review process, but prior to submission of the grant application, the applicant agency will enter the grant application information in the application section of the Iowa grants database.

(2) When all necessary fields are completed, the Iowa grants database will automatically generate written confirmation of completion of the GEMS competitive grants review to the applicant agency.

(3) The applicant agency will keep a file copy of the confirmation. The applicant agency will include the written confirmation with all federal competitive grant applications pursuant to Federal Executive Order 12372.

*c. Step 3—status.*

(1) The applicant agency will enter the grant's status in the Iowa competitive grants database upon withdrawal of the application or notification of the receipt or denial of the grant.

(2) The GEMS office and the legislative services agency will be notified of the final grant status. These rules are intended to implement Iowa Code sections 8.9 and 8.10.

[Filed 12/20/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7500C**

**MANAGEMENT DEPARTMENT[541]**

**Adopted and Filed**

**Rulemaking related to DAS customer council**

The Department of Management hereby rescinds Chapter 12, "DAS Customer Council," Iowa Administrative Code, and adopts a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 8.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 8.6.

*Purpose and Summary*

In Chapter 12, the Department of Administrative Services (DAS) Customer Council provides oversight for fees paid by government entities when DAS is the sole provider of the service.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 15, 2023, as **ARC 7119C**. Public hearings were held on December 6, 2023, at 1 p.m. and December 8, 2023, at 1 p.m. in Room G14, State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on December 20, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

MANAGEMENT DEPARTMENT[541](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 541—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12  
DAS CUSTOMER COUNCIL

**541—12.1(8) Definitions.**

“*DAS*” means the department of administrative services created by Iowa Code chapter 8A.

“*DAS customer council*” means a group responsible for overseeing operations with regard to a service funded by fees paid by a governmental entity or subdivision receiving the service when the department and DAS have determined that DAS will be the sole provider of that service.

“*Department*” or “*DOM*” means the department of management created by Iowa Code chapter 8.

“*Economies of scale*” means mass purchasing of goods or services, which results in lower average costs.

“*Leadership function*” means a service provided by the department and funded by a general appropriation. Leadership functions typically relate to development of policy and standards and are appropriate when standardization is necessary and the ultimate customer is the taxpayer.

“*Marketplace service*” means a service that the department is authorized to provide but that governmental entities may provide on their own or obtain from another provider of the service.

“*Quorum*” means the presence of no less than a simple majority (50 percent plus 1) of the members eligible to vote.

“*Utility service*” means a service funded by fees paid by the governmental entity receiving the service and for which DAS is the sole provider of the service.

**541—12.2(8) Purpose.** The purpose of this chapter is the same as Iowa Code section 8.6(15) “c.”

**541—12.3(8) Utility determination.** Services for which the department has determined that DAS will be the sole provider are designated “utilities” in Iowa state government. Customers may choose the amount of service they purchase, but should buy from the single source. Utilities are those services for which a monopoly structure makes sense due to economies of scale. The process for determining whether DAS will be the sole provider of a service will include consideration of economic factors, input from the DAS customer council and input from upper levels of the executive branch.

MANAGEMENT DEPARTMENT[541](cont'd)

**541—12.4(8) DAS customer council established.** In order to ensure that DAS utilities provide effective, efficient, and high-quality services that benefit governmental entities and the citizens they serve, this chapter establishes a DAS customer council for services identified as utilities.

**541—12.5(8) DAS customer council membership.** DAS customer council membership will consist of the chairperson and vice chairperson, the Governor's cabinet state agency directors, a judicial branch representative overseeing DAS services provided to the judicial branch, and two legislative branch representatives overseeing DAS services provided to the legislative branch.

**12.5(1) Executive branch agency representation.** The DAS customer council will include directors from the governor's cabinet-level agencies and two noncabinet-level agencies.

**12.5(2) Legislative and judicial branch representation.** If the service to be provided may also be provided to the judicial branch and legislative branch, the provisions of Iowa Code section 8.6(15) "c"(2) apply.

**541—12.6(8) Organization of DAS customer council.** The operations of the DAS customer council will be governed by a set of bylaws as adopted by the DAS customer council. Bylaws will address the following issues:

**12.6(1) Member participation.** Each member is expected to attend and actively participate in meetings. Participation will include requesting input and support from the group each member represents.

*a.* Substitutes for members and alternates absent from meetings will be allowed; however, members may attend by telephone or other electronic means approved by the DAS customer council.

*b.* Upon the approval of the DAS customer council, an alternate member may be selected by an agency or group that provides a representative to the DAS customer council to participate in DAS customer council meetings and vote in place of the representative when the representative is unable to participate.

**12.6(2) Voting.** A quorum is necessary for a DAS customer council vote.

*a.* Eligible members may vote on all issues brought before the group for a vote. Members may be present to vote during a meeting in person, by telephone or other electronic means approved by the DAS customer council.

*b.* Each member, other than the chairperson, vice chairperson and ex officio members, has one vote. Designated alternates may only vote in the absence of the representative from the same organization. A simple majority of the members voting will determine the outcome of the issue being voted upon.

*c.* DAS customer council bylaws may be amended by a simple majority vote of all members.

**12.6(3) Officers.** The officers of the DAS customer council will be the chairperson and vice chairperson. The director of the department of management will serve as chairperson, and the director of the department of administrative services will serve as vice chairperson. The chairperson and vice chairperson cannot be voting members.

**12.6(4) Duties of officers.**

*a.* The chairperson will preside at all meetings of the DAS customer council.

*b.* The vice chairperson will assist the chairperson in the discharge of the chairperson's duties as requested and, in the absence or inability of the chairperson to act, will perform the chairperson's duties.

**12.6(5) Committees.**

*a.* The chairperson may authorize or dissolve committees as necessary to meet the needs of the DAS customer council.

*b.* Members of the DAS customer council and individuals who are not members of the DAS customer council may be appointed by the chairperson to serve on committees.

*c.* Committees will provide feedback to the chairperson and the DAS customer council at the council's request.

MANAGEMENT DEPARTMENT[541](cont'd)

*d.* Committees will meet, discuss, study and resolve assigned issues as needed.

**12.6(6) Administration.** DAS will assist the department by providing staff support to assist the chairperson with the following administrative functions:

*a.* Keeping the official current and complete books and records of the decisions, members, actions and obligations of the DAS customer council;

*b.* Coordinating meeting notices and locations and keeping a record of names and addresses, including email addresses, of the members of the DAS customer council; and

*c.* Taking notes at the meetings and producing minutes that will be distributed to all members.

**12.6(7) Open records.** DAS customer council books and records are subject to the open records law as specified in Iowa Code chapter 22.

**12.6(8) Meetings.** DAS customer council meetings are subject to the open meetings law as specified in Iowa Code chapter 21. The DAS customer council is responsible for the following:

*a.* Determining the frequency and time of council meetings.

*b.* Soliciting agenda items from the members in advance of an upcoming meeting.

*c.* Sending electronic notice of meetings, including date, time and location of the meeting, at least one week prior to the meeting date.

*d.* Providing an agenda, including those items requiring action, at least two days prior to the meeting. The agenda should also include any information necessary for discussion at the upcoming meeting.

*e.* Conducting meetings using the most recent version of Robert's Rules of Order, Revised.

**541—12.7(8) Powers and duties of DAS customer council.**

**12.7(1) Approval of business plans.** The DAS customer council, in accordance with Iowa Code section 8.6(15) "c"(1)(b)(i), reviews and recommends business plans. Business plans will include levels of service, service options, investment plans, and other information.

