



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; 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.

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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 Rule Making 2021

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

PRINTING SCHEDULE FOR IAB

| <u>ISSUE NUMBER</u> | <u>SUBMISSION DEADLINE</u> | <u>ISSUE DATE</u> |
|---------------------|----------------------------|-------------------|
| 23 | Friday, April 16, 2021 | May 5, 2021 |
| 24 | Friday, April 30, 2021 | May 19, 2021 |
| 25 | Wednesday, May 12, 2021 | June 2, 2021 |

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****

NOTE: See also the Advisory Notice on page 2312.

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100.18, 101.9, 102.3, 103.4
IAB 3/10/21 **ARC 5499C**

Via conference call
Contact Tracy Swalwell
Email: tracy.swalwell@iid.iowa.gov

April 15, 2021
10 to 11 a.m.
(If requested)

Property and casualty insurance;
self-study continuing education,
11.3(4)“b,” 11.5(7), 20.1, 20.2,
20.4 to 20.6, 20.11, 20.41,
20.43, 20.47(3), 20.71
IAB 3/10/21 **ARC 5500C**

Via conference call
Contact Tracy Swalwell
Email: tracy.swalwell.iid@iowa.gov

April 7, 2021
9 a.m.
(If requested)

LABOR SERVICES DIVISION[875]

Penalties for citations; waivers;
rule making, amendments to chs
1, 3, 5
IAB 3/10/21 **ARC 5511C**

Dial: 312.626.6799
Meeting ID: 819 4968 6327
Passcode: 273126

April 15, 2021
11 a.m.
(If requested)

PROFESSIONAL LICENSURE DIVISION[645]

Barbers—mobile barbershops,
licensing, 21.11, 21.19
IAB 4/7/21 **ARC 5557C**

Webex ID: 187 695 5387
Password: WVmaFmQ*768
(US) +1 408.418.9388 (toll)
Access Code: 187 695 5387

April 27, 2021
9 to 9:30 a.m.

Hearing aid
specialists—telehealth
appointments, 123.4(1)“g,”
123.5
IAB 4/7/21 **ARC 5554C**

Option 1: Join Webex hearing on
www.webex.com, click “JOIN,” then enter
the following information:
Meeting ID Number: 1463706783
Password: fEu34rv\$
Option 2: Join by video system:
1463706783@webex.com
Option 3: Join by phone:
+1 408.418.9388 (toll)
Access code: 146 370 678 3

April 28, 2021
8:30 to 9 a.m.

Practice of speech pathologists
and audiologists, ch 301
IAB 4/7/21 **ARC 5556C**

Option 1: Join Webex hearing on
www.webex.com, click “JOIN,” then enter
the following information:
Meeting ID Number: 1873547720
Password: aVDQuj@4
Option 2: Join by video system:
1873547720@webex.com
Option 3: Join by phone:
+1 408.418.9388 (toll)
Access code: 187 354 7720

April 28, 2021
9 to 9:30 a.m.

Physician
assistants—telemedicine, 327.9
IAB 4/7/21 **ARC 5555C**

Via Webex:
idph.webex.com/idph/j.php?MTID=mab53252486f2c_e8f8ff02111af8c22f5
Password: rfRyMJP4@42
Via telephone: 408.418.9388
Access code: 187 215 8512

April 27, 2021
10:30 to 11 a.m.

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

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elections, amendments to chs 1,
2, 4, 5, 7, 15
IAB 3/24/21 **ARC 5534C**

Via video conference
Contact the agency
Email: iaperb@iowa.gov

April 14, 2021
10 a.m.

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and underground storage,
amendments to ch 13
IAB 1/27/21 **ARC 5403C**

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

April 15, 2021
1:30 to 4:30 p.m.

Electric utility service,
amendments to ch 20
IAB 2/24/21 **ARC 5475C**

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

April 13, 2021
1:30 to 4 p.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.

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ARC 5549C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action****Proposing rule making related to the supplemental nutrition assistance program and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 7, “Appeals and Hearings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 17A and section 217.6 and 7 CFR 273.16(f).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 17A and section 217.6 and 7 CFR 273.16(f).

Purpose and Summary

The Department has changed the formal name of Iowa’s food assistance program from Food Assistance to the Supplemental Nutrition Assistance Program (SNAP) to be consistent with the name of the federal program and to alleviate confusion around food benefits that are available.

Federal regulations give states the option of establishing procedures to allow an individual accused of an intentional SNAP violation to waive the individual’s right to an administrative disqualification hearing. With the recommendation of the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS), the Department has decided to take advantage of this option. The Department is responsible for investigating any case of alleged intentional program violation. The Department will notify a SNAP household when the Department submits a referral to determine whether an individual of that household intentionally violated SNAP rules. Currently, the Department’s only options to ensure appropriate cases are acted upon are through an administrative disqualification hearing or through criminal prosecution by a court of an appropriate jurisdiction.

The proposed amendments give an individual who is suspected of an intentional program violation an opportunity to waive the individual’s right to an administrative disqualification hearing, if the individual so chooses, on Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing.

If the individual chooses to sign the form, the member will be disqualified from participating in SNAP for a specified time and agrees to repay any overpayment associated with the violation. No administrative disqualification hearing will be held. The same disqualification penalty will be imposed if the individual chooses to give up the right to an administrative disqualification hearing and signs the waiver form or if the individual participates in the hearing and is found to have committed an intentional program violation by an administrative law judge.

No further administrative appeal procedure exists after an individual waives the individual’s right to an administrative disqualification hearing and a disqualification penalty has been imposed.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 27, 2021. Comments should be directed to:

Nancy Freudenberg
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend rule **441—7.1(17A)**, definitions of “Assistance program,” “Good cause” and “Intentional program violation,” as follows:

“*Assistance program*” means a program administered by the department or on the department’s behalf through which qualifying individuals receive benefits or services. Assistance programs include, but are not necessarily limited to, ~~food assistance~~ the Supplemental Nutrition Assistance Program (SNAP), Medicaid, the family investment program, refugee cash assistance, child care assistance, emergency assistance, the family planning program, the family self-sufficiency grant, PROMISE JOBS, state supplementary assistance, the healthy and well kids in Iowa (hawki) program, foster care, adoption, and aftercare services.

“*Good cause*” means an intervening cause, not attributable to the negligence of a party, reasonably resulting in a delay or ~~in attendance~~ failure to attend, for purposes of subrules 7.4(3) and 7.9(2).

“*Intentional program violation*” means deliberately making a false or misleading statement; or misrepresenting, concealing, or withholding facts; or committing any act that is a violation of the ~~Food and Nutrition Act of 2008~~ Supplemental Nutrition Assistance Program (SNAP), ~~food assistance program~~ SNAP regulations, or any state law relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of SNAP benefits or an electronic benefit transfer (EBT) card. An intentional program violation is determined through a ~~food assistance SNAP~~ SNAP administrative disqualification hearing. ~~The hearing~~, a court conviction, or when an individual signs and returns Form

HUMAN SERVICES DEPARTMENT[441](cont'd)

470-5530, Waiver of Right to an Administrative Disqualification Hearing, which may result in a period of ineligibility for the program, a claim for overpayment of benefits, or both.

ITEM 2. Amend rule 441—7.2(17A) as follows:

441—7.2(17A) Governing law and regulations. In the absence of an applicable rule in this chapter, the DIA rules found at 481—Chapter 10 govern department appeals. Notwithstanding the foregoing and the rules contained in this chapter, to the extent that federal or state law (including regulations and rules) related to a specific program is more specific than or contradicts these rules or the applicable DIA rules, the program-specific federal or state law shall control. For example, ~~food assistance~~ Supplemental Nutrition Assistance Program (SNAP) appeals shall be conducted in accordance with 7 CFR 273.15 and 7 CFR 273.16, and medical assistance appeals shall be conducted in accordance with 42 CFR Part 431, subpart E, and Part 438, subpart F.

ITEM 3. Amend paragraph 7.4(3)“a” as follows:

a. ~~Food assistance Supplemental Nutrition Assistance Program (SNAP), Medicaid eligibility, healthy and well kids in Iowa (hawki), fee-for-service Medicaid coverage, family planning program and autism support program.~~ For appeals pertaining to ~~food assistance~~ Supplemental Nutrition Assistance Program (SNAP), Medicaid eligibility, healthy and well kids in Iowa (hawki), fee-for-service Medicaid coverage, the family planning program or the autism support program, the appellant must appeal on or before the ninetieth day following the date of notice of an adverse benefit determination.

ITEM 4. Amend paragraph 7.4(3)“i” as follows:

i. *Assistance program overpayments.* For appeals pertaining to the family investment program, refugee cash assistance, PROMISE JOBS, child care assistance, medical assistance, healthy and well kids in Iowa (hawki), family planning program or ~~food assistance~~ Supplemental Nutrition Assistance Program (SNAP) overpayments, the party-in-interest’s right to appeal the existence, computation and amount of the overissuance or overpayment begins when the department sends the first notice informing the party-in-interest of the overissuance or overpayment.

ITEM 5. Adopt the following new rule 441—7.19(17A):

441—7.19(17A) Supplemental Nutrition Assistance Program (SNAP) administrative disqualification hearings. The department acts on alleged intentional program violations either through an administrative disqualification hearing or referral to a court of appropriate jurisdiction. An individual accused of an intentional program violation may waive the individual’s right to an administrative disqualification hearing in accordance with the procedures outlined in this rule.

7.19(1) When a case is referred for an administrative disqualification hearing, the appeals section shall provide written notification to the individual that the individual can waive the right to an administrative disqualification hearing by signing and returning Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing.

7.19(2) By signing Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing, the individual:

- a. Waives the right to an administrative disqualification hearing;
- b. Consents to the SNAP disqualification period designated on Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing, and a reduction of benefits for the period of disqualification; and
- c. Acknowledges that remaining household members, if any, may be held responsible for repayment of the resulting claim.

7.19(3) An administrative disqualification hearing shall be scheduled if the individual does not sign and mail or fax Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing, to the appeals section within ten days of receipt of the written notification stating the individual can waive the right to an administrative disqualification hearing. The date on which the written notification is received is considered to be five days after the date on the notification, unless the individual shows the notification was not received within the five-day period.

HUMAN SERVICES DEPARTMENT[441](cont'd)

7.19(4) An individual who waives the right to an administrative disqualification hearing will be subject to the same penalties as an individual found to have committed an intentional program violation in an administrative disqualification hearing.

7.19(5) No further administrative appeal procedure exists after an individual waives the individual's right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty shall not be changed by a subsequent fair hearing decision.

ARC 5550C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to waivers and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

The proposed rule making adds the reserve capacity slot criteria from the home- and community-based services (HCBS) waiver applications to the intellectual disability (ID) waiver and the children's mental health (CMH) waiver and reduces the minimum amount of time that a member must be in an institutional stay to qualify for a reserved capacity slot under the brain injury (BI) waiver from six months to four months.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 27, 2021. Comments should be directed to:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Nancy Freudenberg
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Adopt the following **new** paragraph **83.61(4)“d”**:

d. The state reserves payment slots each waiver year (July 1 to June 30) for use by children who must reside outside the family home in a residential-based supported community living licensed residential care facility. The state also reserves payment slots each waiver year (July 1 to June 30) for use by members living in an ICF/ID, nursing facility, or out-of-state placement, or transitioning from the Money Follows the Person Grant, who choose to access services in the intellectual disability waiver program and leave the ICF/ID, nursing facility, or out-of-state placement to live in the community.

(1) Applicants who currently reside in an ICF/ID or nursing facility and have resided in that setting for four or more months may request a reserved capacity slot through the intellectual disability waiver.

(2) Applicants shall be allocated a reserved capacity slot on the basis of the date the request is received by the income maintenance worker or the waiver slot manager.

(3) In the event that more than one request for a reserved capacity slot is received at one time, applicants shall be allocated the next available reserved capacity slot on the basis of the month of birth, January being month one and the lowest number.

(4) Persons who do not fall within the available reserved capacity slots shall have the person’s name maintained on the reserved capacity slot waiting list. As reserved capacity slots become available at the beginning of the next waiver year, persons shall be selected from the reserved capacity slot waiting list to utilize the number of approved reserved capacity slots based on the person’s order on the waiting list.

ITEM 2. Amend paragraph **83.82(4)“d”** as follows:

d. Applicants who currently reside in a community-based neurobehavioral rehabilitation residential setting, an intermediate care facility for persons with an intellectual disability (ICF/ID), a skilled nursing facility, or an ICF and have resided in that setting for ~~six~~ four or more months may request a reserved capacity slot through the brain injury waiver.

(1) to (3) No change.

ITEM 3. Adopt the following **new** paragraph **83.123(1)“e”**:

e. The state reserves payment slots each waiver year (July 1 to June 30) for use by members living in a state of Iowa mental health institute (MHI), a psychiatric residential treatment facility (PRTF), or an out-of-state facility placement who choose to access services in the children’s mental health waiver program and leave the MHI, PRTF, or out-of-state placement to live within their family home. For the

HUMAN SERVICES DEPARTMENT[441](cont'd)

purpose of reserved capacity within the children's mental health waiver program, an MHI is defined in Iowa Code section 226.1 and a PRTF is defined in 42 CFR 483.352.

