



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.

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

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Email: Jack.Ewing@legis.iowa.gov
Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

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

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

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

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

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2023

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 17, 2023	March 8, 2023
19	Friday, March 3, 2023	March 22, 2023
20	Friday, March 17, 2023	April 5, 2023

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****

EDUCATION DEPARTMENT[281]

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Room B50
Grimes State Office Bldg.
Des Moines, Iowa
[IDOE.zoom.us/j/94994811740?pwd=SjE2REZEZDdoSTVIQ2YxcWITMm](https://doe.zoom.us/j/94994811740?pwd=SjE2REZEZDdoSTVIQ2YxcWITMm)

February 28, 2023
8:30 to 9:30 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Underground storage
tanks—biofuel
compatibility, 135.4
IAB 2/8/23 ARC 6884C

Conference Room 5 West
Wallace State Office Bldg.
Des Moines, Iowa

February 28, 2023
1 p.m.

TRANSPORTATION DEPARTMENT[761]

Tourist-oriented directional
signing, 119.1 to 119.6
IAB 2/8/23 ARC 6885C

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

March 2, 2023
10 a.m.
(If requested)

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 6883C**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Notice of Intended Action****Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Administrative Services Department hereby proposes to amend Chapter 1, "Department Organization," Chapter 4, "Public Records and Fair Information Practices," and Chapter 6, "Agency Procedure for Rule Making"; rescind Chapter 20, "Information Technology Governance," Chapter 25, "Information Technology Operational Standards," and Chapter 26, "Information Technology Development Strategies and Activities"; and amend Chapter 41, "Auditing Claims," Chapter 100, "Capitol Complex Operations," and Chapter 118, "Purchasing Standards for Service Contracts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8A.104 and 17A.7(2).

Purpose and Summary

This proposed rule making includes amendments in nine of the Department's chapters of administrative rules in the Iowa Administrative Code. These amendments include updates of the Department's organizational references in addition to processes and procedures. All are part of the Department's five-year review of rules.

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

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

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 February 28, 2023. Comments should be directed to:

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Tami Wienczek
 Department of Administrative Services
 Hoover State Office Building
 1305 East Walnut Street
 Des Moines, Iowa 50319-0114
 Phone: 515.725.2017
 Fax: 515.281.6140
 Email: tami.wienczek@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 paragraph **1.4(3)“b”** as follows:

b. Other functions. The state accounting enterprise also includes financial reporting, the ~~I-3 program~~ enterprise resource planning team, and centralized payroll.

ITEM 2. Amend subrule 1.4(6) as follows:

1.4(6) Central procurement, ~~and fleet,~~ and print services enterprise. The chief operating officer of the enterprise is appointed by the director and directs the work of the enterprise.

a. Central procurement is charged with procuring goods and services for agencies pursuant to Iowa Code chapter 8A. These rules and applicable Iowa Code sections apply to the purchase of goods and services of general use by any unit of the state executive branch, except any agencies or instrumentalities of the state exempted by law.

~~*b.*—Central procurement shall manage statewide purchasing and electronic procurement, including managing procurement of commodities, equipment and services for all state agencies not exempted by law.~~

e. b. Fleet services is responsible for ~~the management of~~ vehicle assignment, maintenance, fuel guidelines, driver guidelines, insurance, life-cycle analysis, vehicular risk, and travel requirements for state agencies not exempted by law.

c. Print services is responsible for operating a centralized print facility and satellite facilities necessary to meet the printing requirements of state agencies not exempted by law.

ITEM 3. Rescind subrule **4.15(10)**.

ITEM 4. Renumber subrules **4.15(11) to 4.15(21)** as **4.15(10) to 4.15(20)**.

ITEM 5. Amend **11—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 8A and 17A and 2003 Iowa Code Supplement chapter 8A.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

- ITEM 6. Rescind and reserve **11—Chapter 20**.
- ITEM 7. Rescind and reserve **11—Chapter 25**.
- ITEM 8. Rescind and reserve **11—Chapter 26**.
- ITEM 9. Amend paragraph **41.5(3)“a”** as follows:
- a. All state agencies covered by the statewide travel agency contracts may purchase airline tickets through a travel agency under contract. Agencies shall develop internal policies so that agencies purchase or direct their employees to purchase tickets from the source determined by the agency to be the best value.*
- ITEM 10. Amend subrule 41.5(7) as follows:
- 41.5(7) Verification of mileage.** The travel shall be by the usually traveled route. Mileage shall be based on published mileage ~~published by the American Automobile Association, when available~~. Any variation from the published mileage should be documented in writing.
- ITEM 11. Rescind subrules **41.7(4)** and **41.7(5)**.
- ITEM 12. Renumber subrules **41.7(6)** to **41.7(8)** as **41.7(4)** to **41.7(6)**.
- ITEM 13. Amend paragraph **100.6(6)“a”** as follows:
- a. Purchase from a targeted small business.* An agency may purchase standard modular office systems and related components and other furniture items from a targeted small business (TSB) without further competition when the purchase will not exceed \$10,000, the threshold established in 11—subrule 117.5(2), as provided in Iowa Code section 8A.311(10)“a.”
- ITEM 14. Amend rule **11—118.3(8A)**, definition of “Service,” as follows:
- “Service” or “services” means work performed for a state agency or for its clients by a service provider and includes, but is not limited to:
1. Professional or technical expertise provided by a consultant, advisor or other technical or service provider to accomplish a specific study, review, project, task, or other work as described in the scope of work. By way of example and not by limitation, these services may include the following: accounting services; aerial surveys; aerial mapping and seeding; appraisal services; land surveying services; construction manager services; analysis and assessment of processes, programs, fiscal impact, compliance, systems and the like; auditing services; communications services; services of peer reviewers, attorneys, financial advisors, and expert witnesses for litigation; ~~architectural services;~~ information technology consulting services; services of investment advisors and managers; marketing services; policy development and recommendations; program development; public involvement services and strategies; research services; scientific and related technical services; software development and system design; and services of underwriters, physicians, and pharmacists, ~~engineers, and architects;~~
 2. No change.
- ITEM 15. Adopt the following new subrule 118.5(4):
- 118.5(4)** When the estimated value of an architectural services contract, an engineering services contract, or both is greater than the competitive bid threshold listed in Iowa Code section 314.1B(2), the department shall use a formal competitive selection process to procure the architectural service, the engineering service, or both.

ARC 6880C**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to school health services
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 14, “School Health Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House Files 771, 803, and 2573.

Purpose and Summary

House File 771 allowed schools to obtain stock supplies of bronchodilator medication and equipment, as well as authorizing the self-administration of bronchodilator medication by students. House File 803 made changes to authorized practice by physician assistants and directed the State Board to amend certain rules in Chapter 14. House File 2573 allowed school districts to obtain prescriptions for stock opioid antagonist medication. These three pieces of legislation are addressed in this proposed rule making.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 February 28, 2023. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

EDUCATION DEPARTMENT[281](cont'd)

February 28, 2023
8:30 to 9:30 a.m.

Room B50
Grimes State Office Building
Des Moines, Iowa
Via videoconference:
[IDOE.zoom.us/j/94994811740?](https://doe.zoom.us/j/94994811740?pwd=SjE2REZEZDdoSTVIQ2YxcWITMm)
[pwd=SjE2REZEZDdoSTVIQ2YxcWITMm](https://doe.zoom.us/j/94994811740?pwd=SjE2REZEZDdoSTVIQ2YxcWITMm)

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.