**12.7(2) Complaint resolution.** The DAS customer council will approve the internal procedure for resolution of complaints in accordance with Iowa Code section 8.6(15) "c"(1)(b)(ii). The procedure will include, at a minimum, the following provisions:

*a.* A definition of "complaint," which will convey that this resolution process does not take the place of any other formal complaint, grievance or appeal process necessary by statute or rule.

*b.* Receipt of complaints.

*c.* Standards for prompt complaint resolution.

*d.* Provisions to aggregate, analyze and communicate issues and outcomes in a manner that contributes to overall organizational improvement.

*e.* Identification of the chairperson and vice chairperson's decision as the final step in the process.

**12.7(3) Rate setting.** A majority of all voting council members will approve the rate methodology and the resulting rates for the services that the DAS customer council oversees. Rates will be established no later than September 1 of the year preceding the rate change. Established rates may be amended after September 1 upon recommendation by the department in consultation with DAS and upon affirmative vote by the DAS customer council.

**12.7(4) Biennial review.** Every two years, the DAS customer council will review the decision made by the department that DAS be the sole provider of a service and make recommendations regarding that decision.

**541—12.8(8) Customer input.** The department will establish procedures to provide for the acceptance of input from affected governmental entities. Input may take various forms, such as unsolicited comments, response to structured surveys, or an annual report on service requirements.

**541—12.9(8) Annual service listing.** DAS will annually prepare a listing separately identifying services determined by the department and DAS to be leadership functions, marketplace services, and utilities.

MANAGEMENT DEPARTMENT[541](cont'd)

The listing will be completed no later than September 1 of the fiscal year preceding the proposed effective date of the change.

These rules are intended to implement Iowa Code section 8.6.

[Filed 12/20/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7501C**

## **MANAGEMENT DEPARTMENT[541]**

**Adopted and Filed**

### **Rulemaking related to suspension and reinstatement of state funds**

The Department of Management hereby rescinds Chapter 13, "Suspension and Reinstatement of State Funds," and adopts a new chapter with the same title, and rescinds Chapter 16, "Suspension and Reinstatement of State Funds," Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code chapters 27A and 27B.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 27A and 27B.

#### *Purpose and Summary*

Chapter 13 establishes procedures and guidelines to deny state funds to a local entity intentionally violating the provisions of Iowa Code chapter 27A and to reinstate eligibility funds when a local entity comes into compliance. The Department rescinded Chapter 16 and transferred applicable language to Chapter 13. The two chapters are similar, and it is more straightforward to include all sanctuary city language in a single chapter.

#### *Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 15, 2023, as **ARC 7120C**. Public hearings were held on December 6, 2023, at 1 p.m. and December 8, 2023, at 1 p.m. in Room G14, State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rulemaking*

This rulemaking was adopted by the Department on December 20, 2023.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

MANAGEMENT DEPARTMENT[541](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 541—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13  
SUSPENSION AND REINSTATEMENT OF STATE FUNDS

**541—13.1(27A) Definitions.** For purposes of this chapter:

“*City*” means a municipal corporation but does not include a county, township, school district, or any special-purpose district or authority.

“*County*” means an administrative subdivision in the state governed by a locally elected board of supervisors and may be comprised of subdivisions, including cities, townships, school districts, or any special-purpose district or authority.

“*Declaratory judgment*” means a judgment issued by a district court declaring a local entity is in full compliance with Iowa Code chapter 27A or 27B.

“*Department*” means the Iowa department of management pursuant to Iowa Code chapter 8.

“*Final judicial determination*” means a district court ruling on a civil action brought by the state attorney general's office finding a local entity to have violated the provisions of Iowa Code chapter 27A or 27B.

“*Fiscal year*” means the time period beginning on July 1 and ending the following June 30 as defined in Iowa Code section 8.36.

“*Governing body*” means the mayor and city council of a city or the board of supervisors of a county.

“*Local entity*” means the same as defined in Iowa Code section 27A.1(4) or 27B.1(1).

“*State agencies*” means any boards, commissions, or departments, as defined by Iowa Code section 7E.4, or other administrative offices or units of the executive branch of the state.

“*State funds*” means those funds held by the state that originate from revenues, fees or receipts collected by the state and distributed to local entities. Funds held by the state that are not defined as state funds include:

1. Federal funds (unless provided to the state and awarded as a grant by the state).
2. Funds paid out per gubernatorial or presidential emergency proclamation.
3. Any revenue collected and administered by the state on behalf of a local entity due to a locally imposed tax, fee or fine.
4. Any state funds for the provision of wearable body protective gear used for law enforcement purposes.
5. Payment for public protection, utilities, or goods and services.
6. Payment of settlements.
7. Setoffs as defined by Iowa Code section 8A.504.

**541—13.2(27A) Denial of state funds.** State funds are denied to a local entity in circumstances authorized by Iowa Code section 27A.9(2) or 27B.5(2).

**13.2(1)** The department will send written notification to each state agency to deny state funds. Payments will continue to be made to the local entity until the beginning of the state fiscal year that



## MANAGEMENT DEPARTMENT[541](cont'd)

begins after the date on which a final judicial determination is made, at which time payments will be denied.

**13.2(2)** If the local entity receives state funds through the county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

**13.2(3)** State agencies will contact federal granting agencies in writing to determine how to administer federal funds when state match funds are denied. State agencies may be obligated to discontinue drawing federal funds or issue repayments as instructed by federal granting agencies.

**13.2(4)** Funds will continue to be denied until the court issues a declaratory judgment declaring that the local entity is in full compliance with Iowa Code chapter 27A or 27B.

**541—13.3(27A) Reinstatement of eligibility to receive state funds.** In circumstances authorized by Iowa Code section 27A.10(3) or 27B.6(3), the local entity's eligibility to receive state funds is reinstated.

**13.3(1)** The department will send written notification to each state agency to reinstate state funds. Payments will be reinstated to the local entity beginning on the first day of the month following the date on which the declaratory judgment is issued.

**13.3(2)** State agencies will contact federal partners in writing to determine how to reinstate the drawdown of federal funds when state match funds are reinstated.

These rules are intended to implement Iowa Code chapters 27A and 27B.

ITEM 2. Rescind and reserve **541—Chapter 16.**

[Filed 12/20/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.

**ARC 7502C**

## **REVENUE DEPARTMENT[701]**

**Adopted and Filed**

### **Rulemaking related to retirement income exclusion**

The Revenue Department hereby amends Chapter 301, "Filing Return and Payment of Tax," Chapter 302, "Determination of Net Income," and Chapter 307, "Withholding," Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 421.14 and 422.68.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 422.5, 422.7, 422.13 and 422.16.

#### *Purpose and Summary*

This rulemaking implements the statutory change to the retirement income exclusion from a partial to a full exclusion for qualifying taxpayers receiving distributions from qualifying plans. This rulemaking identifies certain plans that do and do not qualify for the exclusion, as well as defines how survivors with an insurable interest may qualify for the exclusion. This rulemaking also updates what items of income are and are not required to be added back to Iowa taxable income to determine whether a taxpayer has a filing requirement, including eliminating excluded retirement income from the required add backs. Finally, this rulemaking updates rules related to withholding to implement the full exclusion for retirement income described above.

REVENUE DEPARTMENT[701](cont'd)

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 1, 2023, as **ARC 7109C**. A public hearing was held on November 21, 2023. The Department received public comments at the hearing. The Department also received written comments.