(1) Applicants who currently reside in an MHI, PRTF, or out-of-state placement and have resided in that setting for four or more months may request a reserved capacity slot through the children's mental health waiver program.

(2) Applicants shall be allocated a reserved capacity slot on the basis of the date the request is received by the income maintenance worker or the waiver slot manager.

(3) In the event that more than one request for a reserved capacity slot is received at one time, applicants shall be allocated the next available reserved capacity slot on the basis of the month of birth, January being month one and the lowest number.

(4) Persons who do not fall within the available reserved capacity slots shall have their names maintained on the reserved capacity slot waiting list. As reserved capacity slots become available at the beginning of the next waiver year, persons shall be selected from the reserved capacity slot waiting list to utilize the number of approved reserved capacity slots based on their order on the waiting list.

ARC 5551C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to hospital licensing board and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to amend Chapter 6, "Uniform Waiver and Variance Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.104(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

Purpose and Summary

This proposed rule making removes references to the Hospital Licensing Board. The Hospital Licensing Board was eliminated through 2020 Iowa Acts, House File 2627.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 27, 2021. Comments should be directed to:

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

Ashleigh Hackel
 Iowa Department of Inspections and Appeals
 Lucas State Office Building
 321 East 12th Street
 Des Moines, Iowa 50319
 Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend rule ~~481—6.2(10A,17A,ExecOrd11)~~, definition of “Attached units,” as follows: “Attached units” means units attached to the department and includes the employment appeal board, ~~hospital licensing board~~, state citizen foster care review board, racing and gaming commission, and state public defender’s office.

ITEM 2. Amend subrule 6.11(1) as follows:

6.11(1) Director/board discretion. The decision on whether the circumstances justify the granting of a waiver or variance shall be made at the discretion of the director upon consideration of all relevant factors, except for the below-listed programs, for which the applicable board, commission or state public defender shall make the decision, upon consideration of all relevant factors:

- a. Employment appeal board, 486—Chapter 1.
- ~~b. Hospital licensing board, 481—Chapter 51.~~
- ~~c. State citizen foster care review board, 489—Chapter 1.~~
- ~~d. Racing and gaming commission, 491—Chapter 1.~~
- ~~e. State public defender’s office, 493—Chapter 1.~~

ARC 5552C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action****Proposing rule making related to residual solvent limits
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 32, “Consumable Hemp Products,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2020 Iowa Acts, House File 2581.

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2581.

Purpose and Summary

This proposed rule making corrects the unit of measurement identified for residual solvent limits. The unit of measurement is changed from “parts per billion” to “parts per million.”

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 27, 2021. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making action is proposed:

Amend paragraph **32.3(2)“b”** as follows:

b. Residual solvent limits.

- (1) 1,2-~~Dimethoxyethane~~ Dimethoxyethane, 100 parts per ~~billion~~ million.
- (2) 1,4-Dioxane, 380 parts per ~~billion~~ million.
- (3) 1-Butanol, 5,000 parts per ~~billion~~ million.

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

- (4) 1-Pentanol, 5,000 parts per ~~billion~~ million.
- (5) 1-Propanol, 5,000 parts per ~~billion~~ million.
- (6) 2-Butanol, 5,000 parts per ~~billion~~ million.
- (7) 2-Butanone, 5,000 parts per ~~billion~~ million.
- (8) 2-Ethoxyethanol, 5,000 parts per ~~billion~~ million.
- (9) 2-methylbutane, 5,000 parts per ~~billion~~ million.
- (10) 2-Propanol (IPA), 5,000 parts per ~~billion~~ million.
- (11) Acetone, 5,000 parts per ~~billion~~ million.
- (12) Acetonitrile, 410 parts per ~~billion~~ million.
- (13) Benzene, 2 parts per ~~billion~~ million.
- (14) Butane, 5,000 parts per ~~billion~~ million.
- (15) Cumene, 70 parts per ~~billion~~ million.
- (16) Cyclohexane, 3,880 parts per ~~billion~~ million.
- (17) Dichloromethane, 600 parts per ~~billion~~ million.
- (18) 2,2-dimethylbutane, 290 parts per ~~billion~~ million.
- (19) 2,3-dimethylbutane, 290 parts per ~~billion~~ million.
- (20) 1,2-dimethylbenzene, 2,170 parts per ~~billion~~ million.
- (21) 1,3-dimethylbenzene, 2,170 parts per ~~billion~~ million.
- (22) 1,4-dimethylbenzene, 2,170 parts per ~~billion~~ million.
- (23) Dimethyl sulfoxide, 5,000 parts per ~~billion~~ million.
- (24) Ethanol, 5,000 parts per ~~billion~~ million.
- (25) Ethyl acetate, 5,000 parts per ~~billion~~ million.
- (26) Ethylbenzene, 2,170 parts per ~~billion~~ million.
- (27) Ethyl ether, 5,000 parts per ~~billion~~ million.
- (28) Ethylene glycol, 620 parts per ~~billion~~ million.
- (29) Ethylene oxide, 50 parts per ~~billion~~ million.
- (30) Heptane, 5,000 parts per ~~billion~~ million.
- (31) n-Hexane, 290 parts per ~~billion~~ million.
- (32) Isopropyl acetate, 5,000 parts per ~~billion~~ million.
- (33) Methanol, 3,000 parts per ~~billion~~ million.
- (34) Methylpropane, 5,000 parts per ~~billion~~ million.
- (35) 2-Methylpentane, 290 parts per ~~billion~~ million.
- (36) 3-Methylpentane, 290 parts per ~~billion~~ million.
- (37) N,N-dimethylacetamide, 1,090 parts per ~~billion~~ million.
- (38) Pentane, 5,000 parts per ~~billion~~ million.
- (39) Propane, 5,000 parts per ~~billion~~ million.
- (40) Pyridine, 200 parts per ~~billion~~ million.
- (41) Sulfolane, 160 parts per ~~billion~~ million.
- (42) Tetrahydrofuran, 720 parts per ~~billion~~ million.
- (43) Toluene, 890 parts per ~~billion~~ million.
- (44) Xylenes, Total (ortho-, meta-, para-), 2,170 parts per ~~billion~~ million.

ARC 5557C

PROFESSIONAL LICENSURE DIVISION[645]**Notice of Intended Action****Proposing rule making related to mobile barbershops
and providing an opportunity for public comment**

The Board of Barbering hereby proposes to amend Chapter 21, "Licensure," Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 158.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 155.

Purpose and Summary

These proposed amendments implement changes recommended and required by 2020 Iowa Acts, Senate File 155, for licensing mobile barbershops. The proposed amendments were approved by the Board on March 15, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making. Written or oral comments in response to this rule making must be received by the Board of Barbering no later than 4:30 p.m. on April 27, 2021. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.0254
Fax: 515.281.3121
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

April 27, 2021
9 to 9:30 a.m.

Webex ID: 187 695 5387
Password: WVmaFmQ*768
(US) +1 408.418.9388 (toll)
Access Code: 187 695 5387

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 rule making. 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 the 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend rule 645—21.11(158) as follows:

645—21.11(158) Requirements for a barbershop license.

21.11(1) A barbershop shall not operate unless the owner of the barbershop possesses a current barbershop license issued by the board. The following criteria shall apply to licensure:

a. and *b.* No change.

c. A barbershop license may be for a stationary barbershop or a mobile barbershop.

(1) Stationary barbershop. A stationary barbershop license shall be issued for a specific location. A change in location or site of a stationary barbershop shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by 645—subrule 5.2(8). A change of address without change of actual location shall not be construed as a new site.

(2) Mobile barbershop. A mobile barbershop license shall be issued for a permanent physical address. The licensee is required to provide a permanent physical address for board correspondence. A mobile barbershop may operate in a legal parking spot or on private property, with the permission of the owner or the owner's designee, anywhere in the state of Iowa provided the mobile barbershop is operating in compliance with applicable federal and state transportation, environmental, and sanitary regulations, including those herein.

(3) Barbershop owner's contact information. The listed owner of either a stationary or mobile barbershop must update the board within 30 days of a change in contact information, which includes telephone number, email address, and mailing address.

d. to *g.* No change.

21.11(2) No change.

ITEM 2. Adopt the following **new** rule 645—21.19(158):

645—21.19(158) Mobile barbershops. A mobile home, motor home, trailer, or other recreational vehicle may be used as a mobile barbershop if it complies with the following:

21.19(1) The owner shall possess a current mobile barbershop license issued by the board.

21.19(2) The owner shall complete a board-approved application.

21.19(3) The mobile barbershop's owner's telephone number, email address, and permanent address must be included on the mobile barbershop's application for licensure and must be updated and accurate.

21.19(4) No service may be performed on a client in a moving vehicle. Services shall be performed in a mobile salon or barbershop that is parked in a legal parking spot.

21.19(5) Mobile barbershops must provide:

a. A supply of hot and cold water;

b. Adequate lighting;

c. A floor surface in the service area that is nonabsorbent and easily cleanable;

d. Work surfaces that are easily cleaned;

e. Cabinets secured with safety catches wherein all chemicals shall be stored when the vehicle is moving;

f. A first-aid kit that includes adhesive dressing, gauze and antiseptic, tape, triple antibiotics, eyewash, and gloves.

21.19(6) Mobile barbershops must comply with all rules in 645—Chapter 22, Infection Control for Barbershops and Barber Schools, except rules 645—22.5(158) through 645—22.7(158).

ARC 5554C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to telehealth appointments
and providing an opportunity for public comment**

The Board of Hearing Aid Specialists hereby proposes to amend Chapter 123, “Practice of Hearing Aid Dispensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154A.

Purpose and Summary

This proposed rule making would provide the minimum standards of care for hearing aid specialists when providing hearing aid testing or adjustment services during a telehealth appointment. This rule making would add a new rule to Chapter 123 and instruct that when a hearing aid specialist seeks to provide testing or adjustment services to a client remotely, the services must be provided in accordance with the new rule in order to adequately protect the public during a telehealth appointment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on April 27, 2021. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.0254
Fax: 515.281.3121
Email: venus.vendoures-walsh@idph.iowa.gov

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Hearing

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

April 28, 2021
8:30 to 9 a.m.

Option 2: Join by video system
1463706783@webex.com

Option 1: Join Webex hearing on
www.webex.com, click “JOIN,”
then enter the following information:
Meeting ID Number: 1463706783
Password: fEu34rv\$

Option 3: Join by phone +1 408.418.9388 (toll)
Access code: 146 370 678 3

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 rule making. 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 the 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Adopt the following **new** paragraph **123.4(1)“g”**:

g. A written statement indicating that a service or services were provided through a telehealth appointment, if applicable.

ITEM 2. Adopt the following **new** rule 645—123.5(154A):

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, shall require Iowa licensure.

123.5(3) When conducting a telehealth appointment, a licensee shall utilize technology that is secure, HIPAA-compliant, 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 shall be held to the same standard of care as a licensee who provides in-person services. A licensee shall 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 shall 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 shall specifically inform the client of, at a minimum, the following:

a. The risks and limitations of the use of technology to the specific service;

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- 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 shall 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 shall be established by the licensee's education, training, and experience.

123.5(7) A licensee who conducts a telehealth appointment shall note in the client's record that the service or services were provided through a telehealth appointment.

ARC 5556C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to telehealth
and providing an opportunity for public comment**

The Board of Speech Pathology and Audiology hereby proposes to adopt new Chapter 301, "Practice of Speech Pathologists and Audiologists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154F.

Purpose and Summary

This proposed rule making provides the minimum standards of care for speech pathologists and audiologists when they are providing services during a telehealth appointment. This proposed rule making adds a new Chapter 301, "Practice of Speech Pathologists and Audiologists," and instructs that when a speech pathologist or audiologist provides services to a patient remotely, the services must be provided in accordance with the new chapter in order to adequately inform and protect the patient during the telehealth appointment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on April 28, 2021. Comments should be directed to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.0254
Fax: 515.281.3121
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

April 28, 2021
9 to 9:30 a.m.

Option 2: Join by video system:
1873547720@webex.com

Option 1: Join Webex hearing on
www.webex.com, click “JOIN,” then
enter the following hearing information:
Meeting ID Number: 1873547720
Password: aVDQuj@4

Option 3: Join by phone +1 408.418.9388 (toll)
Access code: 187 354 7720

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 rule making. 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 the 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making action is proposed:

Adopt the following **new** 645—Chapter 301:

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 shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows 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.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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 shall 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 shall obtain informed consent from the patient specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent shall 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 shall 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 shall identify in the clinical record when speech pathology or audiology services are provided utilizing a telehealth visit.

This rule is intended to implement Iowa Code chapters 147 and 154F.

ARC 5555C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to telemedicine
and providing an opportunity for public comment**

The Board of Physician Assistants (Board) hereby proposes to amend Chapter 327, "Practice of Physician Assistants," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 148C and 272C.