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 Department 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. Amend subrule 14.1(3) as follows:

14.1(3) A statement that persons administering medication shall include authorized practitioners, such as licensed registered nurses and physicians, physician assistants, and persons to whom authorized practitioners have delegated the administration of prescription and nonprescription drugs (who shall have successfully completed a medication administration course). Individuals who have demonstrated competency in administering their own medications may self-administer their medication. Individuals shall self-administer asthma or other airway constricting disease medication, use a bronchodilator canister or bronchodilator canister and spacer, or possess and have use of an epinephrine auto-injector with parent and physician (or physician assistant) consent on file for each school year, without the necessity of demonstrating competency to self-administer these medications. If a student misuses this privilege, it may be withdrawn. For purposes of this chapter, "self-administration" and "medication" mean the same as defined in Iowa Code section 280.16(1).

ITEM 2. Amend subrule 14.1(4) as follows:

14.1(4) A provision for a medication administration course provided by the department that is completed every five years with an annual medication administration procedural skills check completed with a registered nurse or pharmacist. A registered nurse, licensed physician assistant, or licensed pharmacist shall conduct the course. A record of course completion shall be maintained by the school.

ITEM 3. Amend paragraph **14.1(7)"d"** as follows:

d. Medication name and purpose, including the use of a bronchodilator canister or a bronchodilator canister and spacer or the use of an epinephrine auto-injector.

ITEM 4. Amend subrule **14.2(1)**, definition of "Licensed health personnel," as follows:

"*Licensed health personnel*" means a licensed registered nurse, licensed physician, licensed physician assistant, or other licensed health personnel legally authorized to provide special health services and medications.

ITEM 5. Rescind rule 281—14.3(256) and adopt the following new rule in lieu thereof:

281—14.3(256) School district and accredited nonpublic school stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer voluntary supply.

14.3(1) Definitions. For the purpose of this rule, the following definitions apply:

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“*Act*” means 2015 Iowa Acts, Senate File 462, which amends Iowa Code section 280.16 and creates Iowa Code section 280.16A.

“*Bronchodilator*” means the same as defined in Iowa Code section 280.16(1)“a.”

“*Bronchodilator canister*” means the same as defined in Iowa Code section 280.16(1)“b.”

“*Department*” means the department of education.

“*Epinephrine auto-injector*” means the same as defined in Iowa Code section 280.16(1)“c.”

“*Licensed health care professional*” means the same as defined in Iowa Code section 280.16(1)“d.”

“*Medication administration course*” means a course approved or provided by the department that includes safe storage of medication, handling of medication, general principles, procedural aspects, skills demonstration and documentation requirements of safe medication administration in schools.

“*Medication error*” means the failure to administer an epinephrine auto-injector to a student or individual by proper route, failure to administer the correct dosage, or failure to administer an epinephrine auto-injector, bronchodilator, or bronchodilator canister and spacer according to generally accepted standards of practice.

“*Medication incident*” means accidental injection of an epinephrine auto-injector into a digit of the authorized personnel administering the medication.

“*Personnel authorized to administer epinephrine or a bronchodilator*” means the same as defined in Iowa Code section 280.16A(1)“e.”

“*School building*” means each attendance center within a school district or accredited nonpublic school where students or other individuals are present.

“*School nurse*” means the same as defined in Iowa Code section 280.16A(1)“f.”

“*Spacer*” means the same as defined in Iowa Code section 280.16A(1)“g.”

14.3(2) Applicability. This rule applies to and permits:

a. A licensed health care professional to prescribe a stock epinephrine auto-injector, a bronchodilator canister, or a bronchodilator canister and spacer in the name of a school district or accredited nonpublic school for use in accordance with the Act and this rule;

b. A pharmacist to dispense a stock supply pursuant to paragraph 14.3(2)“a”; and

c. A school district or accredited nonpublic school to acquire and maintain a stock supply pursuant to paragraphs 14.3(2)“a” and 14.3(2)“b.”

14.3(3) Prescription for stock epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers. A school district or accredited nonpublic school may obtain a prescription for epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers from a licensed health care professional annually in the name of the school district or accredited nonpublic school for administration to a student or individual who may be experiencing an anaphylactic reaction or may require treatment for respiratory distress, asthma, or other airway constricting disease. The school district or accredited nonpublic school shall maintain the supply of such auto-injectors in a secure, dark, temperature-controlled location in each school building. If a school district or accredited nonpublic school obtains a prescription pursuant to the Act and these rules, the school district or accredited nonpublic school shall stock a minimum of one pediatric dose and one adult dose epinephrine auto-injector for each school building. A school district or accredited nonpublic school may obtain a prescription for more than the minimum and may maintain a supply in other buildings.

14.3(4) Authorized personnel and stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer administration. A school nurse or personnel trained and authorized may provide or administer an epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer from a school supply to a student or individual in circumstances authorized by Iowa Code section 280.16.

a. Pursuant to Iowa Code section 280.23, authorized personnel will submit a signed statement to the school nurse stating that the authorized personnel agree to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction or administering a bronchodilator canister or a bronchodilator canister and spacer to a student or individual experiencing respiratory distress, asthma, or other airway constricting disease.

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b. Emergency medical services (911) will be contacted immediately after a stock epinephrine auto-injector is administered to a student or individual, and the school nurse or authorized personnel will remain with the student or individual until emergency medical services arrive.

c. The administration of an epinephrine auto-injector, a bronchodilator, or a bronchodilator canister and spacer in accordance with this rule is not the practice of medicine.

14.3(5) *Stock epinephrine auto-injector, bronchodilator, or bronchodilator canister and spacer training.* School employees may obtain a signed certificate to become authorized personnel.

a. Training to obtain a signed certificate may be accomplished by:

(1) Successfully completing, every five years, the medication administration course provided by the department;

(2) Annually demonstrating to the school nurse a procedural return-skills check on medication administration;

(3) Annually completing an anaphylaxis training program approved by the department;

(4) Demonstrating to the school nurse a procedural return-skills check on the use of an epinephrine auto-injector using information from the training, using authorized prescriber instructions regarding the administration of the stock epinephrine auto-injector, and as directed by the prescription epinephrine auto-injector's manufacturing label; and

(5) Providing to the school nurse a signed statement, pursuant to Iowa Code section 280.23, that the person agrees to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction or administering a bronchodilator canister or a bronchodilator canister and spacer to a student or individual experiencing respiratory distress, asthma, or other airway constricting disease.

b. Training required after a medication error or medication incident. Authorized personnel or the school nurse directly involved with a medication error or medication incident involving the administration of stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers shall be required to follow the medication error or medication incident protocol adopted by the board of directors of the school district or authorities in charge of the school district or accredited nonpublic school. To retain authorization to administer stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers in the school setting, authorized personnel directly involved with a medication error or medication incident will be required to provide a procedural skills demonstration to the school nurse demonstrating competency in the administration of stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers.

14.3(6) *Procurement and maintenance of stock epinephrine auto-injector, bronchodilator, or bronchodilator canister and spacer supplies.* A school district or accredited nonpublic school may obtain a prescription to stock, possess, and maintain epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers.

a. Stock epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers shall be stored in a secure, easily accessible area for an emergency within the school building, or in addition to other locations as determined by the school district or accredited nonpublic school, that is dark and maintained at room temperature (between 59 to 86 degrees Fahrenheit) or in accordance with the manufacturing label of the stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer.

b. A school district or school will designate an employee to routinely check stock epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers and document the following in a log monthly throughout the calendar year:

(1) The expiration date;

(2) Any visualized particles, for epinephrine auto-injectors; or

(3) Color change.

c. The school district or school shall develop a protocol to replace as soon as reasonably possible any logged epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer that is used, is close to expiration, or is discolored or has particles visible in the liquid.