In response to comments and further review, the following changes from the Notice have been made:

1. Revised subrules 301.1(1), 301.1(2), 301.1(3), 301.5(10), 301.5(11) and 301.5(13) to clarify what should be included in the net income calculation for determining a filing requirement.
2. Revised rule 701—302.47(422) to clarify the time the individual must be eligible for the exclusion for a surviving spouse or survivor with an insurable interest to be eligible for the exclusion with respect to income received as a result of their death.
3. Revised paragraph 302.47(1)“a” to clarify the qualifying retirement plans.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on December 14, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa beyond that of the legislation it implements.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend rule 701—301.1(422) as follows:

**701—301.1(422) Who must file.****301.1(1) Residents of Iowa.**

*a. ~~Tax years beginning on or after January 1, 1993~~ Residents under 65 years of age.* For each taxable year, every resident of Iowa, except any resident claimed as a dependent on another person's return, whose net income is greater than \$13,500 in the case of married persons ~~filing jointly, filing separately on a combined return or filing separate returns~~, heads of household, and surviving spouses or greater than \$9,000 in the case of single persons ~~or married persons filing separately~~ must make, sign, and file a return. In the case of married persons filing separately, if the combined net income of both spouses exceeds \$13,500, both spouses must make, sign, and file a return even if one of the spouse's net income is \$9,000 or less. Each resident who is claimed as a dependent on another person's return and whose net income is ~~\$4,000 or more, or whose net income is \$5,000 or more for tax years beginning on or after January 1, 2001,~~ must make, sign, and file a return. For purposes of this subrule,

## REVENUE DEPARTMENT[701](cont'd)

~~the portion of a lump-sum distribution subject to separate federal tax, along with the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), is the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return. In addition, for tax years beginning on or after January 1, 2007, the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) for residents who are younger than 65 years of age on December 31 of the tax year is included in net income to determine if a person must file a return.~~

*b. Tax years beginning on or after January 1, 2007, but before January 1, 2009, for residents 65 years of age or older.* For these taxable years, every resident of Iowa, except any resident claimed as a dependent on another person's return, who is at least 65 years of age or older on December 31 of the tax year, whose net income is greater than \$24,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses or greater than \$18,000 in the case of single persons must make, sign, and file a return. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. Each resident who is claimed as a dependent on another person's return and whose net income is \$5,000 or more must make, sign, and file a return.

For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) are included in net income to determine if a person must file a return.

*e. b. Tax years beginning on or after January 1, 2009, for residents Residents 65 years of age or older.* For each taxable year, every resident of Iowa, except any resident claimed as a dependent on another person's return, who is at least 65 years of age or older on December 31 of the tax year, whose net income is greater than \$32,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household, and surviving spouses or greater than \$24,000 in the case of single persons or married persons filing separately must make, sign, and file a return. In the case of married persons filing separately, if the combined net income of both spouses exceeds \$32,000, both spouses must make, sign, and file a return even if one of the spouse's net income is \$24,000 or less. For married persons filing jointly, filing separately on a combined return or filing separate returns, for purposes of this paragraph, only one spouse is required to be at least 65 years of age or older on December 31 of the tax year. Each resident who is claimed as a dependent on another person's return and whose net income is \$5,000 or more must make, sign, and file a return.

For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover taken for federal purposes are included in net income to determine if a person must file a return.

### **301.1(2) Nonresidents of Iowa.**

*a. Tax years beginning on or after January 1, 1993 Nonresidents under 65 years of age.* For each taxable year, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$13,500 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household, and surviving spouses, (2) has a net income from all sources greater than \$9,000 in the case of single persons, (3) has a net income from all sources greater than \$9,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds \$13,500, both spouses must make, sign, and file a return even if one of the spouse's net income is \$9,000 or less, or (3) (4) is claimed as a dependent on

## REVENUE DEPARTMENT[701](cont'd)

another person's return and has a net income from all sources of \$4,000 or more or has a net income from all sources of at least \$5,000 or more if the tax year begins on or after January 1, 2001. For purposes of this paragraph, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, along with the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), is the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return. In addition, for tax years beginning on or after January 1, 2007, the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) for nonresidents who are under 65 years of age on December 31 of the tax year is included in determining net income from all sources to determine if a person must file a return.

*b.*—*Tax years beginning on or after January 1, 2007, but before January 1, 2009, for nonresidents 65 years of age or older.* For these taxable years, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$24,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses, (2) has a net income from all sources greater than \$18,000 in the case of single persons, or (3) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) are included in net income to determine if a person must file a return.

*e. b.* *Tax years beginning on or after January 1, 2009, for nonresidents Nonresidents 65 years of age or older.* For these taxable years, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$32,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household, and surviving spouses, (2) has a net income from all sources greater than \$24,000 in the case of single persons, (3) has a net income from all sources greater than \$24,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds \$32,000, both spouses must make, sign, and file a return even if one of the spouse's net income is \$24,000 or less, or (3) (4) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate returns, for the purposes of this paragraph, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) are the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return.

*d.*—*Nonresidents with net incomes of less than \$1,000 that are subject to Iowa alternative minimum tax.* For tax years beginning on or after January 1, 2000, every nonresident of Iowa who has a net income

## REVENUE DEPARTMENT[701](cont'd)

from Iowa sources of less than \$1,000 must make, sign, and file a return if the nonresident is subject to Iowa alternative minimum tax.

**301.1(3) Part-year residents of Iowa.**

*a. Tax years beginning on or after January 1, 1993 Part-year residents under 65 years of age.* For each taxable year, every part-year resident of Iowa must make, sign, and file a return if the individual has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$13,500 in the case of married persons filing jointly, filing separately on a combined return form or filing separate returns, heads of household, and surviving spouses, (2) has a net income from all sources that is greater than \$9,000 in the case of a single person, (3) has a net income from all sources greater than \$9,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds \$13,500, both spouses must make, sign, and file a return even if one of the spouse's net income is \$9,000 or less, or (3) (4) is claimed as a dependent on another person's return and had a net income from all sources of \$4,000 or more or has a net income from all sources of \$5,000 or more if the tax year begins on or after January 1, 2001. For purposes of this paragraph, the portion of a lump-sum distribution that is allocable to Iowa is included in net income to determine if the person has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, along with the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), is the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return. In addition, for tax years beginning on or after January 1, 2007, the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) for part-year residents who are younger than 65 years of age on December 31 of the tax year is included in determining net income from all sources to determine if a person must file a return.

*b. Tax years beginning on or after January 1, 2007, but before January 1, 2009, for nonresidents 65 years of age or older.* For these taxable years, every part-year resident of Iowa must make, sign, and file an Iowa return if the part-year resident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$24,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses, (2) has a net income from all sources greater than \$18,000 in the case of single persons, or (3) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the part-year resident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) are included in net income to determine if a person must file a return.

*e. b. Tax years beginning on or after January 1, 2009, for part-year Part-year residents 65 years of age or older.* For these taxable years, every part-year resident of Iowa must make, sign, and file an Iowa return if the part-year resident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$32,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household, and surviving spouses, (2) has a net income from all sources greater than \$24,000 in the case of single persons, (3) has a net income from all sources greater than \$24,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds \$32,000, both spouses must make, sign, and file a return even if one of the spouse's net income is \$24,000 or less, or (3) (4) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate

## REVENUE DEPARTMENT[701](cont'd)

~~returns, for the purposes of this paragraph, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the part-year resident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return.~~

~~d.—Part-year residents with net incomes of less than \$1,000 that are subject to Iowa alternative minimum tax. For tax years beginning on or after January 1, 2000, every part-year resident of Iowa who has a net income from Iowa sources of less than \$1,000 must make, sign, and file a return if the part-year resident is subject to Iowa alternative minimum tax.~~

~~301.1(4) Returns of the handicapped Incapacity to file a return.~~ If a taxpayer is physically or mentally unable to make a return, the return shall be made by a duly authorized agent, guardian or other person charged with the care of the person or property of such taxpayer. A power of attorney must accompany a return made by an agent or guardian.