Purpose and Summary

This proposed rule making establishes standards of practice for physician assistants who provide patient care through telemedicine. The proposed rule establishes the standard of care and requires HIPAA-compliant technology, as well as imposing other requirements to ensure the patient's confidential health information is secure. The rule aligns with the Board of Medicine rules governing telemedicine, which will ensure that physician assistants and their supervising physicians will operate under uniform standards and do not need to worry about any differing or potentially conflicting telemedicine standards when coordinating remote care.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on April 27, 2021. Comments should be directed to:

Susan Reynolds
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: susan.reynolds@idph.iowa.gov

Public Hearing

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

April 27, 2021
10:30 to 11 a.m.

Via Webex:
idph.webex.com/idph/j.php?MTID=mab53252486f2ce8f8ff02111af8c22f5
Password: rfRyMJP4@42
Via telephone: 408.418.9388
Access code: 187 215 8512

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 rule making. 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 the 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Adopt the following new rule 645—327.9(147,148C,272C):

645—327.9(147,148C,272C) Standards of practice—telemedicine. This rule establishes standards of practice for the delegated provision of telemedicine services.

327.9(1) Telemedicine, generally.

a. Technological advances have made it possible for licensees in one location to provide medical care to patients in another location with or without an intervening health care provider.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. Telemedicine is a useful tool that, if applied appropriately, can provide important benefits to patients, including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and potential cost savings.

c. Licensees using telemedicine will be held to the same standards of care and professional ethics as licensees using traditional in-person medical care.

d. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may subject the licensee to potential discipline by the board.

327.9(2) Definitions. For the purposes of this rule:

“*Asynchronous store-and-forward transmission*” means the collection of a patient’s relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

“*Board*” means the Iowa board of physician assistants.

“*In-person encounter*” means that the physician assistant and the patient are in the physical presence of each other and are in the same physical location during the physician assistant-patient encounter.

“*Licensee*” means a physician assistant licensed by the board.

“*Telemedicine*” means the practice of medicine using electronic audiovisual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telemedicine shall not include the provision of medical services only through an audio-only telephone, email messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

“*Telemedicine technologies*” means technologies and devices enabling secure electronic communications and information exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.

327.9(3) Practice guidelines. A licensee who uses telemedicine shall utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.

327.9(4) License required. A physician assistant who uses telemedicine in the diagnosis and treatment of a patient located in Iowa shall hold an active Iowa physician assistant license consistent with state and federal laws. Nothing in this rule shall be construed to supersede the exceptions to licensure contained in rule 645—326.17(148C).

327.9(5) Standards of care and professional ethics. A licensee who uses telemedicine shall be held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the board.

327.9(6) Scope of practice. A licensee who uses telemedicine shall ensure that the services provided are consistent with the licensee’s scope of practice, including the licensee’s education, training, experience, ability, licensure, and certification.

327.9(7) Identification of patient and physician assistant. A licensee who uses telemedicine shall verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.

327.9(8) Physician assistant-patient relationship.

a. A licensee who uses telemedicine shall establish a valid physician assistant-patient relationship with the person who receives telemedicine services. The physician assistant-patient relationship begins when:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (1) The person with a health-related matter seeks assistance from a licensee;
- (2) The licensee agrees to undertake diagnosis and treatment of the person; and
- (3) The person agrees to be treated by the licensee whether or not there has been an in-person encounter between the physician assistant and the person.

b. A valid physician assistant-patient relationship may be established by:

- (1) In-person encounter. Through an in-person medical interview and physical examination where the standard of care would require an in-person encounter;
- (2) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient's care; or
- (3) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

327.9(9) *Medical history and physical examination.* Generally, a licensee shall perform an in-person medical interview and physical examination for each patient. However, the medical interview and physical examination may not be in person if the technology utilized in a telemedicine encounter is sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in person. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine shall interview the patient to collect the relevant medical history and perform a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An Internet questionnaire that is a static set of questions provided to the patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview, does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.

327.9(10) *Non-physician assistant health care providers.* If a licensee who uses telemedicine relies upon or delegates the provision of telemedicine services to a non-physician assistant health care provider, the licensee shall:

a. Ensure that systems are in place to ensure that the non-physician assistant health care provider is qualified and trained to provide that service within the scope of the non-physician assistant health care provider's practice;

b. Ensure that the licensee is available in person or electronically to consult with the non-physician assistant health care provider, particularly in the case of injury or an emergency.

327.9(11) *Informed consent.* A licensee who uses telemedicine shall ensure that the patient provides appropriate informed consent for the medical services provided, including consent for the use of telemedicine to diagnose and treat the patient, and that such informed consent is timely documented in the patient's medical record.

327.9(12) *Coordination of care.* A licensee who uses telemedicine shall, when medically appropriate, identify the medical home or treating clinician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee shall provide a copy of the medical record to the patient's medical home or treating clinician(s).

327.9(13) *Follow-up care.* A licensee who uses telemedicine shall have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

327.9(14) *Emergency services.* A licensee who uses telemedicine shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

327.9(15) *Medical records.* A licensee who uses telemedicine shall ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician assistant-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee shall note in the patient's record

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

when telemedicine is used to provide diagnosis and treatment. The licensee shall ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee shall ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

327.9(16) *Privacy and security.* A licensee who uses telemedicine shall ensure that all telemedicine encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act (HIPAA) to ensure that all patient communications and records are secure and remain confidential.

a. Written protocols shall be established that address the following:

- (1) Privacy;
- (2) Health care personnel who will process messages;
- (3) Hours of operation;
- (4) Types of transactions that will be permitted electronically;
- (5) Required patient information to be included in the communication, including patient name, identification number and type of transaction;
- (6) Archiving and retrieval; and
- (7) Quality oversight mechanisms.

b. The written protocols should be periodically evaluated for currency and should be maintained in an accessible and readily available manner for review. The written protocols shall include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.

327.9(17) *Technology and equipment.* Broad categories of telemedicine technologies currently exist, including asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. The technology and equipment utilized for telemedicine shall comply with the following requirements:

a. The technology and equipment utilized in the provision of telemedicine services must comply with all relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities;

b. The technology and equipment utilized in the provision of telemedicine services must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and

c. The technology and equipment utilized in the provision of telemedicine services must be compliant with the HIPAA.

327.9(18) *Disclosure and functionality of telemedicine services.* A licensee who uses telemedicine shall ensure that the following information is clearly disclosed to the patient:

- a.* Types of services provided;
- b.* Contact information for the licensee;
- c.* Identity, licensure, certification, credentials, and qualifications of all health care providers who are providing the telemedicine services;
- d.* Limitations in the drugs and services that can be provided via telemedicine;
- e.* Fees for services, cost-sharing responsibilities, and how payment is to be made, if these differ from an in-person encounter;
- f.* Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);
- g.* Appropriate uses and limitations of the technologies, including in emergency situations;
- h.* Uses of and response times for emails, electronic messages and other communications transmitted via telemedicine technologies;
- i.* To whom patient health information may be disclosed and for what purpose;
- j.* Rights of patients with respect to patient health information; and
- k.* Information collected and passive tracking mechanisms utilized.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

327.9(19) Patient access and feedback. A licensee who uses telemedicine shall ensure that the patient has easy access to a mechanism for the following purposes:

- a. To access, supplement and amend patient-provided personal health information;
- b. To provide feedback regarding the quality of the telemedicine services provided; and
- c. To register complaints. The mechanism shall include information regarding the filing of complaints with the board.

327.9(20) Financial interests. Advertising or promotion of goods or products from which the licensee receives direct remuneration, benefit or incentives (other than the fees for the medical services) is prohibited to the extent that such activities are prohibited by state or federal law. Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, licensees should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited. Licensees shall not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

327.9(21) Circumstances where the standard of care may not require a licensee to personally interview or examine a patient. Under the following circumstances, whether or not such circumstances involve the use of telemedicine, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:

- a. Situations in which the licensee prescribes medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient;
- b. For institutional settings, including writing initial admission orders for a newly hospitalized patient;
- c. Call situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;
- d. Cross-coverage situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;
- e. Emergency situations in which the life or health of the patient is in imminent danger;
- f. Emergency situations that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- g. Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention; and
- h. For licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities, hospice settings, and correctional facilities.

327.9(22) Prescribing based solely on an Internet request, Internet questionnaire or a telephonic evaluation—prohibited. Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e., a static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview) is prohibited. Absent a valid physician assistant-patient relationship, a licensee's prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in subrule 327.9(21).

ITEM 2. Amend **645—Chapter 327**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 147.10 and 147.107 and chapters 148C and 272C.

ARC 5553C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to Honey Creek premier destination park bonds and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 40, "Determination of Net Income," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.17.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.7 and 2019 Iowa Acts, Senate File 282.

Purpose and Summary

2019 Iowa Acts, Senate File 282, repealed the Honey Creek Premier Destination Park Bond Program and related Iowa Code provisions. This includes an exemption from federal and state income taxes for bonds issued under that program. The Department proposes this rule making to strike a reference to Honey Creek Premier Destination Park bonds from a nonexhaustive list of exempt bonds.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. There was no fiscal note for 2019 Iowa Acts, Senate File 282.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 27, 2021. Comments should be directed to:

Clara Wulfsen
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.322.2900
Email: clara.wulfsen@iowa.gov

REVENUE DEPARTMENT[701](cont'd)

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making action is proposed:

Amend rule 701—40.3(422) as follows:

701—40.3(422) Interest and dividends from foreign securities and securities of state and other political subdivisions. Interest and dividends from foreign securities and from securities of state and other political subdivisions are to be included in Iowa net income. Certain types of interest and dividends, because of specific exemption, are not includable in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the item of income is specifically exempted from state taxation by the laws or constitution of Iowa or of the United States, it must be added to Iowa taxable income.

The following is a noninclusive listing of bonds issued by the state of Iowa and its political subdivisions, interest on which is exempt from both federal and state income taxes.

1. to 19. No change.

~~20. Honey Creek premier destination park bonds: Bonds issued under Iowa Code section 463C.12(8).~~

~~21.~~ 20. Iowa utilities board and Iowa consumer advocate building project bonds: Bonds issued under Iowa Code section 12.91(9).

~~22.~~ 21. Iowa jobs program revenue bonds: Bonds issued under Iowa Code section 12.87(8).

Interest from repurchase agreements involving obligations of the type discussed in this rule is subject to Iowa income tax. *Nebraska Department of Revenue v. John Loewenstein*, 513 US 123 (1994). *Everett v. State Dept. of Revenue and Finance*, 470 N.W.2d 13 (Iowa 1991).

For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—40.52(422).

Gains and losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions, as distinguished from interest income, shall be taxable for state income tax purposes.

This rule is intended to implement Iowa Code section 422.7.

ARC 5539C**DENTAL BOARD[650]****Adopted and Filed****Rule making related to clinical examinations on manikins**

The Dental Board hereby amends Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 153.33A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.34 and 147.36.

Purpose and Summary

These amendments allow applicants for a dental hygiene license to complete clinical examinations on manikins for the purposes of licensure in Iowa.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5382C**. The Board received one written comment stating that manikin examinations should be offered to all dental hygienists. The rules allow this as an option for all dental hygiene schools. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on February 26, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, there is no impact on jobs because the amendments apply to requirements for licensure and provide additional opportunities for meeting those requirements.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 650—7.4(17A,147,153).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 12, 2021.

DENTAL BOARD[650](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend subrule 11.5(2) as follows:

11.5(2) Applications for licensure must be filed with the dental hygiene committee along with:

a. Documentation of graduation from dental hygiene school. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. Certification of good standing from dean or designee. Certification by the dean or other authorized representative of the school of dental hygiene that the applicant has been a student in good standing while attending that dental hygiene school.

c. Documentation of passage of national dental hygiene examination. Evidence of successful passage of the examination administered by the Joint Commission on National Dental Examinations.

d. Documentation of passage of a regional clinical examination. Successful passage of a board-approved clinical examination within the previous five-year period.

~~(1) Successful passage of a patient-based regional clinical examination within the previous five-year period.~~

~~(2) (1)~~ (1) The following patient-based regional examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA).

(2) The following manikin-based regional clinical examinations are approved by the board for purposes of licensure by examination: the examination administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies (CITA), and the examination administered by the Western Regional Examining Board (WREB).

e. to i. No change.

ITEM 2. Amend rule 650—11.6(153) as follows:

650—11.6(153) Dental hygiene licensure by credentials. To be issued a license to practice dental hygiene in Iowa on the basis of credentials, an applicant shall meet the following requirements.

11.6(1) No change.

11.6(2) Applications must be filed with the dental hygiene committee along with:

a. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. Evidence of successful passage of the examination of the Joint Commission on National Dental Examinations. Any dental hygienist who has lawfully practiced dental hygiene in another state or territory for five or more years may be exempted from presenting this evidence.

c. A statement of any dental hygiene examinations taken by the applicant, with indication of pass/fail for each examination taken. Any dental hygienist who has lawfully practiced dental hygiene in another state or territory for five or more years may be exempted from presenting this evidence.

d. Evidence of a current, valid license to practice dental hygiene in another state, territory or district of the United States issued under requirements equivalent or substantially equivalent to those of this state.

e. Evidence that the applicant has met at least one of the following:

(1) Has less than three consecutive years of practice immediately prior to the filing of the application and evidence of successful passage of a regional clinical examination pursuant to subrule 11.5(2) within the previous five-year period. ~~The following regional examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service,~~

DENTAL BOARD[650](cont'd)

~~Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA); or~~

(2) Has for three consecutive years immediately prior to the filing of the application been in the lawful practice of dental hygiene in such other state, territory or district of the United States.

f. to k. No change.