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14.3(7) *Disposal of used stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers.* The school district or school that administers epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers shall dispose of used cartridge injectors as infectious waste pursuant to the department's medication waste guidance and bronchodilators or bronchodilator canisters and spacers pursuant to the department's medication waste guidance. For purposes of this rule, a multi-use bronchodilator canister is considered "used" when it no longer contains sufficient active ingredient to be medically useful.

14.3(8) *Reporting.* A school district or school that obtains a prescription for stock medications under this rule shall report to the department within 48 hours, using the reporting format approved by the department, each medication incident with the administration of stock epinephrine; medication error with the administration of a stock epinephrine injector, bronchodilator canister, or bronchodilator canister and spacer; or administration of a stock epinephrine auto-injector.

14.3(9) *School district or accredited nonpublic school policy.* A school district or school may stock epinephrine auto-injectors, bronchodilator canisters, or bronchodilator canisters and spacers. The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school that stocks epinephrine auto-injectors, bronchodilator canisters, or bronchodilator canisters and spacers shall establish a policy and procedure for the administration of a stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer, which shall comply with the minimum requirements of this rule.

14.3(10) *Rule of construction.* This rule shall not be construed to require school districts or accredited nonpublic schools to maintain a stock of epinephrine auto-injectors, bronchodilator canisters, or bronchodilator canisters and spacers. An election not to maintain such a stock shall not be considered to be negligence.

14.3(11) *Opioid antagonists.* A school district may obtain a valid prescription for an opioid antagonist and maintain a supply of opioid antagonists in a secure location at each location where a student may be present for use as provided in this rule. Any school district which does so must comply with rules and procedures adopted by the department of health and human services.

ARC 6875C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to family support mentoring program and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 41, "Special Education," and Chapter 120, "Early Access Integrated System of Early Intervention Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 604.

Purpose and Summary

House File 604 required the Department of Education to establish and, for each year in which there is an appropriation, implement a "comprehensive family support mentoring program that meets the language and communication needs of families." House File 604 also required the Department to establish rules to implement this program, regardless of whether there is an appropriation. This proposed rule making fulfills the requirements of the legislation.

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During the drafting of these proposed rules, the Department received information from representatives of the Iowa School for the Deaf, the Iowa Department of Public Health, and Iowa's area education agencies. Those representatives concur in the content of these proposed rules.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 February 28, 2023. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@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. Adopt the following **new** rule 281—41.329(256B,34CFR300):

281—41.329(256B,34CFR300) Family support mentoring program. If moneys are appropriated by the general assembly for a fiscal year for the purpose provided in this rule, the department shall develop guidelines for a comprehensive family support mentoring program that meets the language and communication needs of families, or implement them if guidelines already exist. The department, in consultation with the Iowa school for the deaf, shall administer the family support mentoring program for deaf or hard-of-hearing children.

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41.329(1) General department powers. In establishing the family support mentoring program, the department may do all of the following, either directly or through a contract or agreement:

- a. Hire a family support mentoring coordinator.
- b. Utilize the parent resource created in Iowa Code section 256B.10(2) as well as other resources to provide families with information and guidance on language, communication, social, and emotional development of their child.
- c. Recruit family support mentors to serve the needs of the family support mentoring program.
- d. Train parents of a deaf or hard-of-hearing child to become family support mentors and train deaf or hard-of-hearing adults to become deaf or hard-of-hearing adult family support mentors.
- e. Reach out to parents of children identified through the early hearing detection and intervention program in the Iowa department of public health and share information about the family support mentoring program services available to such parents.
- f. Reach out to families referred by primary care providers, the area education agencies, and from other agencies that provide services to deaf or hard-of-hearing children.
- g. Provide follow-up contact, as necessary, to establish services after initial referral.
- h. Provide administrative oversight of any program established under this rule. Administrative oversight may include:
 - (1) Review of the qualifications of mentors;
 - (2) Alignment of family needs with paired mentors;
 - (3) Administration and analysis of satisfaction surveys; and
 - (4) Gathering demographic data of those served, such as ages and geographic location of children.

41.329(2) Collaboration.

- a. The department shall work with the early hearing detection and intervention program in the Iowa department of public health, the Iowa school for the deaf, and the area education agencies when developing the guidelines.
- b. The department shall coordinate family support mentoring activities with the early hearing detection and intervention program in the Iowa department of public health, the Iowa school for the deaf, the area education agencies, and nonprofit organizations that provide family support mentoring to parents with deaf or hard-of-hearing children.

41.329(3) Nature of the program.

- a. A family support mentor may be any of the following:
 - (1) A parent who has experience raising a child who is deaf or hard-of-hearing and who has experience supporting the child's communication and language development.
 - (2) A deaf or hard-of-hearing adult who serves as a deaf or hard-of-hearing role model for the children and their families. Deaf or hard-of-hearing family support mentors may provide parents with an understanding of American sign language and English, including instructional philosophies for both, such as bilingual bimodal, listening and spoken language, total communication, and other philosophies, as well as other forms of communication, deaf culture, deaf community, and self-identity.
 - (3) The department will ensure mentors are qualified to provide supports that match the specific needs, experiences, and desires of families of children who are deaf or hard-of-hearing.
 - (4) Nothing in this rule shall be construed to create or require any credential or certification to serve as a family support mentor.
- b. With the consent of the parent of the deaf or hard-of-hearing child, the family support mentoring program shall pair families based on the specific need, experience, or want of the parent of the deaf or hard-of-hearing child with another family mentor or deaf or hard-of-hearing adult mentor to provide support.
- c. The family support mentoring program under this rule shall meet the following additional standards:
 - (1) Serve families of children who are deaf or hard-of-hearing from the child's birth through age 8, and may serve learners up to age 21;
 - (2) Provide services statewide, regardless of educational setting of the child;
 - (3) Make services available to families based on their specific need, experience, or want;

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(4) Make services available to all children who are deaf or hard-of-hearing and their families, regardless of children's eligibility for other programs, including Section 504 of the Rehabilitation Act of 1973; and

(5) Not condition receipt of services under this rule upon eligibility under this chapter or 281—Chapter 120.

41.329(4) Rule of construction. This rule only applies in a fiscal year for which there is an appropriation by the general assembly.

ITEM 2. Adopt the following new rule 281—120.347(256B,34CFR303):

281—120.347(256B,34CFR303) Family support mentoring program. Rule 281—41.329(256B,34CFR300) is incorporated herein by this reference.

This rule is intended to implement Iowa Code section 256B.10.

ARC 6876C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to child development coordinating council and educational support programs for parents of children who are at risk and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 64, “Child Development Coordinating Council,” and Chapter 67, “Educational Support Programs for Parents of At-Risk Children Aged Birth Through Five Years,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 279.51.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 279.51.

Purpose and Summary

After a review of Chapters 64 and 67, the Department proposes this rule making, which provides greater flexibility for grantee uses of funds, repeals obsolete language, uses preferred “person first” language, and makes changes to align the rules with the underlying Iowa Code section (such as clarifying the respective authority between the Department and the Child Development Coordinating Council).

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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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 February 28, 2023. Comments should be directed to:

Thomas Mayes
 Department of Education
 Grimes State Office Building, Second Floor
 400 East 14th Street
 Des Moines, Iowa 50319-0146
 Phone: 515.242.5614
 Email: thomas.mayes@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 **281—64.2(256A,279)**, definition of “Low-income family,” as follows:

“*Low-income family*” means a family who meets the financial eligibility criteria for free and reduced price meals offered under the child nutrition program.