~~301.1(5) and 301.1(6) No change.~~

~~301.1(7) Returns filed for refund.~~ A taxpayer whose Iowa source net income or all source net income is less than the amount for which the filing of an Iowa individual income tax return is required must file a return to receive a refund of Iowa income tax withheld or Iowa estimated tax paid in the tax year or to receive a refund from an Iowa refundable tax credit. ~~Refundable tax credits include the child and dependent care credit, the early childhood development tax credit, the research activities credit, the motor vehicle fuel tax credit, the claim of right credit (if elected in accordance with rule 701—300.18(422)), the assistive device credit, the historic preservation and cultural and entertainment district tax credit, the ethanol blended gasoline tax credit, the investment tax credit for value-added agricultural products or biotechnology-related processes, the soy-based cutting tool oil tax credit, the wage benefit tax credit, the soy-based transformer fluid tax credit, the E-85 gasoline promotion tax credit, the biodiesel blended fuel tax credit, the ethanol promotion tax credit, and the E-15 plus gasoline promotion tax credit.~~

~~301.1(8) Returns filed by out-of-state business or out-of-state employee performing disaster and emergency-related work during a disaster response period.~~ On or after January 1, 2016, see 701—Chapter 276 for filing requirements of an out-of-state business or out-of-state employee as defined in Iowa Code section 29C.24 who enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

This rule is intended to implement Iowa Code sections 422.5 and 422.13.

ITEM 2. Amend rule 701—301.5(422) as follows:

**701—301.5(422) Payment of tax.**

**301.5(1) to 301.5(7)** No change.

**301.5(8) and 301.5(9)** Reserved.

**301.5(10) Thirteen thousand five hundred dollar exemption.** For tax years beginning on or after January 1, 1993, all All taxpayers, except single taxpayers described in subrule 301.4(1) or taxpayers filing married filing separately, whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, ~~the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3),~~ the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is \$13,500 or less are exempt from paying Iowa individual income tax subject to the following conditions:

## REVENUE DEPARTMENT[701](cont'd)

a. In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. However, in the case of married taxpayers where one spouse has a net operating loss and the taxpayers file separate Iowa returns ~~or separately on the combined return form~~, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.

b. An individual claimed as a dependent on another person's return with an income of at least \$5,000 (~~\$4,000 for tax years beginning in 1993 but before 2001~~) but not more than \$13,500 will be exempt from Iowa tax if:

(1) The person on whose return the dependent is claimed is filing as a single individual and has a net income of \$9,000 or less, or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less.

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less.

c. If the payment of tax would reduce the net income to less than \$13,500, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of \$13,500. Example: If a taxpayer's net income was \$13,600 and the computed tax after personal exemptions and other credits was \$300, the payment of \$300 would reduce the income below \$13,500; therefore, the amount of tax is reduced to \$100 so the taxpayer can retain a net income of \$13,500.

**301.5(11)** *Nine thousand dollar exemption.* ~~For tax years beginning on or after January 1, 1993, single~~ Single taxpayers described in subrule 301.4(1) and taxpayers filing married filing separately whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, ~~the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3),~~ the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is \$9,000 or less are exempt from paying Iowa individual income tax subject to the following conditions:

a. An individual claimed as a dependent on another person's return with an income of at least \$5,000 (~~\$4,000 for tax years beginning in 1993 but before 2001~~) but not more than \$9,000 will be exempt from tax if:

(1) The person on whose return the dependent is claimed has a net income of \$9,000 or less, or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less.

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less.

b. If the payment of tax would reduce the net income to less than \$9,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of \$9,000.

c. For taxpayers that file married filing separately, the combined net income of both spouses must be less than \$13,500 for either of them to qualify for this exemption.

**301.5(12)** *Exemptions for taxpayers 65 years of age or older for tax years beginning on or after January 1, 2007, but before January 1, 2009.*

a. ~~All taxpayers except single taxpayers described in subrule 301.4(1) who are 65 years of age or older on December 31 of the tax year and whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) is \$24,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth below:~~

~~(1) In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. For purposes of this subrule, only one spouse~~

REVENUE DEPARTMENT[701](cont'd)

is required to be 65 years of age or older by December 31 of the tax year. However, in the case of married taxpayers when one spouse has a net operating loss and the taxpayers file separate Iowa returns or separately on the combined return, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.

(2) An individual claimed as a dependent on another person's return with an income of at least \$5,000, but not more than \$24,000, will be exempt from Iowa tax if:

1. The person on whose return the dependent is claimed is filing as a single individual and has a net income of \$9,000 or less (\$18,000 or less if the person is 65 years of age or older); or

2. The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less (\$24,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or

3. The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$24,000 or less if the person is 65 years of age or older).

(3) If the payment of tax would reduce the net income to less than \$24,000, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of \$24,000.

EXAMPLE: If a taxpayer's net income was \$24,100 and the computed tax after personal exemptions and other credits was \$300, the payment of \$300 would reduce the income below \$24,000; therefore, the amount of tax is reduced to \$100 in order for the taxpayer to retain a net income of \$24,000.

b. Single taxpayers described in subrule 301.4(1) whose net income, as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) is \$18,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth in paragraphs "c" and "d" below:

c. An individual claimed as a dependent on another person's return with an income of at least \$5,000, but not more than \$18,000, will be exempt from tax if:

(1) The person on whose return the dependent is claimed has a net income of \$9,000 or less (\$18,000 or less if the person is 65 years of age or older); or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less (\$24,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$24,000 or less if the person is 65 years of age or older).

d. If the payment of tax would reduce the net income to less than \$18,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of \$18,000.

**301.5(13)** Exemptions for taxpayers 65 years of age or older for tax years beginning on or after January 1, 2009.

a. All taxpayers except single taxpayers described in subrule 301.4(1) or taxpayers filing married filing separately who are at least 65 years of age or older on December 31 of the tax year and whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is \$32,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth below:

(1) In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. For purposes of this subrule, only one spouse is required to be 65 years of age or older by December 31 of the tax year. However, in the case of



## REVENUE DEPARTMENT[701](cont'd)

married taxpayers when one spouse has a net operating loss and the taxpayers file separate Iowa returns ~~or separately on the combined return form~~, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.

(2) An individual claimed as a dependent on another person's return with an income of at least \$5,000, but not more than \$32,000, will be exempt from Iowa tax if:

1. The person on whose return the dependent is claimed is filing as a single individual and has a net income of \$9,000 or less (\$24,000 or less if the person is 65 years of age or older); or

2. The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less (\$32,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or

3. The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$32,000 or less if the person is 65 years of age or older).

(3) If the payment of tax would reduce the net income to less than \$32,000, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of \$32,000.

EXAMPLE: If a taxpayer's net income was \$32,100 and the computed tax after personal exemptions and other credits was \$300, the payment of \$300 would reduce the income below \$32,000; therefore, the amount of tax is reduced to \$100 in order for the taxpayer to retain a net income of \$32,000.

*b.* ~~Single taxpayers described in subrule 301.4(1) or taxpayers filing married filing separately~~ whose net income, as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, ~~the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3)~~ the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is \$24,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth in paragraphs "*c*," "*d*," and "*e*" below:

*c.* An individual claimed as a dependent on another person's return with an income of at least \$5,000, but not more than \$24,000, will be exempt from tax if:

(1) The person on whose return the dependent is claimed has a net income of \$9,000 or less (\$24,000 or less if the person is 65 years of age or older); or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less (\$32,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$32,000 or less if the person is 65 years of age or older).

*d.* If the payment of tax would reduce the net income to less than \$24,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of \$24,000.