11.6(3) to 11.6(6) No change.

This rule is intended to implement Iowa Code section 147.80 and chapter 153.

[Filed 3/9/21, effective 5/12/21]

[Published 4/7/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

ARC 5540C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to kinship caregiver program

The Human Services Department hereby amends Chapter 156, "Payments for Foster Care," and Chapter 202, "Foster Care Placement and Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 234.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 234.

Purpose and Summary

This rule making implements the Kinship Caregiver Program (Program), an effort to level the support provided to relatives and kin. This rule making implements a modest monthly payment using state funding only. The Department believes the Program could make the difference between a child remaining with the child's family versus suffering the trauma of being placed with a stranger in a shelter or family foster care. The Program allows relatives to receive a \$300-a-month stipend for each child in their care, for up to six months. A caregiver will be invited to participate in the foster care licensing process in the first two months the caregiver is caring for kin, and the caregiver will be able to receive the kinship caregiver payment for up to six months. Once licensed, the caregiver may also be eligible for supports such as child care, respite, training and caseworker support. Kinship caregivers are not required to become licensed to receive the stipend, though it will be encouraged so they will be eligible for the continued supports outlined above. When relatives are approved for the Program, the children will be considered to be in foster care and the Department could draw down IV-E administrative costs while claiming for the average length of time it takes to license a foster family while the relatives are pursuing licensure.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 27, 2021, as **ARC 5406C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 11, 2021.

Fiscal Impact

In June 2019, the rate of a child's initial placement with a relative was 44.7 percent; in June 2020 it was at 47.2 percent. The number of children in relative placements by month would be approximately 369 for month three, 417 for month four, 374 for month five, 406 for month six, 284 for month seven, and 290 for month eight. Since the payment does not begin until after two consecutive months of placement, month three would be the earliest month the payment is received and six months of payments would not be received until month eight. The estimates were derived based on the \$300 per month, per relative placements by month, which brought the total cost to \$2,132,700. The numbers of relative placements per month were derived on the relative placement percentage of 44.7 percent above.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 441—1.7(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on July 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of "Kinship caregiver" in rule **441—156.1(234)**:
"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, pursuant to Iowa Code chapter 232.

ITEM 2. Adopt the following **new** rule 441—156.7(234):

441—156.7(234) Kinship caregiver payment.

156.7(1) A kinship caregiver payment is a monthly payment to financially support the care of a child in a kinship caregiver's home. If approved by the department, kinship caregiver payment will be provided for a period of up to six months.

156.7(2) All of the following conditions apply:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- a. For each eligible child living in a kinship placement, the monthly payment for the child shall be \$300.
- b. The payment will begin after two consecutive months of the child's placement in the kinship caregiver's home. The two-month requirement is waived if the child enters the kinship caregiver's home immediately following a paid placement for at least 30 days.
- c. The payment will continue for up to six months.
- d. The kinship caregiver payment will be terminated if the child no longer resides in the home.
- e. Kinship caregivers who receive a foster care payment are not eligible to receive a kinship caregiver payment.

This rule is intended to implement Iowa Code section 232.102.

ITEM 3. Amend subrule 156.8(5) as follows:

156.8(5) Funeral expense. When a child under the guardianship of the department dies, the department will pay funeral expenses not covered by the child's resources, insurance or other death benefits, the child's legal parents, or the child's county of legal settlement, not to exceed \$650.

~~The total cost of the funeral and the goods and services included in the total cost shall be the same as defined in rule 441—56.3(239,249).~~

The claim shall be submitted by the funeral director to the department on Form GAX, General Accounting Expenditure, and shall be approved by the service area manager. Claims shall be submitted within 90 days after the child's death.

ITEM 4. Adopt the following **new** definition of "Kinship caregiver" in rule **441—202.1(234)**:

"*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.

ITEM 5. Amend paragraph **202.4(3)"a"** as follows:

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, ~~and~~.
- (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.

[Filed 3/11/21, effective 7/1/21]

[Published 4/7/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

ARC 5542C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to pharmacy technicians

The Board of Pharmacy hereby amends Chapter 3, "Pharmacy Technicians," and Chapter 6, "General Pharmacy Practice," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 155A.6A.

PHARMACY BOARD[657](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.80 and 155A.6A.

Purpose and Summary

These amendments are a result of an overall five-year review as required by Iowa Code section 17A.7(2). These amendments:

- Require technicians to be registered prior to commencing employment in a pharmacy or as part of a technician training program;
- Modify the renewal period for certified pharmacy technicians to match their national certification period and to align with the renewal process for other licenses and registrations;
- Allow the Board to assess a \$15 fee for written verification of a registration;
- Provide broader language relating to the delegation of nonclinical pharmacy functions to a pharmacy technician beyond those related solely to dispensing;
- Prohibit a pharmacy license holder from requiring a supervising pharmacist to delegate functions to a technician against the pharmacist's professional judgment;
- Require a pharmacy technician to report to the Board, within 30 days, any criminal conviction or disciplinary action taken;
- Simplify, clarify, and condense rules;
- Incorporate language reflecting the Board's new online application process; and
- Update references.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5373C**.

The Board received five comments, which all expressed concern with the expectation that technicians complete registration prior to commencing employment in a pharmacy instead of the current 30-day grace period. Two of the comments recommended the Board amend rules to allow technician trainees to renew their trainee registration for additional time. One of the comments also suggested a delayed implementation. The Board has implemented an online application process for technician trainees and certified pharmacy technicians which may be completed in a matter of minutes, and which the Board has determined could be completed during an employee's onboarding process with all other employment documentation (such as for benefits or payroll deductions, etc.). Relating to the comments recommending rule making to allow technician trainees more than one year for registration, the Board is unable to make such changes due to the current one-year limitation provided in the Iowa Code. While the Board's online application will be operational well in advance of an effective date of this rule making, the Board determined that an effective date of July 1, 2021, would provide the Board additional time to educate pharmacies about the online application opportunity. Subrule 3.3(2) was updated to provide an effective date of July 1, 2021, and to provide clarity relating to registration.

Adoption of Rule Making

This rule making was adopted by the Board on March 10, 2021.

Fiscal Impact

It is unknown how many technicians will request written verification of their registration when the Board's online verification system is free of charge. Also, while it is inherent that the Board will continue to process untimely renewal applications that result in the collection of late penalty fees or reactivation fees (except at this time due to the Governor's Proclamations), an estimate of the number of late renewals or reactivations cannot be determined. For renewal applications that are submitted within the first month after the registration has expired, the renewal fee and late penalty fee do not change from those that are currently assessed. Under these amendments, renewal applications received beyond the first month

PHARMACY BOARD[657](cont'd)

following expiration will include a fee of \$160 instead of the current fee range of \$90 to \$110. It is estimated that the Board will have increased annual revenue of between \$600 and \$840 as a result of this rule making.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 12, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **657—3.1(155A)**, definition of “Pharmacy technician,” as follows:

“*Pharmacy technician*” or “*technician*” means a person who is employed in Iowa by a licensed pharmacy under the responsibility of an Iowa-licensed pharmacist to assist in the technical functions of the practice of pharmacy, as provided in ~~rules 657—3.22(155A) through 657—3.24(155A)~~ rule 657—3.21(155A), and includes a certified pharmacy technician and a pharmacy technician trainee.

ITEM 2. Amend rule 657—3.3(155A) as follows:

657—3.3(155A) Registration required. Any person employed in Iowa as a pharmacy technician, ~~except a pharmacist intern whose pharmacist intern registration is in good standing with the board,~~ shall obtain and maintain during such employment a current registration as a certified pharmacy technician or pharmacy technician trainee pursuant to these rules. An individual ~~accepting~~ commencing employment as a pharmacy technician in Iowa who fails to register as a certified pharmacy technician or pharmacy technician trainee as provided by these rules may be subject to disciplinary sanctions. A certified pharmacy technician ~~accepting~~ commencing employment as a certified pharmacy technician in Iowa who fails to register as a certified pharmacy technician or who fails to maintain national certification may be subject to disciplinary sanctions. A pharmacist-intern with a current registration or a pharmacist with a current license is not required to obtain a pharmacy technician registration to work as a pharmacy technician.

3.3(1) No change.

3.3(2) ~~Original application~~ Registration required. ~~Any~~ Beginning July 1, 2021, any person not currently registered with the board as a pharmacy technician shall complete the appropriate application for obtain registration within 30 days of accepting prior to commencement of employment in an Iowa pharmacy as a pharmacy technician. Such application shall be received in the board office before the expiration of this 30-day period. Through June 30, 2021, any person not currently registered with the board as a pharmacy technician shall submit a completed application for registration within 30 days of accepting employment in an Iowa pharmacy as a pharmacy technician.

PHARMACY BOARD[657](cont'd)

3.3(3) Technician training. A person who is enrolled in a college-based or American Society of Health-System Pharmacists (ASHP)-accredited technician training program shall obtain a pharmacy technician trainee registration prior to beginning on-site practical experience. A person who is employed in a pharmacy and who is receiving pharmacy technician training through work experience shall obtain a pharmacy technician trainee registration ~~within 30 days of~~ prior to the commencement of pharmacy technician training.

3.3(4) No change.

ITEM 3. Rescind rule 657—3.8(155A) and adopt the following new rule in lieu thereof:

657—3.8(155A) Application.

3.8(1) An applicant shall submit a completed application along with the appropriate nonrefundable application fee pursuant to rule 657—3.9(155A) or 657—3.10(155A).

3.8(2) The application shall include:

- a. Information sufficient to identify the applicant including, but not limited to, name, address, date of birth, gender, and social security number;
- b. Current place or places of employment;
- c. Criminal or disciplinary action history;
- d. If the application is for certified pharmacy technician registration, documentation of current national pharmacy technician certification; and
- e. Any other information deemed necessary by the board.

ITEM 4. Rescind rule 657—3.9(155A) and adopt the following new rule in lieu thereof:

657—3.9(155A) Registration fee and term—technician trainee.

3.9(1) Fee. The nonrefundable application fee for a pharmacy technician trainee registration shall be \$20. The nonrefundable application fee for a pharmacy technician trainee registration shall be submitted in the form of a personal check, certified check, cashier's check, or money order made payable to the Iowa Board of Pharmacy when submitted with a written application or by acceptable debit or credit card when submitted with an online application.

3.9(2) Term. A pharmacy technician trainee registration shall expire on the last day of the registration month 12 months following the date of registration. A pharmacy technician trainee registration shall not be renewed.

a. *National certification completed.* When the registered pharmacy technician trainee completes national certification, and no later than the expiration of the pharmacy technician trainee registration, the technician shall submit a completed application and nonrefundable application fee for certified pharmacy technician registration.

b. *Expiration of registration.* The registration of a pharmacy technician trainee who fails to complete national certification prior to the expiration of the registration shall expire and the technician shall cease practice as a pharmacy technician.

ITEM 5. Rescind rule 657—3.10(155A) and adopt the following new rule in lieu thereof:

657—3.10(155A) Registration fee, term, and renewal—certified pharmacy technician.

3.10(1) Fee. The nonrefundable application fee for a certified pharmacy technician registration shall be \$40 per biennium. The nonrefundable application fee for a certified pharmacy technician registration shall be submitted in the form of a personal check, certified check, cashier's check, or money order made payable to the Iowa Board of Pharmacy when submitted with a written application or by acceptable debit or credit card when submitted with an online application.

3.10(2) Term. A certified pharmacy technician registration shall expire on the date that the technician's national certification expires.

3.10(3) Renewal. A certified pharmacy technician registration shall be renewed prior to the expiration of the registration.

PHARMACY BOARD[657](cont'd)

a. Delinquent registration grace period. A certified pharmacy technician registration which is not renewed prior to the expiration of the registration shall be considered delinquent. Renewal during the month following the expiration date of the registration shall include the nonrefundable registration fee pursuant to subrule 3.10(1) and a nonrefundable late penalty fee of \$40. A registered certified pharmacy technician who renews during the month following the expiration date of the registration shall not be subject to disciplinary action for continuing to practice as a pharmacy technician during the delinquency of the registration.

b. Registration reactivation beyond grace period. If the registration is not renewed prior to the expiration of the one-month grace period identified in paragraph 3.10(3) "a," the technician shall cease the practice as a pharmacy technician until the registration is reactivated. A certified pharmacy technician without a current registration may apply for registration reactivation by submitting a completed application for reactivation and a nonrefundable reactivation fee of \$160. An individual who continues employment as a pharmacy technician without a current registration, in addition to the pharmacy and the pharmacist in charge that allow the individual to continue practice as a pharmacy technician, may be subject to disciplinary sanctions.

c. Voluntary cancellation. A registered certified pharmacy technician who ceases practice as a pharmacy technician and does not intend to renew the registration prior to its expiration may request that the board cancel the registration. If the certified pharmacy technician later seeks registration as a certified pharmacy technician, the technician shall not be assessed a late penalty fee or reactivation fee for renewal of the registration.