ITEM 2. Amend rule 281—64.6(256A,279) as follows:

281—64.6(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council shall grant awards on a competitive basis to child development programs for three- and four-year-old children who are at risk and public school child development programs for three-, four-, and five-year-old children who are at risk. Competitive grants will be awarded with a renewal option for up to five years when grantees meet program requirements. If program requirements are not met, the council shall advise the department ~~may~~ to discontinue grant funding at the start of the following fiscal year.

ITEM 3. Amend subrule 64.8(1) as follows:

64.8(1) Criteria. Up to 20 percent of the available funded child development enrollment slots for at-risk may be filled by children who are three or four years of age on or before September 15 or public school enrollment slots by children who are three, four, or five years of age on or before September 15; are above the income eligibility guidelines provided that they are served on a sliding fee schedule determined at the local level; and are eligible according to one or more of the following criteria if the child:

1. Is functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional;

2. Was born ~~at biological risk~~ with one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1500 grams—approximately three pounds)

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or with a ~~diagnosed medical disorder~~, conditions such as spina bifida, or ~~Down's~~ Down syndrome, or other genetic disorders;

3. Was born to a parent who was under the age of 18; or

4. Resides in a household where one or more of the parents or guardian guardians:

Has not completed high school;

~~Has been identified as a substance abuser~~ use disorder;

~~Has been identified as chronically mentally ill~~ a chronic mental illness;

~~Is illiterate~~ Has low literacy skills;

Is incarcerated; or

~~Is a child or spouse abuser.~~ Has a history of child or spousal abuse; or

5. Has other special circumstances, such as foster care or being homeless.

The program may include children ~~not at risk~~ without risk factors, provided they are at full pay and meet other age requirements.

ITEM 4. Rescind and reserve rule **281—64.13(256A,279)**.

ITEM 5. Amend paragraph **64.15(1)“c”** as follows:

c. Record of budget, including expenditures. Grant funding is to support direct services to children to the fullest extent possible. Administrative costs under these programs shall be limited to 10 percent of the total award.

ITEM 6. Amend subrule 64.15(2) as follows:

64.15(2) Programs in year one of award. Each program in year one of a grant ~~awarded on or after July 1, 2015~~, shall meet the program standards and accreditation criteria of the National Association for the Education of Young Children, the Iowa quality preschool program standards, or other approved program standards as determined by the department during the program's first year of funding. Programs that do not attain accreditation or that do not receive a waiver will not be funded.

ITEM 7. Amend subrule 64.15(3) as follows:

64.15(3) Programs in renewal years.

~~*a.* Programs awarded grants prior to July 1, 2015, shall participate in the renewal process and maintain accreditation with the National Association for the Education of Young Children until the end of the final renewal year. Programs unable to maintain accreditation may apply for a waiver of accreditation within 30 days of the change in accreditation status. Waivers shall be awarded at the discretion of the council. Programs that do not maintain accreditation or that do not receive a waiver will not be funded.~~

b. a. Programs awarded grants on or after July 1, 2015, shall participate in the renewal process and maintain accreditation with the National Association for the Education of Young Children, the Iowa quality preschool program standards and criteria, or other approved program standards as determined by the department. Programs unable to maintain accreditation may apply for a waiver of accreditation within 30 days of the change in accreditation status. Waivers shall be awarded at the discretion of the council. Programs that do not maintain accreditation or that do not receive a waiver will not be funded.

e. b. Continuation of a grantee's participation for a second or subsequent renewal year is subject to the approval of the department based upon the grantee's compliance with program requirements and the department's review of the grantee's implementation of the grant program.

d. c. Awarded grantees are to maintain the program standards identified in the awarded application throughout the five-year grant cycle, unless unforeseen circumstances occur. Such circumstances will be considered at the discretion of the council.

ITEM 8. Amend rule 281—64.18(256A,279) as follows:

281—64.18(256A,279) Contract revisions and budget reversions. The grantee shall immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but shall not increase the total amount of the grant. ~~The council may advise the department regarding revised contracts if the revision is in excess of 10 percent of a budget category. Grantees who revert 3 percent~~

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~~or more of their program budget at the end of the budget year will have that dollar amount permanently deducted from all subsequent grant awards. Grant funds unencumbered or unobligated at the conclusion of the program period will revert to the department. The program period concludes at the end of the five-year grant cycle, if an annual renewal grant within the five-year grant cycle is not awarded, or at any time the grant is discontinued during the five-year grant cycle.~~

ITEM 9. Amend rule 281—64.20(256A,279) as follows:

281—64.20(256A,279) Termination for cause. The contract may be terminated in whole or in part at any time before the date of completion, whenever it is determined by the council that the grantee has failed to comply substantially with the conditions of the contract. The grantee shall be notified in writing by the department of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

The department shall administer the child development grants and public school grants contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of the child development grants and the public school grants, the contracts shall be terminated or renegotiated. The ~~council~~ department may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.

The contract may be terminated in whole or in part by June 30 of the current fiscal year in the event that the grantee has not attained accreditation ~~by the National Association for the Education of Young Children~~ of the program standards identified in the awarded application or has not been awarded a waiver of accreditation by the council.

ITEM 10. Amend rule 281—64.24(256A,279), introductory paragraph, as follows:

281—64.24(256A,279) Request for Reconsideration. ~~A disappointed~~ An applicant who has not been approved for funding may file a Request for Reconsideration with the director of the department in writing within ~~10~~ ten days of the decision to decline to award a grant. In order to be considered by the director, the Request for Reconsideration shall be based upon one of the following grounds:

ITEM 11. Amend **281—Chapter 67**, title, as follows:

EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS
OF ~~AT-RISK~~ CHILDREN AGED BIRTH THROUGH FIVE YEARS WHO ARE AT RISK

ITEM 12. Amend rule 281—67.1(279) as follows:

281—67.1(279) Purpose. These rules set forth procedures and conditions under which state funds shall be granted to school districts, area education agencies or other agencies which administer quality educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk.

ITEM 13. Amend rule **281—67.2(279)**, definition of "Applicant," as follows:

"*Applicant*" means a public school district, area education agency or an agency which applies for the funds to provide quality educational support programs to parents of ~~at-risk~~ children aged birth through five years who are at risk, with an emphasis on parents of children aged birth through three years.

ITEM 14. Amend rule **281—67.2(279)**, definition of "At-risk children," as follows:

"~~At-risk children~~ Children who are at risk" means children aged birth through age five years who are at risk because of physical or environmental influence.

ITEM 15. Amend rule **281—67.2(279)**, definition of "Grantee," as follows:

"*Grantee*" means the applicant designated to receive the grants for educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 16. Rescind the definition of “Early intervention interagency council” in rule **281—67.2(279)**.

ITEM 17. Amend rule 281—67.3(279) as follows:

281—67.3(279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the ~~department~~ council shall grant awards to applicants for the provision of educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk, with priority to applicants that serve parents of ~~at-risk~~ children aged birth through three years who are at risk. Funds shall be made available on a competitive basis to schools or nonprofit agencies demonstrating an ability to provide quality educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk. Competitive grants will be awarded with a renewal option for up to five years contingent upon the awardee’s meeting program requirements. If program requirements are not met, the council shall advise the department ~~may~~ to discontinue grant funding at the start of the following fiscal year.