*e.* For taxpayers that file married filing separately, the combined net income of both spouses must be less than \$32,000 for either of them to qualify for this exemption.

This rule is intended to implement Iowa Code section 422.5 as amended by 2006 Iowa Acts, Senate File 2408, and sections 422.16, 422.17, 422.21, 422.24, and 422.25.

ITEM 3. Amend rule 701—302.47(422) as follows:

**701—302.47(422) Partial exclusion Exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors.** For tax years beginning on or after January 1, ~~1995~~ 2023, an individual who is disabled, is 55 years of age or older, is a surviving spouse, or is a survivor with an insurable interest in an individual who would have qualified for the exclusion at the time of death is eligible for ~~a partial~~ an exclusion of retirement benefits received in the tax year. ~~For tax years beginning on or after January 1, 2001,~~

## REVENUE DEPARTMENT[701](cont'd)

the partial exclusion of retirement benefits received in the tax year is increased up to a maximum of \$6,000 for a person other than a husband or wife who files a separate state return and up to a maximum of \$12,000 for a husband and wife who file a joint Iowa return. For tax years beginning on or after January 1, 1998, the partial exclusion of retirement benefits received in the tax year was increased up to a maximum of \$5,000 for a person, other than a husband or wife who files a separate state income tax return, and up to a maximum of \$10,000 for a husband and wife who file a joint state income tax return. A husband and wife filing separate state income tax returns or separately on a combined state return are allowed a combined exclusion of retirement benefits of up to a maximum of \$10,000 for tax years beginning in 1998, 1999 and 2000 and a combined exclusion of up to a maximum of \$12,000 for tax years beginning on or after January 1, 2001. The \$10,000 or \$12,000 exclusion shall be allocated to the husband and wife in the proportion that each spouse's respective pension and retirement benefits received bear to the total combined pension and retirement benefits received by both spouses. See More information can be found in rule 701—302.80(422) for the exclusion of military retirement pay for tax years beginning on or after January 1, 2014 and rule 701—302.23(422) for the exclusion of Social Security benefits.

**EXAMPLE 1.** A married couple elected to file separately on the combined return form. Both spouses were 55 years of age or older. The wife received \$95,000 in retirement benefits and the husband received \$5,000 in retirement benefits. Since the wife received 95 percent of the retirement benefits, she would be entitled to 95 percent of the \$10,000 retirement income exclusion or a retirement income exclusion of \$9,500. The husband would be entitled to 5 percent of the \$10,000 retirement income exclusion or an exclusion of \$500.

**EXAMPLE 2.** A married couple elected to file separately on the combined return form. Both spouses were 55 years of age or older. The husband had \$15,000 in retirement benefits from a pension. The wife received no retirement benefits. In this situation, the husband can use the entire \$10,000 retirement income exclusion to exclude \$10,000 of his pension benefits since the spouse did not use any of the \$10,000 retirement income exclusion for the tax year.

**EXAMPLE 3.** A married couple elected to file separately on the combined return form. One spouse was 52 years of age and received a pension income of \$20,000. The other spouse was 55 years of age and received no pension income. Since the spouse receiving the pension income was not 55 years of age, no exclusion is allowed on the Iowa return.

**EXAMPLE 4.** A married couple elected to file separately on the combined return form. One spouse was 52 years of age and received a pension income of \$10,000. The other spouse was 55 years of age and received a pension income of \$8,000. Since only one spouse receiving the pension income was 55 years of age, an exclusion of \$8,000 is allowed on the Iowa return. The exclusion of \$8,000 is allowed since a married couple is allowed a combined exclusion of up to \$12,000.

For tax years beginning on or after January 1, 1995, but prior to January 1, 1998, the retirement income exclusion was up to \$3,000 for single individuals, up to \$3,000 for each married person filing a separate Iowa return, up to \$3,000 for each married person filing separately on the combined return form, and up to \$6,000 for married taxpayers filing joint Iowa returns. For example, a married couple elected to file separately on the combined return form and both spouses were 55 years of age or older. One spouse had \$2,000 in pension income that could be excluded, since the pension income was \$3,000 or less. The other spouse had \$6,000 in pension income and could exclude \$3,000 of that income due to the retirement income exclusion. This second spouse could not exclude an additional \$1,000 of the up to \$3,000 retirement income exclusion that was not used by the other spouse.

### **302.47(1) Retirement income.**

**a. Qualifying retirement income.** Generally, distributions from documented retirement plans meeting the qualification requirements in the Internal Revenue Code qualify for the retirement income exclusion. The following is a nonexclusive list of plans that qualify for the retirement income exclusion:

**(1) Traditional individual retirement account (IRA) authorized under Internal Revenue Code Section 408(a).**

**(2) Roth individual retirement account (Roth IRA) authorized under Internal Revenue Code Section 408A.**

## REVENUE DEPARTMENT[701](cont'd)

- (3) Roth conversion income.
- (4) Simplified employee pension individual retirement arrangement (SEP-IRA) defined in Internal Revenue Code Section 408(k).
- (5) Savings incentive match plan for employees (SIMPLE IRA) defined under Internal Revenue Code Section 408(p).
- (6) Qualified deferred compensation plans including those authorized under Internal Revenue Code Section 401(k).
- (7) Eligible deferred compensation plans including those authorized under Internal Revenue Code Section 457(b).
- (8) A defined benefit plan, pension plan, profit-sharing plan, or stock bonus plan qualified under Internal Revenue Code Section 401 including IPERS and employee stock ownership plans (ESOPs).
- (9) Keogh plans or HR 10 plans.
- (10) Eligible combined plans described in Internal Revenue Code Section 414(x).

b. Retirement income that does not qualify. Generally, distributions from retirement plans that do not meet the qualification requirements in the Internal Revenue Code do not qualify for the retirement income exclusion. The following nonexclusive list of plans does not qualify for the retirement income exclusion:

- (1) Nonqualified deferred compensation plans described in Internal Revenue Code Section 409A.
- (2) Nonqualified annuities.

**302.47(2) Survivors having an insurable interest.**

a. Insurable interest. “Insurable interest” is a term used in life insurance which also applies to this rule and is defined to be “such means an interest in the life of the person insured, arising from the relations of the party obtaining the insurance, either as credit of or surety for the assured insured, or from the ties of blood or marriage to him the insured, as would justify a reasonable expectation of advantage or benefit from the continuance of his the life of the insured.” *Warnock v. Davis*, 104 U.S. 775, 779, 26 L.Ed. 924; *Connecticut Mut. Life Ins. Co. v. Luchs*, 2 S.Ct. 949, 952, 108 U.S. 498, 27 L.Ed. 800; Appeal of Corson, 6 A. 213, 215, 113 Pa. 438, 57 Am. Rep. 479; *Adams’ Adm’r v. Reed*, Ky., 36 S.W. 568, 570; *Trinity College v. Travelers’ Co.*, 18 S.E. 175, 176, 113 N.C. 244, 22 L.R.A. 291; *Opitz v. Karel*, 95 N.W. 948, 951, 118 Wis. 527, 62 L.R.A. 982. It is not necessary that the expectation of advantage or profit should always be capable of pecuniary estimation, for a parent has an insurable interest in the life of his child, and a child in the life of his parent, a husband in the life of his wife, and a wife in the life of her husband. The natural affection in cases of this kind is considered as more powerful, as operating the more efficaciously, to protect the life of the insured than any other consideration, but in all cases there must be a reasonable ground, founded on relations to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the assured. *Warnock v. Davis*, 104 U.S. 775, 26 L.Ed. 924; Appeal of Corson, 6 A. 213, 215, 113 Pa. 438, 57 Am. Rep. 479; *Connecticut Mut. Life Ins. Co. v. Luchs*, 2 S.Ct. 949, 952, 108 U.S. 498, 27 L.Ed. 800. For purposes of this rule, the term “insurable interest” applies to a beneficiary receiving retirement benefits due to the death of a decedent under the same circumstances as if the beneficiary were receiving life insurance benefits as a result of the death of the decedent. Case law related to an insurable interest in the life insurance context is relevant in determining whether a beneficiary is a survivor with an insurable interest.