ITEM 6. Rescind rule 657—3.11(155A) and adopt the following new rule in lieu thereof:

657—3.11(155A) Verification fee. The board may require the submission of a nonrefundable fee of \$15 for written verification of a registration.

ITEM 7. Rescind and reserve rule **657—3.12(155A)**.

ITEM 8. Amend rule 657—3.20(155A) as follows:

657—3.20(155A) Responsibility of supervising pharmacist. The ultimate responsibility for the actions of a pharmacy technician shall remain with the supervising pharmacist. A pharmacy license holder shall not infringe on the authority of a supervising pharmacist to delegate or decline to delegate specific functions to a pharmacy technician based on the supervising pharmacist's professional judgment regarding the knowledge and training of the technician.

ITEM 9. Amend rule 657—3.21(155A) as follows:

657—3.21(155A) Delegation of functions.

~~**3.21(1) Technical dispensing functions.** Pursuant to established policies and procedures and the supervising pharmacist's professional judgment, a supervising pharmacist may delegate any technical dispensing or nontechnical functions in the operation of the pharmacy, except those which are prohibited pursuant to rule 657—3.23(155A), to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in rule 657—6.7(124,155A) or 657—7.6(155A), as appropriate, or as provided for telepharmacy in 657—Chapter 13. Except as provided for an approved technician product verification program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative. A pharmacy technician shall not delegate technical functions to a pharmacy support person.~~

~~**3.21(2) Nontechnical functions.** A pharmacist may delegate nontechnical functions to a pharmacy technician or a pharmacy support person only if the pharmacist is present to supervise the pharmacy technician or pharmacy support person when delegated nontechnical functions are performed, except~~

PHARMACY BOARD[657](cont'd)

as provided in rule ~~657—6.7(124,155A)~~ or ~~657—7.6(155A)~~, as appropriate, or as provided for telepharmacy in ~~657—Chapter 13~~.

ITEM 10. Rescind and reserve rule **657—3.22(155A)**.

ITEM 11. Amend rule 657—3.23(155A) as follows:

657—3.23(155A) ~~Tasks~~ Functions a pharmacy technician shall not perform.

3.23(1) Prohibited functions for all pharmacy technicians. A pharmacy technician shall not be authorized to perform any of the following ~~judgmental tasks~~ functions:

1- a. Except for a certified pharmacy technician participating in an approved technician product verification program pursuant to 657—Chapter 40, provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order;

2- b. Conduct prospective drug use review or evaluate a patient's medication record for purposes identified in rule 657—8.21(155A);

3- c. Provide patient counseling, consultation, or patient-specific drug information, tender an offer of patient counseling on behalf of a pharmacist, or accept a refusal of patient counseling from a patient or patient's agent;

4- d. Make decisions that require a pharmacist's professional judgment, such as interpreting prescription drug orders or applying information;

5- e. Transfer a prescription drug order for a controlled substance to another pharmacy or receive the transfer of a prescription drug order for a controlled substance from another pharmacy;

6- f. Delegate technical functions to a pharmacy support person.

3.23(2) Prohibited functions for technician trainees. In addition to the prohibited functions in subrule 3.23(1), a technician trainee shall not be authorized to perform any of the following functions:

a. Accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or the prescriber's agent.

b. Transfer or receive by transfer by any means the original prescription drug order information or prescription refill information of a prescription for any substance.

ITEM 12. Rescind and reserve rule **657—3.24(155A)**.

ITEM 13. Amend rule 657—3.28(147,155A), introductory paragraph, as follows:

657—3.28(147,155A) Unethical conduct or practice. Violation by a pharmacy technician of any of the provisions of this rule shall constitute unethical conduct or practice and may be grounds for disciplinary action as provided in rule ~~657—3.30(155A)~~ 657—3.31(155A).

ITEM 14. Renumber rule ~~657—3.30(155A)~~ as **657—3.31(155A)**.

ITEM 15. Adopt the following new rule 657—3.30(155A):

657—3.30(155A) Reporting discipline and criminal convictions. A registered pharmacy technician shall provide to the board written notice of and unredacted documents related to any disciplinary or enforcement action imposed by any licensing agency or regulatory authority on any license or registration held by the registered pharmacy technician no later than 30 days after the final action. Discipline may include, but is not limited to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, and voluntary surrender. A registered pharmacy technician shall provide written notice to the board of any criminal conviction that is related to the practice of pharmacy or controlled substances no later than 30 days after the conviction. The term "criminal conviction" includes instances when the judgment of conviction or sentence is deferred.

ITEM 16. Amend **657—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 147.72, 147.80, 147.107, 155A.6A, 155A.23, 155A.33, 155A.34, and 155A.39.

PHARMACY BOARD[657](cont'd)

ITEM 17. Amend subrule 6.9(3) as follows:

6.9(3) *Authorized individuals and means of transmission.* Individuals authorized to engage in the transfer of prescriptions include a pharmacist, a pharmacist-intern under the direct supervision of a pharmacist, and a certified pharmacy technician ~~only as authorized in rule 657—3.22(155A), except as prohibited in 657—subrule 3.23(1).~~ The transferring individual may transmit the prescription and transfer information required under subrule 6.9(5) from the transferring pharmacy via electronic means pursuant to subrule 6.9(8) or, following direct communication between authorized individuals, via oral or facsimile transmission. The receiving individual shall ensure the prescription transfer record maintained in the receiving pharmacy contains all of the information required under subrule 6.9(7).

[Filed 3/15/21, effective 5/12/21]

[Published 4/7/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

ARC 5544C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to pharmacist-interns

The Board of Pharmacy hereby amends Chapter 4, "Pharmacist-Interns," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 147.80 and 155A.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.80 and 155A.6.

Purpose and Summary

Pursuant to Iowa Code section 17A.7(2), the Board conducted a five-year review of this chapter of rules. This rule making:

- Provides consistency in the experiential training required of pharmacist-interns who are graduates of pharmacy programs in the United States and foreign pharmacy program graduates who are candidates for licensure in Iowa;
- Provides consistent language with other Board rules relating to the use of an individual tax identification number (ITIN) in lieu of a social security number;
- Simplifies the subrule relating to delegated functions of a pharmacist-intern;
- Removes the reference to a license surcharge for the Board's monitoring program; which the Board no longer assesses;
- Allows the Board to require the submission of a \$15 fee for verification of a pharmacist-intern registration or certification of hours;
- Provides language relating to the required notice to the Board following criminal or disciplinary action; and
- Rearranges rules for clarity.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 21, 2020, as **ARC 5235C**.

PHARMACY BOARD[657](cont'd)

The Board received comments from the University of Iowa and the Iowa Pharmacy Association. The comments recommended the Board consider inclusion of the term “student-pharmacist” as an additional permissible title for pharmacist-interns, expressed concern about the Board’s expectation of notification within ten days of a change in address, and recommended the Board increase the initial registration fee of interns to cover the costs of requests for written verification of registration and certification of internship hours.

The Board recognizes the frequency at which a student may change addresses during pharmacy school but determined that the need for current contact information for distribution of board communications necessitates the existing notification requirement. Relating to the fees for written registration verification and certification of internship hours, the Board declined increasing the initial registration fee to incorporate the costs of these services as each registrant is not necessarily going to request the service to be completed. A registrant may obtain, at no charge, a printed verification of registration via the Board’s online verification system. The Board reports receiving approximately 1 to 2 requests for certification of internship hours weekly along with approximately 25 to 50 requests following graduation, which does not equate to 1 request per registered intern.

The Board accepted the recommendation to include “student-pharmacist” as an alternative designation for registered pharmacist-interns and added the term in subrule 4.6(4).

Adoption of Rule Making

This rule making was adopted by the Board on March 10, 2021.

Fiscal Impact

The fiscal impact cannot be determined because it is unknown how many interns will seek manual staff verification of registration in lieu of the Board’s free online verification system.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 12, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—4.6(155A) as follows:

657—4.6(155A) Registration, reporting, and authorized functions. Every person shall register with the board before beginning the person’s internship experience, whether or not for the purpose of fulfilling the requirements of rule 657—4.3(155A). Registration is required of all students enrolled in Iowa colleges of pharmacy upon commencement of the first professional year in the college of

PHARMACY BOARD[657](cont'd)

pharmacy. Colleges of pharmacy located in Iowa shall annually certify to the board the names of students who are enrolled in the first professional year in the college of pharmacy. Colleges of pharmacy located in Iowa shall, within two weeks of any change, certify to the board the names of students who have withdrawn from the college of pharmacy.

4.6(1) *Application for registration—required information.* Application for registration as a pharmacist-intern shall be on forms provided by the board, and all requested information shall be provided on or with such application. The application shall require that the applicant provide, at a minimum, the following: name; address; telephone number; date of birth; social security number or individual tax identification number (ITIN); and name and location of college of pharmacy and anticipated month and year of graduation. The college of pharmacy shall certify the applicant's eligibility to practice as a pharmacist-intern. If the applicant provides an ITIN in lieu of a social security number, the applicant shall also provide acceptable proof of lawful presence in the United States.

4.6(2) *Supervision and authorized functions.* A licensed pharmacist shall be on duty in the pharmacy and shall be responsible for the actions of a pharmacist-intern during all periods of internship training. At the discretion of the supervising pharmacist, ~~the following clinical and judgmental functions, usually restricted to a pharmacist,~~ may be delegated to ~~pharmacist-interns registered by the board:~~ a registered pharmacist-intern depending upon which functions are appropriate to the pharmacist-intern's level of education and training.

~~a. Verification of the accuracy, validity, and appropriateness of the filled prescription or medication order;~~

~~b. Review and assessment of patient records for purposes identified in rule 657—8.21(155A);~~

~~c. Patient counseling;~~

~~d. Administration of vaccines pursuant to rule 657—39.10(155A).~~

4.6(3) No change.

~~**4.6(4) *Identification, reports, and notifications.* Credit for internship time will not be granted unless registration and other required records or affidavits are completed.**~~

~~a. The pharmacist-intern shall be so designated in all relationships with the public and health professionals. While on duty in the pharmacy, the intern shall wear visible to the public a name badge including that is visible to the public and includes the designation "pharmacist-intern," or "pharmacy student," or "student-pharmacist."~~

~~b. Registered interns shall notify the board office within ten days of a change of name or address.~~

~~c. Notarized affidavits of experience in non-college-sponsored programs shall be submitted to the board no later than six months following graduation from a school or college of pharmacy. These affidavits shall certify only the number of hours and dates of training obtained outside a college-based clinical program as provided in rule 657—4.3(155A). An individual registered as a pharmacist-intern while participating in an Iowa residency or fellowship program shall not be required to file affidavits of experience.~~

~~**4.6(5) *No Internship credit prior to registration.***~~

~~a. Credit will not be given for internship experience obtained prior to the individual's registration as a pharmacist-intern. Credit for Iowa college-based clinical programs will not be granted unless registration is issued before the student begins the program. Credit for internship experience will not be granted unless registration and other required records or affidavits are completed.~~

~~b. Notarized affidavits of experience in non-college-sponsored programs shall be submitted to the board no later than six months following graduation from a school or college of pharmacy. These affidavits shall certify only the number of hours and dates of training obtained outside a college-based clinical program as provided in rule 657—4.3(155A). An individual registered as a pharmacist-intern while participating in an Iowa residency or fellowship program shall not be required to file affidavits of experience.~~

4.6(6) *Nontraditional internship.* Internship training at any site which is not licensed as a general or hospital pharmacy is considered nontraditional internship.

a. and b. No change.

PHARMACY BOARD[657](cont'd)

c. Certification, not credit. Hours obtained in nontraditional internship shall not be credited toward the total 1500 hours required pursuant to rule 657—4.3(155A) or 657—4.7(155A) prior to licensure to practice pharmacy in Iowa. The board may, however, certify hours obtained in one or more approved nontraditional internships in recognition of the pharmacist-intern's training outside the scope of traditional pharmacy practice. Certification shall not be granted for experience obtained in a nontraditional internship unless the board, prior to the intern's beginning the period of internship, approved the objectives of the internship.

ITEM 2. Amend rule 657—4.7(155A) as follows:

657—4.7(155A) Foreign pharmacy graduates. Foreign pharmacy graduates who are candidates for licensure in Iowa will be required to obtain a minimum of 1500 hours of internship in a licensed pharmacy licensed in a state or territory of the United States or other board-approved location that provides experience in community, institutional, and clinical pharmacy practices.

4.7(1) and 4.7(2) No change.

ITEM 3. Amend rule 657—4.8(155A) as follows:

657—4.8(155A) Fees. The fee for registration as a pharmacist-intern is \$30, ~~plus applicable surcharge pursuant to 657—30.8(155A),~~ which shall be payable with the application. The board may require the submission of a nonrefundable fee of \$15 for written registration verification or certification of internship hours.

ITEM 4. Renumber rule 657—4.11(155A) as 657—4.12(155A).

ITEM 5. Adopt the following **new** rule 657—4.11(155A):

657—4.11(155A) Notifications to the board.

4.11(1) Reporting registration changes. A registered pharmacist-intern shall report to the board within ten days a change of the pharmacist-intern's name, address or email address. Except for a change in name, an update to the pharmacist-intern's personal online profile through the board's online database shall satisfy this subrule.