ITEM 18. Amend rule 281—67.4(279) as follows:

281—67.4(279) Eligibility. The available funds shall be directed to serve parents of ~~at-risk~~ children aged birth through five years who are at risk in the primary eligibility category as follows:

Parents having one or more children aged birth through five years who meet the current income eligibility guidelines for free and reduced price meals ~~in a local school or whose total income is, or is projected to be, equal to or less than 125 percent of the federally established poverty guidelines~~ under the child nutrition program.

ITEM 19. Amend rule 281—67.5(279) as follows:

281—67.5(279) Secondary eligibility. The available funds shall be directed to serve parents of ~~at-risk~~ children aged birth through five years who are at risk when children qualify in one or more of the secondary eligibility categories as follows:

1. Children who are abused.
2. Children functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional.
3. Children born with ~~an established biological risk factor~~ one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1500 grams—approximately three pounds) or with conditions such as spina bifida, ~~Down’s~~ Down syndrome, or other genetic disorders.
4. Children born to a parent who was under the age of 18.
5. Children residing in a household where one or more of the parents or guardian guardians:
 - Has not completed high school;
 - Has ~~been identified as~~ a substance abuser use disorder;
 - Has ~~been identified as chronically mentally ill~~ a chronic mental illness;
 - Is incarcerated;
 - ~~Is illiterate~~ Has low literacy skills;
 - ~~Is~~ Has a history of child abuser or spouse abuser spouse abuse; or
 - Is an English learner.
6. Children having other special circumstances, such as foster care or being homeless.

ITEM 20. Amend subrule 67.6(1) as follows:

67.6(1) Criteria points. The following information shall be provided and points shall be awarded to applicants based on the following criteria as stated in the request for proposal:

1. Identification of parents of ~~at-risk~~ children who are at risk.
2. to 6. No change.
7. Program budget (administrative) costs not to exceed 10 percent of total award).

EDUCATION DEPARTMENT[281](cont'd)

ITEM 21. Amend rule 281—67.7(279) as follows:

281—67.7(279) Application process. The council shall advise the department ~~shall~~ to announce through public notice the opening of an application period.

ITEM 22. Amend rule 281—67.8(279) as follows:

281—67.8(279) Request for proposals. Applications for ~~the grants for~~ educational support services to parents of ~~at-risk~~ children aged birth through five years ~~grants who are at risk~~ shall be distributed by the department upon request. Proposals not containing the specified information or not received by the specified date may not be considered. All applications shall be submitted in accordance with instructions in the request for proposals. The proposals shall be submitted to the department.

ITEM 23. Amend subrule 67.9(1) as follows:

67.9(1) Grants for educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk shall not supplant other existing funding sources.

ITEM 24. Amend rule 281—67.10(279) as follows:

281—67.10(279) Notification of applicants. ~~Applicants shall be notified~~ The council shall advise the department to notify applicants of the department's decision to approve or disapprove the proposal within 45 days of the deadline for applications. Negotiations may be required. Successful applicants will be requested to have an official with vested authority sign a contract with the department.

ITEM 25. Amend rule 281—67.11(279) as follows:

281—67.11(279) Grantee responsibilities. The grantee shall maintain records which include, but are not limited to:

1. Demographic information on parents and children served.
2. Qualifying criteria for those parents receiving educational support services.
3. Documentation of the number of contact hours in either individual or group sessions with parents.
4. Documentation of the type of educational support service provided to parents.
5. Indication of where the services were provided, i.e., home, school or community facility.
6. Evaluation of how each project goal and objective was met, on what timeline, and with what success rate.
7. Record of expenditures and an annual audit. Grant funding is to support direct services to families and their children to the fullest extent possible.
8. Other information specified by the ~~department~~ council necessary to the overall evaluation.

Grantees shall complete a year-end report on forms provided by the department documenting the information outlined in this rule. ~~The final project report is due 30 days after the completion of the project as defined in the contract with the department.~~

ITEM 26. Amend rule 281—67.12(279) as follows:

281—67.12(279) Withdrawal of contract offer. If the applicant and the department are unable to successfully negotiate a contract, the ~~department~~ council may withdraw the award offer.

ITEM 27. Amend rule 281—67.13(279) as follows:

281—67.13(279) Evaluation. The grantee shall cooperate with the ~~department~~ council and provide requested information to determine how well the goals and objectives of the project are being met.

ITEM 28. Amend rule 281—67.14(279) as follows:

281—67.14(279) Contract revisions. The grantee shall immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract

EDUCATION DEPARTMENT[281](cont'd)

to allow for expansion or modification of services but shall not increase the total amount of the grant. ~~The council may advise the department regarding revised contracts if the revision is in excess of 10 percent of a budget category.~~ Grant funds unencumbered or unobligated at the conclusion of the program period will revert to the department. The program period concludes at the end of the five-year grant cycle, if an annual renewal grant within the five-year grant cycle is not awarded, or at any time the grant is discontinued during the five-year grant cycle.

ITEM 29. Amend rule 281—67.16(279) as follows:

281—67.16(279) Termination for cause. The contract may be terminated, in whole or in part, at any time before the date of completion, whenever it is determined by the ~~department~~ department council that the grantee has failed to comply substantially with the conditions of the contract. The grantee shall be notified in writing by the department of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

The department shall administer the educational support services grants contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of these grants, the contracts shall be terminated or renegotiated. The department may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.

ITEM 30. Amend rule 281—67.20(279), introductory paragraph, as follows:

281—67.20(279) Request for Reconsideration. ~~A disappointed~~ An applicant who has not been approved for funding may file a Request for Reconsideration with the director of the department in writing within ~~10~~ ten days of the decision to decline to award a grant. In order to be considered by the director, the Request for Reconsideration shall be based upon one of the following grounds:

ARC 6877C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to area education agency accreditation standards and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 72, "Accreditation of Area Education Agencies," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2001 Iowa Acts, House File 637, and 2010 Iowa Acts, Senate File 2088.

Purpose and Summary

This proposed rule making adds missing required elements to the rule on area education agency accreditation standards.

Fiscal Impact

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

EDUCATION DEPARTMENT[281](cont'd)

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 State Board no later than 4:30 p.m. on February 28, 2023. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@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:

Adopt the following **new** subrules 72.4(10) to 72.4(12):

72.4(10) The AEA shall maintain a program and services evaluation and reporting system, consistent with the requirements of this chapter.

72.4(11) The AEA shall provide support for school district libraries in accordance with Iowa Code section 273.2(4).

72.4(12) The AEA shall provide support for early childhood service coordination for families and children to meet health, safety, and learning needs, including service coordination under 281—Chapter 120.

ARC 6884C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

**Proposing rule making related to biofuel compatibility with underground storage tanks
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 135, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2022 Iowa Acts, House File 2128, section 32, signed by Governor Kim Reynolds on May 17, 2022.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 455G as amended by 2022 Iowa Acts, House File 2128.

Purpose and Summary

Chapter 135 regulates underground storage tanks used for the storage of regulated substances. This proposed rule making will align the administrative rules in that chapter with 2022 Iowa Acts, House File 2128, which recently amended Iowa Code chapter 455G. The legislation requires that all new, replacement, or converted gasoline or diesel fuel storage and dispensing infrastructure be compatible with E-85 and B-20, respectively.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

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 561—Chapter 10.

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 February 28, 2023. Comments should be directed to:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Keith Wilken, Supervisor
Underground Storage Tank Section
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: keith.wilken@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Upon arrival, attendees should proceed to the fourth floor to check in at the Department reception desk and be directed to the appropriate hearing location.