b. Survivors with an insurable interest must be natural persons. Only natural persons may be a survivor with an insurable interest for purposes of this exclusion.

c. Parties deemed to have an insurable interest by relationship. Some relationships are deemed so close that the individual will have an insurable interest in the decedent. These are spouses in each other’s lives, parents in the lives of their children, and children in the lives of their parents.

d. Individuals other than close relations may be a survivor with an insurable interest. Individuals other than those with a relationship with the decedent described in paragraph 302.47(2) “c” must establish that they had a pecuniary interest in the continuation of the life of the decedent at the time of death to be considered a survivor with an insurable interest. The beneficiary has the burden of proof to show that the beneficiary had a reasonable expectation of an advantage or benefit that the beneficiary would have

REVENUE DEPARTMENT[701](cont'd)

received with the continuance of the life of the decedent. Being named a beneficiary of the retirement plan alone does not establish that an individual is a survivor with an insurable interest.

EXAMPLE: A grandson was receiving college tuition regularly from his grandfather and received the grandfather's pension as a beneficiary of the grandfather after the grandfather's death. The grandson would be deemed to have an insurable interest in the benefits and would be eligible for the retirement income exclusion.

For purposes of this rule, the term "insurable interest" will be considered to apply to a beneficiary receiving retirement benefits due to the death of a pensioner or annuitant under the same circumstances as if the beneficiary were receiving life insurance benefits as a result of the death of the pensioner or annuitant.

For purposes of this rule, the term "survivor" is a person other than the surviving spouse of an annuitant or pensioner who is receiving the annuity or pension benefits because the person was a beneficiary of the pensioner or annuitant at the time of death of the pensioner or annuitant. In addition, in order for this person to qualify for the partial exclusion of pensions or retirement benefits, this survivor must have had an insurable interest in the pensioner or annuitant at the time of death of the annuitant or pensioner.

A survivor other than the surviving spouse will be considered to have an insurable interest in the pensioner or annuitant if the survivor is a son, daughter, mother, or father of the annuitant or pensioner. The relationship of these individuals to the pensioner or annuitant is considered to be so close that no separate pecuniary or monetary interest between the pensioner or annuitant and any of these relatives must be established.

A survivor may include relatives of the pensioner or annuitant other than those relatives that were mentioned above. However, before any of these relatives can be considered to be a survivor for purposes of this rule, the relative must have had some pecuniary interest in the continuation of the life of the pensioner or annuitant. That is, the relative must establish a relationship with the pensioner or annuitant that shows there was a reasonable expectation of an advantage or benefit which the person would have received with the continuance of the life of the pensioner or annuitant.

The fact that a niece of the pensioner or annuitant was named beneficiary of an uncle's pension where the uncle had no closer relatives does not in itself establish that the niece had an insurable interest in the pension benefits, if the niece was not receiving monetary benefits or the niece did not have some special relationship to the uncle at the time of the uncle's death.

If a grandson was receiving college tuition regularly from his grandfather and received the grandfather's pension as a beneficiary of the grandfather after the grandfather's death, the grandson would be deemed to have an insurable interest in the benefits and would be eligible for the partial retirement benefit exclusion.

A person who is not related to the pensioner or annuitant, such as a partner in a business or a creditor, may have an insurable interest in the pensioner or annuitant. However, the burden of proof is on a nonrelated person to show that the person had an insurable interest in the pensioner or the annuitant at the time of death of the pensioner or annuitant.

There are numerous court cases which deal with whether a person had established an insurable interest in the life of an individual that was insured. These cases may be used as a guideline to determine whether or not a person receiving a pension or annuity due to the death of an annuitant or pensioner had an insurable interest in the annuitant or pensioner at the time of death of the pensioner or annuitant. Thus, if a person would have met criteria for an insurable interest for purposes of an interest in a person's life insurance policy, the person would also be considered to be qualified for an insurable interest in a pensioner or annuitant.

Retirement benefits subject to the retirement income exclusion include, but are not limited to: benefits from defined benefit or defined contribution pension and annuity plans, benefits from annuities, incomes from individual retirement accounts, benefits from pension or annuity plans contributed by an employer or maintained or contributed by a self-employed person and benefits and earnings from deferred compensation plans. However, the exclusion does not apply to social security benefits. A surviving spouse who is not disabled or is not 55 years of age or older can only exclude retirement

## REVENUE DEPARTMENT[701](cont'd)

benefits received as a result of the death of the other spouse and on the basis that the deceased spouse would have been eligible for the exclusion in the tax year. In order for a survivor other than the surviving spouse to qualify for the partial exclusion of retirement benefits, the survivor must have received the retirement benefits as a result of the death of a pensioner or annuitant who would have qualified for the exclusion in the tax year on the basis of age or disability. In addition, the survivor other than the surviving spouse would have had to have an insurable interest in the pensioner or annuitant at the time of the death of the pensioner or annuitant.

**302.47(3) Disabled individuals.** For purposes of this rule, a disabled individual is a person who is receiving benefits as a result of retirement from employment or self-employment due to disability. In addition, a person is considered to be a disabled individual if the individual is determined to be disabled in accordance with criteria established by the Social Security Administration or other federal or state governmental agency.

Note that the pension or other retirement benefits that are excluded from taxation for certain individuals are to be considered as a part of net income for purposes of determining whether or not a particular individual's income is low enough to exempt that taxpayer from tax. In addition, the pension or other retirement benefits that are excluded from taxation for certain individuals are to be considered as a part of net income for the alternative tax computation, which is available to all taxpayers except those taxpayers filing as single individuals.

Finally, the pension or other retirement benefits are to be considered as a part of net income for individuals using the single filing status whose tax liabilities are limited so the liabilities cannot reduce the person's net income plus exempt benefits below \$9,000, or below \$18,000 for taxpayers 65 years of age or older for the 2007 and 2008 tax years, or below \$24,000 for taxpayers 65 years of age or older for the 2009 and subsequent tax years.

This rule is intended to implement Iowa Code sections 422.5 and 422.7.

ITEM 4. Amend rule 701—302.80(422) as follows:

**701—302.80(422) Exemption for military retirement pay.** For tax years beginning on or after January 1, 2014, retirement Retirement pay received by taxpayers from the federal government for military service performed in the armed forces, armed forces reserves, or national guard is exempt from state income tax. In addition, amounts received by a surviving spouse, former spouse, or other beneficiary of a taxpayer who served in the armed forces, armed forces reserves, or national guard under the Survivor Benefit Plan are also exempt from state income tax for tax years beginning on or after January 1, 2014. The retirement pay is only deductible to the extent it is included in the taxpayer's federal adjusted gross taxable income.

**302.80(1) Coordination with pension exclusion.** The exclusion of retirement pay is in addition to the partial exclusion, provided in rule 701—302.47(422), of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses and survivors. In addition, taxpayers who do not qualify for the exclusion in rule 701—302.47(422) and who receive retirement pay under federal law that combines retirement pay for both uniformed service and the federal civil service retirement system or federal employees' retirement system must prorate the retirement pay based on years of service.