4.11(2) Reporting criminal convictions and pleas. A registered pharmacist-intern who has been convicted of a crime, or entered a plea of guilty, nolo contendere, or no contest to a crime, other than a minor traffic offense, shall report such conviction or plea to the board within 30 days of adjudication.

4.11(3) Reporting disciplinary action. A registered pharmacist-intern who has been the subject of disciplinary action in another state, including but not limited to citations, reprimands, fines, license restrictions, probation, license or registration surrender, suspension, or revocation, shall report such action to the board within 30 days of adjudication.

[Filed 3/15/21, effective 5/12/21]

[Published 4/7/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

ARC 5543C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to pharmacy support persons

The Board of Pharmacy hereby amends Chapter 5, "Pharmacy Support Persons," Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 155A.6B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 155A.6B.

Purpose and Summary

These amendments are a result of an overall five-year review as required by Iowa Code section 17A.7(2). These amendments:

- Require pharmacy support persons to be registered prior to commencing employment in a pharmacy;
- Modify the structure of late renewal and reactivation processes and penalties to match the structure implemented for other licenses and registrations of the Board;
- Allow the Board to assess a \$15 fee for written verification of a registration;
- Provide broader language relating to the delegation of nontechnical pharmacy functions to a pharmacy support person beyond those related solely to dispensing;
- Prohibit a license holder from requiring a supervising pharmacist to delegate function to a support person against the pharmacist's professional judgment;
- Require support persons to report to the Board, within 30 days, any criminal conviction or disciplinary action taken;
- Simplify, clarify, and condense rules;
- Incorporate language reflecting the Board's new online application process; and
- Update references.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5374C**.

The Board received comments from the Iowa Pharmacy Association (IPA) and from Walgreens. The comments expressed concern with the expectation that support persons must be registered prior to commencing employment in a pharmacy instead of the current 30-day grace period, and the IPA suggested a delayed implementation. The Board has implemented an online application process for pharmacy support persons which may be completed in a matter of minutes and which the Board has determined could be completed during an employee's onboarding process with all other employment documentation that is required (for benefits, payroll deductions, etc.). While the Board's online application will be operational well in advance of the May 12, 2021, effective date of this rule making, the Board has determined that an effective date of July 1, 2021, for the requirement related to registration of pharmacy support persons would allow the Board additional time to educate pharmacies about the online application opportunity. Therefore, rule 657—5.4(155A) was updated to provide a future effective date of the requirement for registration prior to commencing employment and retain language providing for the 30-day grace period through June 30, 2021.

Adoption of Rule Making

This rule making was adopted by the Board on March 10, 2021.

Fiscal Impact

It cannot be determined how many pharmacy support persons will request written verification of their registration when the Board's online verification system is free of charge. Also, while it is inherent that the Board will continue to process untimely renewal applications which result in the collection of late penalty fees or reactivation fees (except at this time due to the Governor's Proclamations), an estimate of the number of late renewals or reactivations cannot be determined. For renewal applications that are

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submitted within the first month after the registration has expired, the renewal fee and late penalty fee do not change from those that are currently assessed. Under these amendments, renewal applications that are submitted beyond the first month following expiration would include a fee of \$100 instead of the current fee of \$50.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 12, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—5.4(155A) as follows:

657—5.4(155A) Registration required. Unless exempt in rule 657—5.5(155A), any individual employed by a pharmacy who has direct access to prescription drugs or confidential patient information must be registered as a pharmacy support person. Beginning July 1, 2021, prior to commencing employment in an Iowa pharmacy as a pharmacy support person, an individual shall obtain registration as a pharmacy support person. Any registered pharmacy support person who discontinues employment as a pharmacy support person shall not be required to maintain a registration and shall request cancellation of the registration as provided in rule 657—5.14(155A).

~~5.4(1) Effective date.~~ Beginning June 1, 2010, a pharmacy support person shall register with the board pursuant to the requirements of this chapter.

~~5.4(2) Registration number.~~ Each pharmacy support person registered with the board will be assigned a unique registration number.

~~5.4(3) Original application required.~~ Any Through June 30, 2021, any person required to register and not previously registered with the board as a pharmacy support person shall complete an application for registration within 30 days of accepting employment in an Iowa pharmacy as a pharmacy support person. Such application shall be received in the board office before the expiration of this 30-day period.

~~5.4(4) Employment terminated.~~ A registered pharmacy support person who discontinues employment as a pharmacy support person shall not be required to maintain a registration and shall request cancellation of the registration as provided in rule 657—5.14(155A).

ITEM 2. Amend rule 657—5.5(155A) as follows:

657—5.5(155A) Exempt from registration. Unless a person has direct access to prescription drugs, the following shall be exempt from registration as a pharmacy support person:

1. Delivery person. A licensed pharmacist, registered pharmacist-intern, or registered pharmacy technician.

2. Billing clerk, including a person who processes claims for third-party payments.

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~~3.—Data processing support, maintenance, or programming personnel.~~

4. 2. Facility maintenance personnel including but not necessarily limited to cleaning, sanitation, structural, and mechanical maintenance personnel. Facility maintenance personnel deemed exempt from registration shall be directly supervised by a pharmacist or a certified pharmacy technician who is responsible for the maintenance person's activities within the pharmacy department to ensure medication security and patient privacy.

~~5. 3.~~ Any person not directly employed by or under contract to the pharmacy, and not under the direct supervision of a pharmacist, who provides data processing, data processing support, programming, maintenance, billing, maintenance, delivery, or administrative support functions outside the pharmacy department.

~~6.—A registered pharmacist intern or a registered pharmacy technician.~~

ITEM 3. Rescind paragraph **5.7(1)“b.”**

ITEM 4. Reletter paragraphs **5.7(1)“c”** to **“e”** as **5.7(1)“b”** to **“d.”**

ITEM 5. Amend subrule 5.7(5) as follows:

5.7(5) Sworn signature. The applicant shall sign the application under penalty of perjury and shall submit the application to the board with the appropriate nonrefundable fees pursuant to ~~rules rule~~ 657—5.9(155A) and 657—5.11(155A).

ITEM 6. Rescind rule 657—5.9(155A) and adopt the following new rule in lieu thereof:

657—5.9(155A) Registration fee, term, and renewal.

5.9(1) Fee. The nonrefundable application fee for a pharmacy support person registration shall be \$25. The nonrefundable application fee for a pharmacy support person registration shall be submitted in the form of a personal check, certified check, cashier's check, or money order made payable to the Iowa Board of Pharmacy when submitted with a written application or by acceptable debit or credit card when submitted with an online application.

5.9(2) Term. A pharmacy support person registration shall expire on the second last day of the birth month following initial registration. Registration shall not require continuing education for renewal.

5.9(3) Renewal. A pharmacy support person registration shall be renewed prior to the expiration of the registration.

a. Delinquent registration grace period. A pharmacy support person registration which is not renewed prior to the expiration of the registration shall be considered delinquent. Renewal during the month following the expiration date of the registration shall include the nonrefundable registration fee pursuant to subrule 5.9(1) and a nonrefundable late penalty fee of \$25. A registered pharmacy support person who renews during the month following the expiration date of the registration shall not be subject to disciplinary action for continuing to practice as a pharmacy support person during the delinquency of the registration.

b. Registration reactivation beyond grace period. If the registration is not renewed prior to the expiration of the one-month grace period identified in paragraph 5.9(3)“a,” the individual shall cease practice as a pharmacy support person until the registration is reactivated. A pharmacy support person with an expired registration may apply for registration reactivation by submitting a completed application for reactivation and a nonrefundable reactivation fee of \$100. An individual who continues employment as a pharmacy support person with an expired registration, in addition to the pharmacy and the pharmacist in charge that allow the individual to continue practice as a pharmacy support person, may be subject to disciplinary sanctions.

c. Voluntary cancellation. A registered pharmacy support person who ceases practice as a pharmacy support person and does not intend to renew the registration prior to its expiration may request that the board cancel the registration. If the pharmacy support person later seeks registration as a pharmacy support person, the individual shall not be assessed a late penalty fee or reactivation fee for renewal of the registration.

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ITEM 7. Rescind and reserve rules **657—5.10(155A)** and **657—5.11(155A)**.

ITEM 8. Amend rule 657—5.13(155A) as follows:

657—5.13(155A) Registration certificates verification. ~~The original registration certificate issued by the board to a pharmacy support person shall be maintained by the pharmacy support person. Verification of current registration shall be maintained in each pharmacy where the pharmacy support person is employed in that capacity and shall be available for inspection by the board. The board may require the submission of a nonrefundable fee of \$15 for written verification of a registration.~~

ITEM 9. Amend rule 657—5.14(155A) as follows:

657—5.14(155A) Notifications to the board. A registered pharmacy support person shall report to the board within ten days a change of name, address, place of employment, or employment status.

ITEM 10. Amend rule 657—5.17(155A) as follows:

657—5.17(155A) Tasks a pharmacy support person shall not perform. A pharmacy support person shall not perform any of the following judgmental or technical functions. Performance of any of these tasks by a pharmacy support person shall constitute the practice of pharmacy without a license in violation of Iowa Code section 155A.7. A pharmacy support person shall not:

1. to 8. No change.

9. Process or enter, including entry into the pharmacy computer system, pertinent clinical patient or prescription information, including entry of that information into the pharmacy computer system, except as provided in rule 657—5.18(155A) allergies and disease state information.

10. to 14. No change.

15. Perform any ~~of the duties identified in 657—Chapter 3~~ as technical functions pursuant to 657—Chapter 3 that may be delegated to a pharmacy technician.

ITEM 11. Rescind and reserve rule **657—5.18(155A)**.

ITEM 12. Rescind rule 657—5.21(155A) and adopt the following new rule in lieu thereof:

657—5.21(155A) Delegation of functions and responsibility of supervising pharmacist. Pursuant to established policies and procedures and the supervising pharmacist's professional judgment, a supervising pharmacist may delegate nontechnical functions in the operation of the pharmacy, except those which are prohibited pursuant to rule 657—5.17(155A), to an appropriately trained and registered pharmacy support person, but only if the pharmacist is on site and available to supervise the pharmacy support person when delegated functions are performed, except as provided in rule 657—6.7(124,155A) or 657—7.6(155A), as appropriate. The ultimate responsibility for the actions of a pharmacy support person shall remain with the supervising pharmacist. A pharmacy license holder shall not infringe on the authority of a supervising pharmacist to delegate or decline to delegate specific nontechnical functions to a pharmacy support person based on the supervising pharmacist's professional judgment regarding the knowledge and training of the pharmacy support person.

ITEM 13. Amend rule 657—5.25(147,155A), introductory paragraph, as follows:

657—5.25(147,155A) Unethical conduct or practice. Violation by a pharmacy support person of any of the provisions of this rule shall constitute unethical conduct or practice and may be grounds for disciplinary action as provided in rule ~~657—5.26(155A) 657—5.27(155A)~~.

ITEM 14. Renumber rule **657—5.26(155A)** as **657—5.27(155A)**.

ITEM 15. Adopt the following new rule 657—5.26(155A):

657—5.26(155A) Reporting discipline and criminal convictions. A registered pharmacy support person shall provide to the board written notice of and unredacted documents related to any disciplinary or enforcement action imposed by any licensing agency or regulatory authority on any license or

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registration held by the registered pharmacy support person no later than 30 days after the final action. Discipline may include, but is not limited to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, and voluntary surrender. A registered pharmacy support person shall provide written notice and unredacted documents to the board of any criminal conviction that is related to the practice of pharmacy or controlled substances no later than 30 days after the conviction. The term “criminal conviction” includes instances when the judgment of conviction or sentence is deferred.

ITEM 16. Amend **657—Chapter 5**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 147.55, 147.80, 155A.3, 155A.6B, 155A.18 and 155A.23 and ~~2009 Iowa Code Supplement section 155A.6B~~.

[Filed 3/15/21, effective 5/12/21]

[Published 4/7/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

ARC 5541C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to temporary designation of controlled substances

The Board of Pharmacy hereby amends Chapter 10, “Controlled Substances,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.201.

Purpose and Summary

These amendments temporarily add two substances (both Food and Drug Administration-approved prescription drugs) to the Iowa Controlled Substances Act in response to similar scheduling action taken by the federal Drug Enforcement Administration (DEA).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5365C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on March 10, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

PHARMACY BOARD[657](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 12, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 10.39(2) as follows:

10.39(2) Amend Iowa Code section 124.210(3) by adding the following new ~~paragraph~~ paragraphs:
be. No change.

bf. Remimazolam.

ITEM 2. Adopt the following **new** subrule 10.39(6):

10.39(6) Amend Iowa Code section 124.206(3) by adding the following new paragraph:
ad. Oliceridine.

[Filed 3/15/21, effective 5/12/21]

[Published 4/7/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

ARC 5545C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to Iowa prescription monitoring program

The Board of Pharmacy hereby amends Chapter 37, "Iowa Prescription Monitoring Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 124.554.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.551, 124.553 and 124.554 as amended by 2020 Iowa Acts, Senate File 2120.

Purpose and Summary

These amendments implement changes made to the Iowa Code during the 2020 Legislative Session, including the reporting of Schedule V controlled substances to the database and veterinarian access to program data, and revise the definition of "health care professional."