February 28, 2023
1 p.m.

Conference Room 5 West
Wallace State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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 Department 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. Amend paragraph **135.4(3)“b”** as follows:

b. Owners and operators must have a UST installer licensed under 567—Chapter 134, Part C, submit the department's checklist for equipment compatibility for the UST system to the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol or greater than 20 percent biodiesel, or any other regulated substance identified by the department.

ITEM 2. Adopt the following **new** paragraph **135.4(3)“c”**:

c. A retail dealer, as defined in Iowa Code section 214A.1, must show compliance with the requirements of Iowa Code sections 455G.32 and 455G.33, if applicable, by submitting and maintaining the applicable reporting and record-keeping documentation listed in subparagraphs 135.4(5)“a”(10) and 135.4(5)“a”(11) and subparagraphs 135.4(5)“b”(12) and 135.4(5)“b”(13).

ITEM 3. Amend subparagraph **135.4(5)“a”(9)** as follows:

(9) Notification prior to UST systems switching to certain regulated substances;

ITEM 4. Adopt the following **new** subparagraph **135.4(5)“a”(10)**:

(10) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;

ITEM 5. Adopt the following **new** subparagraph **135.4(5)“a”(11)**:

(11) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

- ITEM 6. Amend subparagraph **135.4(5)“b”(11)** as follows:
(11) Documentation of compliance for spill and overflow prevention equipment and containment sumps used for interstitial monitoring of piping (135.4(12));
- ITEM 7. Adopt the following **new** subparagraph **135.4(5)“b”(12)**:
(12) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;
- ITEM 8. Adopt the following **new** subparagraph **135.4(5)“b”(13)**:
(13) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

ARC 6878C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to hospice license standards and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to amend Chapter 53, “Hospice License Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 135J.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.7(2) and 135J.7 and 2022 Iowa Acts, House File 803.

Purpose and Summary

The Department completed a comprehensive review of Chapter 53 in accordance with the requirement in Iowa Code section 17A.7(2), and the proposed amendments update the chapter to align with current practices, terminology, and federal requirements. The proposed amendments also add “physician assistant” to the attending physician qualifications in accordance with 2022 Iowa Acts, House File 803.

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 February 28, 2023. 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—53.1(135J)**, definitions of “Bereavement service” and “Home care provider,” as follows:

“Bereavement service” is ~~support offered during the bereavement period to the family and friends of someone who has died~~ emotional, psychosocial, and spiritual support and services provided before and after the death of the patient to assist with issues related to grief, loss, and adjustment.

“Home care provider” means a care agency that contracts with the hospice to provide services in the home of the hospice patient. The providers may include, but are not limited to, ~~home health~~ hospice aides, homemakers, nurses, occupational therapists or physical therapists.

ITEM 2. Amend subrule 53.2(3) as follows:

53.2(3) Each hospice seeking licensure is surveyed before the initial license is issued and ~~biennially before a license is renewed~~ at least every 36 months thereafter.

ITEM 3. Amend subrule 53.2(5) as follows:

53.2(5) Hospices certified as Medicare providers by the department or accredited by ~~the Joint Commission on the Accreditation of Health Organizations~~ an organization approved by the Centers for Medicare and Medicaid Services for federal certification will be licensed without inspection.

ITEM 4. Rescind paragraph **53.4(1)“e.”**

ITEM 5. Reletter paragraphs **53.4(1)“f”** to **“j”** as **53.4(1)“e”** to **“i.”**

ITEM 6. Amend relettered paragraphs **53.4(1)“e”** and **“f”** as follows:

e. Provide for medical direction by a licensed physician, including naming a qualified physician to be available in the medical director’s absence;

f. Provide appropriate, qualified personnel in sufficient quantity to ensure availability of hospice services listed below;. Physician and nursing services and the provision of appropriate drugs shall be available 24 hours a day, seven days a week;

ITEM 7. Amend subrules 53.5(1) and 53.5(2) as follows:

53.5(1) ~~At least quarterly, the~~ The medical director, patient coordinator and social worker used by the hospice program shall review a minimum of a 10 percent sample of combined active and inactive clinical records of care delivered to hospice patients ~~and families~~ on a periodic and ongoing basis. A

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

written summary shall be prepared for each individual assessment, commenting on the amount and kind of care delivered and including statements addressing any unmet needs.

53.5(2) ~~At least quarterly, all~~ All summaries of individual assessments shall be reviewed by the people responsible for coordinating quality assurance on a periodic and ongoing basis. A written report will be prepared addressing any identified problems with care, treatment services, availability of services and methods of care delivery.

ITEM 8. Amend rule 481—53.6(135J) as follows:

481—53.6(135J) Attending physician services. The patient or family shall designate an attending physician or physician assistant who is responsible for managing necessary medical care. The attending physician shall:

1. Have an active Iowa license ~~to practice medicine~~ pursuant to Iowa Code chapter 148, ~~150 or 150A~~ or 148C;

2. to 6. No change.

This rule is intended to implement Iowa Code section 135J.3(4).

ITEM 9. Amend rule 481—53.7(135J) as follows:

481—53.7(135J) Medical director. Each hospice shall have a medical director who is a physician licensed to practice medicine pursuant to Iowa Code chapter 148, ~~150 or 150A~~. The medical director shall:

1. to 6. No change.

7. Participate in resolving conflicts regarding care to be provided; and

~~8. Name a qualified physician to be available in the medical director's absence; and~~

~~9.~~ 8. Participate in the development and review of patient ~~and family~~ care policies, procedures and protocols.

This rule is intended to implement Iowa Code section 135J.3(1).

ITEM 10. Amend rule 481—53.8(135J) as follows:

481—53.8(135J) Interdisciplinary team (IDT). The IDT shall establish a plan of care for each patient ~~and family~~ based on assessments performed by team members.

53.8(1) The interdisciplinary team shall include, but is not limited to, the:

a. Patient, to the extent the patient is able and willing to participate;

b. Hospice patient's family, to the extent the family is able and willing to participate;

~~c. Attending physician~~ A doctor of medicine or osteopathy who is an employee of or under contract with the hospice;

~~d. Medical director~~;

~~e.~~ d. Patient care coordinator;

~~f.~~ e. Staff Registered nurse;

~~g.~~ f. Social worker; and may include

~~h. Coordinator of volunteer service; and may include~~

~~i.~~ g. A spiritual pastoral or other counselor and others deemed appropriate by the hospice.

53.8(2) ~~Prior to or on the day~~ Within 48 hours of admission, the attending physician or registered nurse and at least one IDT team member shall develop an initial plan based on a preliminary assessment of the patient ~~and family~~ needs.

53.8(3) Within ~~seven~~ five calendar days of admission, the interdisciplinary team shall assess the needs of the patient and family. A care plan shall be based on these findings.

53.8(4) Within ~~seven~~ five calendar days of admission, the interdisciplinary team shall meet to develop a comprehensive written plan of care. The plan of care shall:

a. to f. No change.

53.8(5) The IDT shall monitor and revise the plan of care on a regular basis. The team shall meet ~~weekly~~ at least every 15 days and exchange information regarding the needs of the patient and

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

family. Changes in the care plan shall be made when the needs of the patient or family change or when interventions do not result in the expected or intended response.

This rule is intended to implement Iowa Code section 135J.3(5).