**EXAMPLE 1:** A married individual who is 60 years of age receives \$20,000 of federal retirement pay from military service and \$30,000 in retirement pay from the Iowa public employees' retirement system during the 2014 tax year. The taxpayer can exclude \$20,000 of military retirement pay and \$12,000 as a pension exclusion under rule 701—302.47(422), for a total exclusion of \$32,000 on the taxpayer's Iowa individual income tax return for the 2014 tax year.

**EXAMPLE 2:** A single taxpayer who is 65 years of age receives \$60,000 as a federal pension during the 2014 tax year. The taxpayer has 20 years of military service and 27 years of civilian employment with the federal government. The military retirement pay portion is \$25,532 (20 years divided by 47 years multiplied by \$60,000). The taxpayer can exclude \$25,532 of military retirement pay and \$6,000 as a pension exclusion under rule 701—302.47(422), for a total exclusion of \$31,532 on the taxpayer's Iowa individual income tax return for the 2014 tax year.

REVENUE DEPARTMENT[701](cont'd)

EXAMPLE: A single taxpayer who is not disabled and is 50 years of age receives \$60,000 as a federal pension during the tax year. The taxpayer has 20 years of military service and 10 years of civilian employment with the federal government. The military retirement pay portion is \$40,000 (20 years, divided by 30 years, multiplied by \$60,000). The taxpayer can exclude \$40,000 of military retirement pay. The taxpayer may not exclude the \$20,000 of civilian retirement pay since it does not qualify for the exclusion in rule 701—302.47(422) because the taxpayer is under 55 years of age and is not disabled.

**302.80(2)** *Coordination with filing threshold and alternate tax.* The military retirement pay is excluded from the calculation of income used to determine whether an Iowa income tax return is required to be filed pursuant to 701—subrules 301.1(1) and 301.5(10) through 301.5(13). In addition, the military retirement pay is excluded from the calculation of the special tax computation for all low-income taxpayers except single taxpayers pursuant to rule 701—301.9(422) and is excluded from the calculation of the special tax computation for taxpayers who are 65 years of age or older under rule 701—301.15(422).

**302.80(3)** *Iowa withholding.* The amount of military retirement pay is excluded from the calculation of payments used to determine whether Iowa tax should be withheld from pension and annuity payments as determined pursuant to 701—subrule 307.3(4).

This rule is intended to implement Iowa Code sections 422.5 and 422.7 as amended by 2014 Iowa Acts, Senate File 303.

ITEM 5. Amend subrule 307.1(2) as follows:

**307.1(2)** *Withholding on pensions, annuities and other nonwage payments to Iowa residents.* State income tax is required to be withheld from payments of pensions, annuities, supplemental unemployment benefits and sick pay benefits and other nonwage income payments made to Iowa residents in those circumstances mentioned in the following paragraphs. This subrule covers those nonwage payments described in Sections 3402(o), 3402(p), 3402(s), 3405(a), 3405(b), and 3405(c) of the Internal Revenue Code. This includes, but is not limited to, payments from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts, lump-sum distributions from qualified retirement plans, other retirement plans, and annuities, endowments and life insurance contracts issued by life insurance companies. These payments are subject to Iowa withholding tax if they are also subject to federal withholding tax. However, no state income tax withholding is required from nonwage payments to residents to the extent those payments are not subject to state income tax. ~~See paragraph 307.1(2) “h” for threshold amounts for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001.~~ In the case of some nonwage payments to residents, such as payments of pensions and annuities, no state income tax is required to be withheld if no federal income tax is being withheld from the payments of the pensions and annuities. ~~The rate of withholding on the nonwage payments described in this subrule is 5 percent of the payment amounts or 5 percent of the taxable amounts unless specified otherwise.~~

For purposes of this subrule, an individual receiving nonwage payments will be considered to be an Iowa resident and subject to this subrule if the individual’s permanent residence is in Iowa. The fact that a nonwage payment is deposited in a recipient’s account in a financial institution located outside Iowa does not mean that the recipient’s permanent residence is established in the place where the financial institution is situated.

Payers of pension and annuity benefits and other nonwage payments have the option of either withholding Iowa income tax from these payments on the basis of tables and formulas included in the Iowa withholding tax guide of the department of revenue or withholding Iowa income tax from these payments at the rate of 5 percent. ~~State income tax is required to be withheld by payers in situations when federal income tax is being withheld from the nonwage payments.~~

*a. Withholding from pension and annuity payments to residents.* Withholding of state income tax is required from payments of pensions and annuities to Iowa residents to the extent that the recipients of the payments have not filed with the payers of the benefits election forms which specify that no federal income tax is to be withheld. Therefore, state income tax is to be withheld when federal income tax is

## REVENUE DEPARTMENT[701](cont'd)

being withheld from the pensions or annuities. ~~See paragraph 307.1(2) "h" for threshold amounts for withholding from payments of pensions, annuities, and other retirement incomes which are made on or after January 1, 2001.~~

However, although Iowa income tax is ordinarily required to be withheld from pension and annuity payments made to Iowa residents if federal income tax is being withheld from the payments, no state income tax is required to be withheld if pension and annuity payments are not subject to Iowa income tax, as in the case of railroad retirement benefits which are exempt from Iowa income tax by a provision of federal law or retirement distributions subject to the retirement income exclusion described in rule 701—302.47(422).

*b. Withholding from payments to residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and from annuities, endowments and life insurance contracts issued by life insurance companies.* Payments to Iowa residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and payments from life insurance companies for contracts for annuities, endowments or life insurance benefits are subject to withholding of state income tax if federal income tax is withheld from the benefits. However, no state income tax is to be withheld from the income tax payments described above to the extent those income tax payments are exempt from Iowa income tax. ~~See paragraph 307.1(2) "h" for thresholds for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001.~~ Rule 701—302.47(422) provides more information about the retirement income exclusion.

In cases where the recipients elect withholding of state income tax from the income payments, the payers are to withhold from the payments at a rate of 5 percent on the taxable portion of the payment, if that can be determined by the payer or on the entire income payment if the payer does not know how much of the payment is taxable. Once a recipient makes an election for state income tax withholding, that election will remain in effect until a later election is made.

*c. Withholding from payments to residents for supplemental unemployment compensation benefits and sick pay benefits.* Income payments made for supplemental unemployment compensation benefits described in Section 3402(o)(2)(a) of the Internal Revenue Code and for sick pay benefits are subject to withholding of state income tax. In the case of supplemental unemployment compensation benefits, those benefits are treated as wages for purposes of state income tax withholding. Therefore, state income tax should be withheld from these payments when federal income tax is withheld. The amount of state income tax withholding should be determined by the withholding tables provided in the Iowa employers' "Withholding Tax Guide."

In the case of state income tax withholding for sick pay benefits paid by third-party payers in accordance with Section 3402(o)(1) of the Internal Revenue Code, state income tax is to be withheld from the benefits by the payer only if state income tax withholding is requested by the payee of the benefits. ~~However, payees of sick pay benefits should probably not request withholding from the benefits if the payees are eligible for the disability income exclusion authorized in Iowa Code section 422.7 and described in rule 701—302.22(422).~~ If withholding is requested by the payee, the withholding should be done at a 5 percent rate on the sick pay benefits. Once withholding is started, it should continue until such time as the payee requests that no state income tax be withheld. For sick pay benefits not paid by third-party payers, state income tax is required to be withheld since federal income tax is required to be withheld.

*d. Voluntary state income tax withholding from unemployment benefit payments.* Recipients of unemployment benefit payments described in Section 3402(p)(2) of the Internal Revenue Code may elect to have state income tax withheld from the benefit payments at a rate of 5 percent. An individual's election to have state income tax withheld from unemployment benefits is separate from any election to have federal income tax withheld from the benefits.