PHARMACY BOARD[657](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5369C**.

The Board received comments from the Iowa Veterinary Medical Association (IVMA) and a current prescription monitoring program (PMP) delegate. The IVMA recommended the addition of the phrase “or client’s” in relation to the requirement of a pharmacist to check the PMP prior to dispensing a Schedule V controlled substance without a prescription. The current PMP delegate expressed concern that the changes would result in the delegate being prohibited from serving as a delegate. The Board determined that the delegate’s status on a registry maintained by the Department of Inspections and Appeals would qualify the delegate to continue serving as a practitioner’s delegate.

The Board agreed with the suggested addition by the IVMA and revised paragraph 37.16(2)“b” as suggested. In addition, the words “which sale” were added to paragraph 37.7(1)“d” in Item 3 for clarity.

Adoption of Rule Making

This rule making was adopted by the Board on March 10, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 12, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **657—37.2(124)**, definitions of “Controlled substance,” “Health care professional” and “Reportable prescription,” as follows:

“*Controlled substance*” means a drug in Schedules II through ~~IV~~ V set forth in Iowa Code chapter 124, division II.

“*Health care professional*” means a person who, by ~~education, training,~~ certification, registration, or licensure, is qualified to provide and is engaged in providing health care to patients. “Health care professional” does not include clerical or administrative staff. A health care professional shall be ~~licensed, registered, certified, or otherwise~~ credentialed in a manner that permits verification and regulation of the health care professional’s credentials.

“*Reportable prescription*” means the record of a controlled substance administered or dispensed by a practitioner and the record of an opioid antagonist dispensed by a practitioner or administered by a first

PHARMACY BOARD[657](cont'd)

responder. “Reportable prescription” shall not include records identified in subrule 37.7(1). “Reportable prescription” shall include, but not be limited to:

1. to 3. No change.
4. The dispensing of a controlled substance sample; ~~and~~
5. The dispensing of a controlled substance or opioid antagonist to a patient upon discharge from a hospital or care facility; and
6. The dispensing of a Schedule V controlled substance without a prescription pursuant to rule 657—10.33(124,155A).

ITEM 2. Adopt the following new definitions of “Client” and “Patient” in rule **657—37.2(124)**:
 “Client” means the owner, owner’s designee, or other person responsible for an animal patient.
 “Patient” means a person or animal to whom a prescription is prescribed or dispensed.

ITEM 3. Adopt the following new paragraph **37.7(1)“d”**:
d. The sale by a licensed pharmacy of a Schedule V controlled substance without a prescription which sale is subject to the reporting requirements of 657—Chapter 100.

ITEM 4. Amend rule 657—37.8(124) as follows:

657—37.8(124) PMP reporting—dispensing prescribers. Each dispensing prescriber, unless exempt pursuant to rule 657—37.7(124), shall submit to the PMP a record of each reportable prescription dispensed during a reporting period pursuant to subrule 37.12(2). For purposes of prescriber dispensing, the prescriber shall also be identified as the dispenser or pharmacy. A veterinarian may, but shall not be required to, submit to the PMP a record of reportable prescriptions dispensed by the veterinarian.

ITEM 5. Amend subrule 37.16(1) as follows:

37.16(1) Prescribers. A prescriber may access a patient’s prescription history report; the prescriber’s activity report; proactive alerts or system user notes, such as peer-to-peer communication; and NarxCare reports. A veterinarian with authority to prescribe controlled substances may access a current patient’s or client’s prescription history report if the veterinarian has a reasonable basis to suspect the client may be abusing drugs or mistreating an animal.

ITEM 6. Amend subrule 37.16(2) as follows:

37.16(2) Pharmacists.

a. A pharmacist may access a patient’s or client’s prescription history report; proactive alerts or system user notes, such as peer-to-peer communication; and NarxCare reports.

b. A pharmacist shall review a patient’s or client’s prescription history report prior to dispensing a Schedule V controlled substance without a prescription pursuant to rule 657—10.33(124,155A).

[Filed 3/15/21, effective 5/12/21]

[Published 4/7/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

ARC 5546C

SCHOOL BUDGET REVIEW COMMITTEE[289]

Adopted and Filed

Rule making related to applying for aid

The School Budget Review Committee (SBRC) hereby amends Chapter 6, “Duties and Operational Procedures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 257.30.

SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 257.40 and 2020 Iowa Acts, House File 2418.

Purpose and Summary

Chapter 6 outlines the operational procedures of the SBRC. This amendment allows the SBRC the option to grant the modified supplemental amount when a school district submits a request after the January 15 deadline stipulated in Iowa Code section 257.40(1), but before March 1 of the budget year preceding the budget year during which the program will be offered.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 27, 2021, as **ARC 5401C**. A virtual public hearing was held on February 16, 2021. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the SBRC on March 16, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the SBRC for a waiver of the discretionary provisions, if any, pursuant to 289—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 12, 2021.

The following rule-making action is adopted:

Amend paragraph **6.3(3)“k”** as follows:

k. Applications described in ~~paragraphs~~ paragraph 6.3(3)“g” and “i” that are not timely filed will not be considered for supplemental aid or for modified supplemental amount. Applications described in paragraphs 6.3(3)“*h*” and “*j*” that are not timely filed may be considered at the sole discretion of the SBRC. Applications described in paragraph 6.3(3)“i” that are submitted after January 15 but before March 1 of the budget year preceding the budget year during which the program will be offered may be

SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

considered at the sole discretion of the SBRC; applications received after March 1 shall not be considered by the SBRC for any reason.

[Filed 3/16/21, effective 5/12/21]

[Published 4/7/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

ARC 5548C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to transporter plates

The Department of Transportation hereby amends Chapter 424, "Transporter Plates," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.58 to 321.60.

Purpose and Summary

These amendments update the contact information and the form submission process for transporter plates. Also, the relevant Iowa Code sections are included to clarify the transporter plates application process and the associated fees.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 10, 2021, as **ARC 5413C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on March 17, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

TRANSPORTATION DEPARTMENT[761](cont'd)

group, review this rule making 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 rule making will become effective on May 12, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 424.1(1) as follows:

424.1(1) Information. Information and blank forms relating to this chapter may be obtained from ~~and completed forms shall be submitted to the Office of Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, by mail at P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3110; by email at vscuto@iowadot.us; or from the department's website at www.iowadot.gov. Completed forms shall be submitted in the form and manner prescribed by the department.~~

ITEM 2. Amend subrule 424.4(2), introductory paragraph, as follows:

424.4(2) Application. The applicant shall accurately and completely fill out an application for special plates on a form prescribed by the department and submit the application ~~to~~ in the manner prescribed by the department with the appropriate fees in accordance with Iowa Code sections 321.58 through 321.60.

[Filed 3/17/21, effective 5/12/21]

[Published 4/7/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

ARC 5547C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to adoption of federal regulations

The Department of Transportation hereby amends Chapter 520, "Regulations Applicable to Carriers," Chapter 529, "For-Hire Interstate Motor Carrier Authority," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 307.27, 321.188, 321.449 and 321.450.

Purpose and Summary

This rule making aligns Chapters 520, 529 and 607 with federal regulation changes occurring during the 2020 federal fiscal year. This rule making also amends Chapter 607 to align with federal regulation changes implementing electronic submission of the federal medical certificate form that certain commercial driver's license (CDL) holders are required to submit as a condition of obtaining or retaining a CDL.

Federal medical certificate changes. The amendments to Chapter 607 bring the rules in line with federal regulations governing the medical certificate form that certain CDL holders are required to submit

TRANSPORTATION DEPARTMENT[761](cont'd)

as a condition of being licensed. Those regulation changes can be found in the Federal Register (FR) Volume 83, No. 120, Pages 28774-28783, June 21, 2018. Currently, a CDL holder must submit a physical copy of the medical certificate form to the Department; however, the Federal Motor Carrier Safety Administration (FMCSA) has adopted regulations and is currently programming a system by which the CDL holder's medical provider will submit the medical certificate to FMCSA, which will then transit the medical certificate electronically to the state driver's license agency. The amendments provide flexibility for the form to continue to be submitted as a physical copy until the programming is ready and FMCSA begins transmitting the form to the Department electronically.

Annual update. The remainder of the amendments are part of the regular annual update for the Department to adopt the most recent updates to the federal regulations. Iowa Code section 321.188 requires the Department to adopt rules to administer CDLs in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383. Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the FR. Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The amendments to Chapter 520 adopt the current CFR dated October 1, 2020, for 49 CFR Parts 107, 171 to 173, 177, 178, 180, 385 and 390 to 399. The amendment to Chapter 529 adopts the current CFR dated October 1, 2020, for 49 CFR Parts 365 to 368 and 370 to 379. The amendments to Chapter 607 adopt the current CFR dated October 1, 2020, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR. To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2020 edition of the CFR that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Part 383 (FR Vol. 84, No. 190, Pages 52029-52035, 10-1-19)

This final rule adopts the FMCSR prohibiting states from issuing, renewing, transferring, or upgrading a CDL with a hazardous materials endorsement unless the Transportation Security Administration in the Department of Homeland Security has first conducted a security threat assessment and determined that the applicant does not pose a security risk warranting denial of the hazardous materials endorsement. Effective date: October 31, 2019.

Part 383 (FR Vol. 84, No. 240, Pages 68052-68057, 12-13-19)

This final rule extends the compliance date for the requirement that states request information from the Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) about individuals before completing certain CDL transactions for those drivers. The states' compliance with this requirement is delayed until January 6, 2023. The compliance date extension allows FMCSA the time needed to complete its work on a forthcoming rule making to address the states' use of driver-specific information from the Clearinghouse, and time to develop the information technology platform through which states will electronically request and receive Clearinghouse information. Effective date: December 13, 2019.

Part 383 (FR Vol. 85, No. 23, Pages 6088-6101, 2-4-20)

This interim final rule extends the compliance date for the minimum requirements for entry-level commercial motor vehicle operators to February 7, 2022, to provide FMCSA with additional time to complete development of the Training Provider Registry (TPR) and to allow states additional time to

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modify their information technology systems and procedures, as necessary, to accommodate receipt of driver-specific data from the TPR. Effective date: February 4, 2020.

Part 385 (FR Vol. 85, No. 36, Pages 10307-10310, 2-24-20)

This final rule amends the HMR to incorporate by reference the April 1, 2019, edition of the Commercial Vehicle Safety Alliance's "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR Part 173.403." The out-of-service criteria provide uniform enforcement tolerances for roadside inspections to enforcement personnel nationwide, including FMCSA's state partners. Effective date: March 25, 2020.

Parts 171-173, 178 and 180 (FR Vol. 85, No. 91, Pages 27810-27901, 5-11-20)

This final rule amends the HMR to align with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the HMR with recent changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations. Additionally, the final rule adopts several amendments to the HMR that allow for increased alignment with the Transport Canada Transportation of Dangerous Goods Regulations. Effective date: May 11, 2020, except for the amendment to 49 CFR Section 173.21(f), which is effective January 2, 2023.

Parts 385 and 395 (FR Vol. 85, No. 105, Pages 33396-33452, 6-1-20)

This final rule revises FMCSA regulations relating to the hours of service regulations to provide greater flexibility for drivers subject to those rules without adversely affecting safety. The rule expands the short haul exception to 150 air-miles and allows a 14-hour work shift to take place as part of the exception; expands the driving window during adverse driving conditions by up to an additional 2 hours; requires a 30-minute break after 8 hours of driving time (instead of on-duty time) and allows an on-duty/not driving period to qualify as the required break; and modifies the sleeper berth exception to allow a driver to meet the 10-hour minimum off-duty requirement by spending at least 7, rather than at least 8, hours of that period in the berth and a minimum off-duty period of at least 2 hours spent inside or outside of the berth, provided the 2 periods total at least 10 hours, and that neither qualifying period counts against the 14-hour driving window. Effective date: September 29, 2020.

Part 396 (FR Vol. 85, No. 160, Pages 50787-50793, 8-18-20)

This final rule rescinds an FMCSA regulation related to the requirement that drivers of passenger-carrying commercial motor vehicles operating in interstate commerce submit, and motor carriers retain, driver-vehicle inspection reports (DVIRs) when the driver has neither found nor been made aware of any vehicle defects or deficiencies (no defect DVIRs). This final rule removes an information collection burden without adversely impacting safety. Effective date: September 17, 2020.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 10, 2021, as **ARC 5411C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on March 17, 2021.

Fiscal Impact

The fiscal impact statement cannot be determined. The federal regulations adopted by this rule making were subject to fiscal impact review by either the FMCSA or the Pipeline and Hazardous Materials Safety Administration when the regulations were enacted and were determined not to be cost-prohibitive.

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Jobs Impact

The amendments may have a slight impact on CDL holders and motor carrier operations; however, the amendments should not negatively impact jobs or employment opportunities because the adopted regulations align the rules to federal regulations and streamline the federal medical certificate submission process as well as bring uniformity and consistency to the industry, which should have a positive impact on employment.

Waivers

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 12, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2019~~ 2020).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2019~~ 2020).