ITEM 11. Amend subrule 53.9(2) as follows:

53.9(2) The nursing service staff shall:

- a.* to *e.* No change.
- f.* Develop and implement nursing service objectives, policies and procedures; and
- ~~*g.* Develop job descriptions for all nursing personnel;~~
- ~~*h.* Establish staff schedules to meet patient and family needs and ensure 24-hour service;~~
- ~~*i.* Develop and implement orientation and training programs;~~
- ~~*j.* Develop and implement performance evaluation for the nursing staff;~~
- ~~*k.* *g.* Assign duties to nurses and hospice aides consistent with their education and experience;~~
- ~~and.~~
- ~~*l.* Facilitate periodic meetings of the professional nursing staff to evaluate the nursing care provided by hospice personnel.~~

ITEM 12. Amend rule 481—53.11(135J) as follows:

481—53.11(135J) Coordinator of patient care.

53.11(1) A registered nurse, social worker or health care administrator shall be designated to coordinate implementation of the plan of care for each patient.

53.11(2) The coordinator of patient care shall at least:

- ~~1.~~ *a.* Coordinate all aspects of patient care to ensure continuity, including care by all service disciplines in all care settings;
- ~~2.~~ *b.* Facilitate exchange of information among all personnel who provide services to ensure complementary efforts and support for objectives outlined in the plan of care;
- ~~3.~~ *c.* Facilitate communication between caregivers, patient and family;
- ~~4.~~ *d.* Maintain a roster of patients;
- ~~5.~~ *e.* Maintain a schedule for IDT review of care plans; ~~and~~
- ~~6.~~ *f.* Chair IDT conferences;
- g.* Develop job descriptions for all nursing personnel;
- h.* Establish staff schedules to meet patient needs and ensure 24-hour service;
- i.* Develop and implement orientation and training programs;
- j.* Develop and implement performance evaluation for the nursing staff; and
- k.* Facilitate periodic meetings of the professional nursing staff to evaluate the nursing care provided by hospice personnel.

This rule is intended to implement Iowa Code section 135J.3(2).

ITEM 13. Amend rule 481—53.12(135J) as follows:

481—53.12(135J) Social services. ~~Social services shall be planned and provided or supervised by a person who has at least a bachelor's degree in social work from a school approved by the council on social work education.~~ Medical social services must be provided by a qualified social worker, under the direction of a physician. Social work services must be based on the patient's psychosocial assessment and the patient's and family's needs and acceptance of these services.

53.12(1) Education and experience. A qualified social worker is a person who:

- a.* Has a master of social work (MSW) degree from a school of social work accredited by the Council on Social Work Education; or
- b.* Has a baccalaureate degree in social work from an institution accredited by the Council on Social Work Education; or
- c.* Has a baccalaureate degree in psychology, sociology, or other field related to social work and is supervised by an MSW as described in paragraph 53.12(1) "a"; and
- d.* Has one year of social work experience in a health care setting; or

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

e. Has a baccalaureate degree from a school of social work accredited by the Council on Social Work Education, was employed by the hospice before December 2, 2008, and is not required to be supervised by an MSW.

53.12(2) The social worker shall at least:

- ~~1. a.~~ Consider the emotions and social support system of the patient ~~and family;~~
- ~~2.~~ ~~Assess the ability of the family and the patient to function socially and to deal with their emotions;~~
- ~~3. b.~~ Identify patient ~~and family~~ social service needs;
- ~~4. c.~~ Participate on the IDT to develop and amend the plan of care;
- ~~5. d.~~ Provide services in accordance with the plans of care developed by the IDT;
- ~~6. e.~~ Document services provided and observations made regarding patient and family response and status; and
- ~~7. f.~~ Cooperate and communicate with other providers and the family to enhance the continuity of care.

This rule is intended to implement Iowa Code section 135J.3(2).

ITEM 14. Amend rule 481—53.14(135J) as follows:

481—53.14(135J) Volunteer services. Each hospice shall provide volunteer services to meet patient and family needs. A coordinator of volunteer services shall be designated to implement written policies and procedures. Volunteers must be used in defined roles and under the supervision of a designated hospice employee. The hospice must maintain, document and provide volunteer orientation and training that is consistent with hospice industry standards.

~~53.14(1) Each volunteer shall have at least 14 hours of education provided by the hospice before being assigned to a patient and family. The following topics shall be included in the educational program:~~

- ~~a.~~ Hospice concept and philosophy;
- ~~b.~~ Symptom control;
- ~~c.~~ Infection control;
- ~~d.~~ Home care skills;
- ~~e.~~ Safety measures and transfer techniques;
- ~~f.~~ Stress management;
- ~~g.~~ Communication needs;
- ~~h.~~ Psychosocial needs;
- ~~i.~~ Spiritual needs;
- ~~j.~~ Death, dying and grief; and
- ~~k.~~ Funerals and alternative rituals.

~~53.14(2) The hospice shall offer at least two hours of in-service training each quarter.~~

This rule is intended to implement Iowa Code section 135J.3(2).

ITEM 15. Amend rule 481—53.16(135J), introductory paragraph, as follows:

481—53.16(135J) Optional services. Optional services are services provided by the hospice which are not required. Examples are ~~home health~~ hospice aide, therapy and respite. The following apply to the provision of all optional services provided by a hospice:

ITEM 16. Amend rule 481—53.20(135J), introductory paragraph, as follows:

481—53.20(135J) Records. In accordance with accepted principles of medical record practice, each hospice shall maintain a centralized complete record on every individual receiving services. This record shall be preserved for at least ~~three~~ six years following termination of services.

ARC 6879C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to alcoholic beverage licensing
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 100, “General Provisions for Social and Charitable Gambling,” Chapter 103, “Bingo,” and Chapter 105, “Registered Amusement Devices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104(10) and 99B.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2374.

Purpose and Summary

The proposed amendments to Chapters 100, 103, and 105 are responsive to 2022 Iowa Acts, Senate File 2374. The legislation revised alcoholic beverage licensing, including references to alcoholic beverage license categories in Iowa Code chapter 99B. Thus, rules implementing Chapter 99B require conforming updates. The proposed amendments also eliminate unrelated redundancy, remove an outdated website reference, remove an outdated licensing example, update a citation to legislation to instead reference the codified Iowa Code section, and update a citation that led to a repealed Iowa Code section.

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.

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 February 28, 2023. 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

INSPECTIONS AND APPEALS DEPARTMENT[481](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 actions are proposed:

ITEM 1. Rescind the definition of “Responsible party” in rule **481—100.1(99B)**.

ITEM 2. Amend paragraph **100.4(3)“c”** as follows:

c. A license will not be issued if there is a current revocation of either a gambling or a ~~liquor~~ retail alcohol license for the location named on the license application.

ITEM 3. Amend subrule 100.4(5) as follows:

100.4(5) *Violations of gambling law or Iowa alcoholic beverage control Act.* Violation of gambling law or the Iowa alcoholic beverage control Act (Iowa Code chapter 123) affects whether a gambling license is issued.

a. No change.

b. No ~~liquor~~ retail alcohol license shall have been suspended within the last 12 months because of a conviction of or guilty plea to a criminal violation of the Iowa alcoholic beverage control Act (~~Iowa Code chapter 123~~).

c. No ~~liquor~~ retail alcohol license shall have been revoked because of a conviction of or guilty plea to a criminal violation of the Iowa alcoholic beverage control Act.

d. No change.

ITEM 4. Amend rule 481—100.6(99B) as follows:

481—100.6(99B) Payment systems. Licensees allowing participants to make payment by debit card, as authorized by Iowa Code section 99B.5, shall ensure that payment systems comply with all applicable federal and state laws regarding payment card processing and the protection of personal information. Licensees conducting amusement concessions at a fair and allowing participants to make payment by credit card, as authorized by ~~2018 Iowa Acts, House File 2417, section 1~~ Iowa Code section 99B.5(2), shall ensure that payment systems comply with all applicable federal and state laws regarding payment card processing and the protection of personal information.