*e. Withholding on lump-sum distributions from qualified retirement plans.* For lump-sum distribution payments from qualified retirement plans made to Iowa residents, state income tax is required to be withheld under the conditions described in this paragraph. No state income tax is required to be withheld from a lump-sum distribution payment to an Iowa resident in a situation where the

## REVENUE DEPARTMENT[701](cont'd)

payment is not subject to Iowa income tax. See ~~paragraph 307.1(2)“h” for thresholds for withholding on lump-sum distributions issued on or after January 1, 2001.~~ Rule 701—302.47(422) provides more information about the retirement income exclusion. Iowa income tax is to be withheld from a lump-sum distribution made to an Iowa resident to the extent that federal income tax is being withheld from the distribution. The rate of withholding of state income tax from the lump-sum distribution is 5 percent from the total distribution or 5 percent from the taxable amount if that amount is known by the payer. Note that in the case of a lump-sum distribution, the Iowa income tax imposed on the taxable amount of the distribution is 25 percent of the federal income tax on the distribution.

*f. Withholding of state income tax from nonwage payments to residents on the basis of tax tables and tax formulas.* State income tax from the nonwage payments made to Iowa residents may be withheld on the basis of formulas and tables included in the Iowa withholding tax guide of the department of revenue. ~~See paragraph 307.1(2)“h” for threshold amounts for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001.~~ When state income tax is being withheld based upon the formulas or tables in the withholding guide, the amounts of the nonwage payments are treated as wage payments for purposes of the tables or the formulas.

The frequency of the nonwage payments determines which of the withholding tables to use or the number of pay periods in the calendar year to use in the formula. For example, if the nonwage payment is made on a monthly basis, the monthly wage bracket withholding table should be utilized for withholding or 12 should be utilized in the formula to indicate that there will be 12 nonwage payments in the year.

The payers of nonwage payments should withhold state income tax from the nonwage payments to Iowa residents when federal income tax is being withheld from the nonwage payments. The payers should withhold from the nonwage payments to Iowa residents from tables or the formulas in the Iowa withholding guide on the basis of the number of withholding exemptions claimed on Form IA W-4 which has been completed by the payees of the payments. However, if a payee of a nonwage payment has not completed an IA W-4 form (Iowa employee's withholding allowance certificate) by the time a nonwage payment is to be made by the payer of the nonwage payment, the payer is to withhold state income tax on the basis that the payee has claimed one withholding allowance or exemption.

In a situation when a payee of a nonwage payment completes Form IA W-4 and claims exemption from state income tax withholding when federal income tax is being withheld from the nonwage payment, the payer of the nonwage payment should withhold state income tax using one withholding allowance or exemption unless the payee has verified exemption from state income tax.

*g. Withholding on distributions from qualified retirement plans that are not directly rolled over.* State Other than distributions to payees who qualify for the retirement income exclusion, state income tax is to be withheld at a rate of 5 percent from the gross amount or taxable amount if known by the payer of the distribution made to Iowa residents if the distributions are not transferred directly to an IRA, Section 403(a) annuity or another qualified retirement plan. The distributions that are subject to state income tax withholding are those distributions that are subject to 20 percent withholding for federal income tax purposes. See paragraph 307.1(2)“h” for thresholds for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans which are made on or after January 1, 2001. Rule 701—302.47(422) provides more information about the retirement income exclusion.

*h. Withholding from distributions made on or after January 1, 2001, from pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans.* Effective for distributions made on or after January 1, 2001, from pension plans, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans, state income tax is generally required to be withheld from the distributions when federal income tax is being withheld from the distributions, unless one of the exceptions for withholding in this paragraph applies. For purposes of this paragraph, the term “pensions and other retirement plans” includes all distributions of retirement benefits covered by the partial exemption described in rule 701—302.47(422).

~~State income tax is not required to be withheld from a distribution from a pension or other retirement plan if the distribution is an income which is not subject to Iowa income tax, such as a distribution of~~



## REVENUE DEPARTMENT[701](cont'd)

~~railroad retirement benefits. State income tax is also not required to be withheld from a pension plan or other retirement plan if the amount of the distribution is \$500 per month or less or if the taxable amount is \$500 or less and the person receiving the distribution is eligible for the partial exemption of retirement benefits described in rule 701—302.47(422), if the state taxable amount can be determined by the payee of the distribution. There is also no requirement for withholding state income tax from a pension or other retirement plan if the distribution is \$1,000 per month or less or if the taxable amount is \$1,000 or less and the person receiving the distribution is eligible for the partial exemption of retirement benefits described in rule 701—302.47(422) and that person has indicated an intention to file a joint state income tax return for the year in which the distribution is made. In instances where the distribution amount or the taxable amount is more than \$500 per month but less than \$6,000 for the year, no state income tax will be required to be withheld, if the person receiving the distribution is eligible for the partial exemption of retirement benefits.~~

~~Finally, there is no requirement for withholding from a lump sum payment from a qualified retirement plan if the lump sum payment is \$6,000 or less, the recipient is eligible for the partial exemption of distributions from pensions and other retirement plans, and the lump sum payment is the only distribution from the retirement plan in the year.~~

ITEM 6. Amend rule **701—307.1(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 96.3, ~~99B.24~~ 99B.8, 99D.16, ~~99E.19~~, 99F.18, ~~99G.31~~, 422.5, 422.7, and 422.16.

ITEM 7. Amend subrule 307.3(5) as follows:

**307.3(5)** *Iowa W-4P—withholding certificate for pension or annuity payments.*

*a.* For payments made from pension plans, annuity plans, individual retirement accounts, or deferred compensation plans to residents of Iowa, payers of these retirement benefits are to use Form IA W-4P for withholding of state income tax from the benefits. Generally, state income tax is required to be withheld from payments of distributions from the retirement incomes described above when federal income tax is being withheld from the payments. However, no state income tax is required to be withheld to the extent the monthly payment amount is \$500 or less or the taxable amount per month is \$500 or less if the payee is eligible for the retirement benefits exclusion described in rule 701—302.47(422). In addition, no state income tax is required to be withheld to the extent the monthly payment amount is \$1,000 or less or the taxable amount per month is \$1,000 or less if the payee is married and eligible for the retirement benefits exclusion described in rule 701—302.47(422). Iowa income tax withholding is not required on payments of distributions from qualifying retirement plans if the payee is eligible for the retirement income exclusion described in rule 701—302.47(422). However, withholding at a rate of 5 percent is required if the payee is not eligible for the retirement income exclusion or if the distribution is from a plan that does not qualify for the retirement income exclusion.

*b.* ~~Form IA W-4P is available from the department for payers of retirement benefits that intend to withhold at a rate of 5 percent from the payment amount or taxable payment amount after the \$6,000 to \$12,000 exclusion is considered. Note that the \$6,000 to \$12,000 exclusion is to be allocated to all retirement benefit payments made in the year and not just the first \$6,000 to \$12,000 in payments made in the year to an individual. If an individual receives retirement benefits and has not completed Form IA W-4P, the payer is directed to withhold Iowa income tax from the retirement benefit payment after a \$6,000 exclusion is allowed on an annual basis.~~

*e. b.* Payers of retirement benefits taxable in Iowa that want to use withholding formulas or tables to withhold state income tax instead of at the 5 percent rate may design their own IA W-4P withholding certificate form without approval of the department.

*d.* ~~The payers are not responsible for improper choices made by a payee in completion of the IA W-4P. However, payers cannot accept a request for exemption from the withholding of state income tax~~

REVENUE DEPARTMENT[701](cont'd)

~~made by a payee if federal income tax is being withheld unless the payee is eligible for exemption from withholding.~~

[Filed 12/14/23, effective 2/14/24]

[Published 1/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.