ITEM 3. Amend paragraph **520.1(2)“c”** as follows:

c. Operators of vehicles for hire, designed to transport 7 or more persons, but fewer than 16, including the driver, must comply with 49 CFR Part 395 of the Federal Motor Carrier Safety Regulations. In addition, operators of vehicles for hire designed to transport 7 or more persons, but fewer than 16, including the driver, are not exempt from logbook requirements afforded the ~~100-air-mile~~ 150-air-mile radius driver under 49 CFR 395.1(e). However, the provisions of 49 CFR Part 395 shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and are regulated by local authorities.

ITEM 4. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2019~~ 2020, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or at www.fmcsa.dot.gov.

ITEM 5. Amend paragraph **607.10(1)“d”** as follows:

d. The following portions of 49 CFR Part 383 (October 1, ~~2019~~ 2020):

- (1) Section 383.51, Disqualification of drivers.
- (2) Subpart E—Testing and Licensing Procedures.

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- (3) Subpart G—Required Knowledge and Skills.
- (4) Subpart H—Tests.

ITEM 6. Amend subrule 607.28(7) as follows:

607.28(7) Locations. The skills test for a commercial driver's license shall be given only at specified locations where adequate testing facilities are available. An applicant may contact any driver's license service center for the location of the nearest skills testing center. ~~A skills test by appointment shall be offered only at specified regional test sites.~~

ITEM 7. Amend paragraph **607.37(1)“a”** as follows:

a. The licensee shall make a written self-certification of type of driving as required by rule 761—607.50(321) and, if required, provide a current medical examiner's certificate if required unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration.

ITEM 8. Amend rule 761—607.50(321) as follows:

761—607.50(321) Self-certification of type of driving and submission of medical examiner's certificate.

607.50(1) No change.

607.50(2) Submission of medical examiner's certificate by persons certifying to non-excepted interstate driving. Every person who self-certifies to non-excepted interstate driving must give the department a copy of the person's current medical examiner's certificate, unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration. ~~A person who fails to provide a required medical examiner's certificate~~ The department shall not be allowed to proceed with an initial issuance issue, transfer, renewal renew, or upgrade of a license until the person gives the department receives a medical examiner's certificate that complies with the requirements of this subrule, or unless the person changes the person's self-certification of type of driving to a type other than non-excepted interstate driving. For persons submitting When the department receives a current medical examiner's certificate, the department shall post a medical certification status of “certified” on the person's CDLIS driver's record. A person who self-certifies to a type of driving other than non-excepted interstate shall have no medical certification status on the CDLIS driver's record.

607.50(3) Maintaining certified status. To maintain a medical certification status of “certified,” a person who self-certifies to non-excepted interstate driving must give the department a copy of each subsequently issued medical examiner's certificate valid for the person unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration. ~~The copy must be given to the department at least ten days before the previous medical examiner's certificate expires.~~

607.50(4) CDL downgrade. If the medical examiner's certificate or medical variance for a person self-certifying to non-excepted interstate driving expires or if the Federal Motor Carrier Safety Administration notifies the department that the person's medical variance was removed or rescinded, the department shall post a medical certification status of “not certified” to the person's CDLIS driver's record and shall initiate a downgrade of the person's commercial driver's license or commercial learner's permit. The medical examiner's certificate of a person who fails to maintain a medical certification status of “certified” as required by subrule 607.50(3) shall be deemed to be expired on the date of expiration of the last medical examiner's certificate filed for the person as shown by the person's CDLIS driver's record. The downgrade will be initiated and completed as follows:

a. The department shall give the person written notice that the person's medical certification status is “not certified” and that the commercial motor vehicle privileges will be removed from the person's commercial driver's license or commercial learner's permit 60 days after the date the medical examiner's certificate or medical variance expired or the medical variance was removed or rescinded unless the person submits to the department receives a current medical certificate or medical variance or the person self-certifies to a type of driving other than non-excepted interstate.

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b. If the ~~person submits~~ department receives a current medical examiner's certificate or medical variance before the end of the 60-day period, the department shall post a medical certification status of "certified" on the person's CDLIS driver's record and shall terminate the downgrade of the person's commercial driver's license or commercial learner's permit.

c. No change.

d. If the ~~person fails to take the action~~ requirements in either paragraph 607.50(4) "b" or "c" are not met before the end of the 60-day period, the department shall remove the commercial motor vehicle privileges from the person's commercial driver's license or commercial learner's permit and shall leave the person's medical certification status as "not certified" on the person's CDLIS driver's record.

607.50(5) *Establishment or reestablishment of "certified" status.* A person who has no medical certification status or whose medical certification status has been posted as "not certified" on the person's CDLIS driver's record may ~~establish or reestablish~~ have the person's status established or reestablished as "certified" ~~by submitting if the department receives a current medical examiner's certificate or medical variance to the department.~~ A person who has failed to self-certify to a type of driving or has self-certified to a type of driving other than non-excepted interstate must also make a self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of "certified" on the person's CDLIS driver's record.

607.50(6) *Reestablishment of the CDL privilege.* A person whose commercial motor vehicle privileges have been removed from the person's commercial driver's license or commercial learner's permit under the provisions of paragraph 607.50(4) "d" may ~~reestablish~~ have the person's commercial motor vehicle privileges by reestablished if either of the following ~~methods~~ occurs:

a. ~~Submitting a~~ The department receives the person's current medical examiner's certificate or medical variance ~~to the department.~~ A person who has failed to self-certify to a type of driving must also make an initial self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of "certified" on the person's CDLIS driver's record and reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver's license or commercial learner's permit.

b. ~~Self-certifying~~ The person self-certifies to a type of driving other than non-excepted interstate. The department shall then reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver's license or commercial learner's permit; the person will have no medical certification status on the driver's CDLIS driver's record.

607.50(7) *Change of type of driving.* A person may change the person's self-certification of type of driving at any time. As required by subrule 607.50(2), the department must receive a copy of the person's current medical examiner's certificate prepared by a medical examiner for a person certifying to non-excepted interstate driving ~~must give the department a copy of the person's current medical examiner's certificate prepared by a medical examiner.~~

607.50(8) No change.

607.50(9) *Medical examiner's certificate conflict.* As required by 49 CFR Sections 383.71 and 383.73, in the event of a conflict between the medical certification information provided electronically by the Federal Motor Carrier Safety Administration and a paper copy of the medical examiner's certificate, the medical certification information provided electronically by the Federal Motor Carrier Safety Administration shall supersede.

This rule is intended to implement Iowa Code sections 321.182, 321.188 and 321.207.


[Filed 3/17/21, effective 5/12/21]

[Published 4/7/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/7/21.

PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR ELECTRONIC FORMAT DUE TO COVID-19

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a Notice of Intended Action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 106 of the Governor's proclamation of disaster emergency issued April 2, 2021: governor.iowa.gov/sites/default/files/documents/PH%20Proclamation%20-%202021.04.02.pdf.



State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER EIGHT

- WHEREAS,** lack of available child care resources for parents is a significant barrier to increased labor force participation; and
- WHEREAS,** the unavailability of child care options significantly impedes the ability of parents to enter, re-enter, and stay in the workforce; and
- WHEREAS,** a strong Iowa economy relies on a strong child care system for working parents; and
- WHEREAS,** Iowa leads the nation for households with all parents working, but the state has too few options for child care; and
- WHEREAS,** the state has lost one-third of its child care providers in the last five years and faces an estimated shortfall of 350,000 child care slots; and
- WHEREAS,** twenty-three percent of Iowans live in child care deserts; and
- WHEREAS,** child care is more expensive than housing for the average Iowa family; and
- WHEREAS,** child care is the backbone of our workforce and serves as an early learning platform for our children; and
- WHEREAS,** above and beyond the impacts to working parents, the lack of access to affordable child care hurts Iowa's economy through lost tax revenue and employee absences; and
- WHEREAS,** it is essential for the state to receive input from employers, non-profit organizations, child care facilities, elected officials, rural economic development professionals, in-home daycare providers, and individuals in the financial sector to address these child care barriers; and
- WHEREAS,** the people of Iowa will benefit from a central point of coordination for efforts to address the numerous issues that contribute to the child care barrier to work in Iowa.
- NOW THEREFORE,** I, Kim Reynolds, Governor of the State of Iowa, do hereby order the establishment of the Governor's Child Care Task Force to serve as the central point of coordination for efforts to develop a comprehensive strategy to address Iowa's child care crisis.

PURPOSE AND DUTIES

- I. The Governor's Child Care Task Force shall develop a comprehensive strategy to address the numerous issues that contribute to the child care barrier to work in Iowa. The Task Force will develop a roadmap to reduce both short- and long-term challenges to affordable and reliable child care throughout the entire State of Iowa.
- II. The duties of the Governor's Child Care Task Force shall include, but are not limited to, advising the Governor on:
 - A. Considering existing child care deserts in the State of Iowa, both with respect to location and economic disparity;

- B. Identifying child care regulations that pose barriers to increased child care slots in Iowa without compromising quality and safety;
 - C. Understanding the so-called “child care cliff” effect;
 - D. Identifying child care workforce issues, including recruitment and retention, reimbursement rates, and health insurance;
 - E. Addressing the lack of available financing options for the creation and infrastructure of daycare facilities; and
 - F. Developing solutions for the lack of employer-provided daycare facilities.
- III. The Governor’s Child Care Task Force shall also provide oversight and coordination of all working groups established by this Executive Order.

ORGANIZATION AND OPERATION

- IV. **Task Force Membership.** The Governor’s Child Care Task Force shall consist of a chair, to be appointed by the Governor, and may include, but are not limited to, the following representatives committed to reducing the current child care barriers present in our state:
- A. Individuals representing employers from across the state of various size and industry;
 - B. Individuals representing nonprofits, faith-based organizations, or community-based organizations;
 - C. Individuals representing owners or operators of large child care facilities;
 - D. Elected mayors from metropolitan and rural areas;
 - E. Individuals representing rural economic development professionals;
 - F. Individuals representing in-home daycare providers; and
 - G. Individuals representing the banking sector.
- V. **Working Groups.** The Governor shall appoint working groups to assist the Task Force in leveraging expertise and experience from interested stakeholders and community members beyond members of the Task Force. The Governor shall appoint a chair and any additional members she deems necessary for each working group. The following working groups shall be established:
- A. **Regulatory Barriers and Financing Options.** This Working Group will address child care regulations that pose barriers to increased child care slots in Iowa and lack of available financing options for the creation and infrastructure of daycare facilities.
 - B. **Expanding Eligibility for Child Care Assistance (CCA).** This Working Group will study the so-called “child care cliff” effect.
 - C. **Child Care Workforce Issues.** This Working Group will address child care workforce issues, including recruitment and retention, reimbursement rates, and health insurance.
 - D. **Increasing Employer Investment and Engagement Opportunities in Child Care.** This Working Group will address how to develop employer investment and engagement opportunities internally and within Iowa communities.
- VI. **Meetings.** The Governor’s Child Care Task Force shall hold public meetings as scheduled by the chair of the Task Force.

- VII. **Service as members.** Appointed Task Force members, working group chairs, and working group members shall serve at the pleasure of the Governor and without compensation.
- VIII. **Staffing and Support.** Staffing and administrative assistance for the Governor's Child Care Task Force shall be provided by Iowa Workforce Development, the Department of Human Services, and by other agencies, persons, or organizations from time to time as deemed necessary or appropriate by the Task Force or the Office of the Governor.

IMPLEMENTATION AND INTERPRETATION

- IX. All departments, agencies, boards, or other political subdivisions of any state and local governments shall cooperate fully with the Governor's Child Care Task Force, including but not limited to the Iowa Department of Workforce Development, the Iowa Department of Human Services, the Iowa Economic Development Authority, the Iowa Department of Education, the Iowa Department of Human Rights, and the Early Childhood Iowa State Board. The Task Force may seek the expertise and services of individuals and entities outside of its membership for research, advice, and other needs, as necessary or appropriate, to accomplish its mission.
- X. All work of the Governor's Child Care Task Force shall be done in a manner consistent with the laws and regulations of the State of Iowa, and of the laws and regulations of the United States of America.
- XI. This Executive Order shall be interpreted in accordance with all applicable laws and regulations and shall not supersede any laws or regulations in place as of its effective date. If any provision of this Executive Order is found to be invalid, unenforceable, or otherwise contrary to applicable law, then the remaining provisions of this Executive Order, as applied to any person or circumstance, shall continue in full force and effect and shall not be affected by such finding of invalidity or unenforceability.
- XII. This Executive Order does not create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its departments, agencies, or political subdivisions, or its officers, employees, agents, or any other persons.
- XIII. This Executive Order shall apply prospectively only as of its effective date.



IN TESTIMONY WHEREOF, I HAVE
HEREUNTO SUBSCRIBED MY NAME AND
CAUSED THE GREAT SEAL OF THE STATE
OF IOWA TO BE AFFIXED AT DES MOINES,
IOWA THIS TENTH DAY OF MARCH IN THE
YEAR OF OUR LORD TWO THOUSAND
TWENTY-ONE.

Kim Reynolds
KIM REYNOLDS
GOVERNOR OF IOWA

ATTEST:

Paul D. Pate
PAUL D. PATE
SECRETARY OF STATE