ITEM 5. Amend subrule 103.2(4) as follows:

103.2(4) Examples. The following are examples of circumstances affecting whether a license is granted.

a. ~~Qualified organization X applies for and is issued a two-year license to conduct bingo occasions at 313 Cherry Street, Des Moines, Iowa. The license is effective from August 1, 2017, to July 31, 2019. On October 1, 2017, qualified organization Y applies for a 14-day limited license to conduct bingo at the same location. The license is approved and issued because a limited license can be issued for the same location used for a two-year bingo license.~~

b. a. Qualified organization ABC applies for and is issued a two-year qualified organization license to conduct bingo at 1002 West 2nd Avenue in Jones Town, Iowa. The license is effective from October 1, 2017, to September 30, 2019. On November 15, 2017, qualified organization EFG applies for a two-year qualified organization license for the same location. A license may be issued to organization EFG for

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

the same location during the same period to conduct any games of chance, games of skill or raffles. Organization EFG shall not conduct bingo at the location.

e. b. Hometown Community School applies for and is issued a two-year qualified organization license to conduct games of skill, games of chance and raffles at the grade school building. The license is effective from September 1, 2017, to August 31, 2019. During the time that the Hometown Community School license is in effect, the school-sponsored pep club applies for a 14-day limited license to conduct games of skill at the grade school building. The school-sponsored pep club may be issued a limited license for the same location during the same time. Under this example, the school-sponsored pep club would not be required to obtain a separate license, because school-affiliated organizations may operate separate events under a school's two-year license.

ITEM 6. Amend rule 481—103.9(99B) as follows:

481—103.9(99B) Location. Bingo occasions may be conducted on premises either owned or leased by the qualified organization.

1. to 5. No change.

~~6. Alcoholic beverages may be served in a bingo location if that location possesses a beer permit or liquor license.~~

~~7. 6.~~ The lessor of the building shall not participate in conducting bingo.

~~8. 7.~~ During a bingo occasion, the lessor shall not sell any beverage, food or any other merchandise in the room in which bingo is played.

~~9. 8.~~ Only one licensed qualified organization may conduct bingo occasions within the same structure or building.

ITEM 7. Amend rule 481—105.2(99B), introductory paragraph, as follows:

481—105.2(99B) Registered amusement device restrictions. Each registered amusement device shall only be located on premises for which a Class “A,” Class “B,” Class “C,” special Class “C,” or Class “D₂” liquor control license or a Class “B” or a Class “C” beer permit Class “E,” or Class “F” retail alcohol license has been issued pursuant to Iowa Code chapter 123.

ITEM 8. Amend subrules 105.2(2) and 105.2(3) as follows:

105.2(2) The department shall not initially register an electrical or mechanical amusement device that is required to be registered to an owner for a location for which only a Class “B” or a Class “C” beer permit “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 on or after April 28, 2004.

105.2(3) An owner or distributor at a location for which only a Class “B” or a Class “C” beer permit “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 shall not relocate an amusement device registered as provided in this chapter to a location other than the location of the device on April 28, 2004, and shall not transfer, assign, sell, or lease an amusement device as provided in this chapter to another person for which only a Class “B” or a Class “C” beer permit “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 after April 28, 2004.

EXAMPLE 1: An electrical or mechanical amusement device is registered with the department and is located at a convenience store that has a Class “C” beer permit “E” retail alcohol license.

1. If the amusement device needs to be repaired, the owner may repair it without losing the registration position or buying a new registration tag. A repair constitutes any changes to a device as long as the type of game and the number of devices in a location is not changed.

2. If the amusement device needs to be replaced because it is defective, it must be replaced with the same game in order to keep the registration position.

3. The amusement device cannot be moved from one location to another under a Class “B” or a Class “C” beer permit “E” retail alcohol license, even if the number of registered devices at a location does not change.

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

4. If a location with a Class "B" or a Class "~~C~~ beer permit "E" retail alcohol license had only one amusement device registered on April 28, 2004, the maximum number of devices allowed at that location shall be one.

ITEM 9. Amend subrule 105.2(5) as follows:

105.2(5) Each registered amusement device at a location for which only a Class "B" or a Class "~~C~~ beer permit "E" retail alcohol license has been issued pursuant to Iowa Code chapter 123 shall include on the amusement device a security mechanism which prevents a person from operating the amusement device by not allowing the acceptance of money until the machine is activated by the owner or owner's designee. A sign shall be posted stating that a person must be 21 years of age or older to operate the registered amusement device.

EXAMPLE 2: A patron in a convenience store tries to put money in an amusement device, but the amusement device will not take the money. The patron approaches the person working behind the counter, who then asks the patron for an ID. If the patron is 21 years of age or older, the amusement device is activated, thereby allowing the patron to play the amusement device. The security mechanism shall be immediately reactivated once the patron has finished playing the amusement device.

ITEM 10. Amend subrule 105.2(9) as follows:

105.2(9) A person owning or leasing a registered amusement device shall not advertise or promote the availability of the amusement device to the public as anything other than an electrical ~~and~~ or mechanical amusement device. Situations that constitute advertising and promoting include, but are not limited to, posted signs, newspaper/magazine advertisements, radio and television advertisements, word of mouth and Internet posting.

ITEM 11. Amend paragraph **105.2(10)"b"** as follows:

b. A person may be added to the waiting list by ~~using the web-based amusement device registration system located at dia.iowa.gov/gmms/ sending an email to gmms@dia.iowa.gov.~~

ITEM 12. Amend subrule 105.2(11) as follows:

105.2(11) An initial amusement device registration shall only be allowed at a location that has a Class "~~A,~~ Class "~~B,~~ Class "C," special Class "C," ~~or~~ Class "~~D₂~~" liquor control ~~or~~ Class "F" retail alcohol license issued pursuant to Iowa Code chapter 123.

EXAMPLE 3: An amusement device is located in a bar that has the appropriate liquor retail alcohol license. On April 28, 2004, this location had only one amusement device. An additional amusement device may be added to this location.

1. If the amusement device needs to be repaired, it may be repaired without the loss of the device's registration position.

2. If the amusement device is defective and needs to be replaced, it can be replaced with the same game under the original registration without the incurring of additional charges.

3. If the amusement device is replaced with a new amusement device that has a different game, before the device is moved to the premises, the process for initial registration shall be followed pursuant to this chapter and Iowa Code chapter 99B. The replacement of the amusement device creates an amusement device registration availability, and the position will be offered to the next person on the waiting list pursuant to this rule.

ITEM 13. Amend subrule 105.2(13) as follows:

105.2(13) An amusement device that is registered with the department and located in a warehouse may be placed in a location that has a Class "~~A,~~ Class "~~B,~~ Class "C," special Class "C," ~~or~~ Class "~~D₂~~" liquor ~~or~~ Class "F" retail alcohol license issued pursuant to Iowa Code chapter 123. Such a device may also be used as a replacement device.

ITEM 14. Amend subrule 105.6(4) as follows:

105.6(4) No more than four registered amusement devices shall be permitted or offered for use at any single premises.

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

a. A registered amusement device may be located on premises for which a ~~class “A,” class “B,”~~ class Class “C,” special class Class “C,” or class Class “D₂” liquor control or Class “F” retail alcohol license has been issued pursuant to Iowa Code chapter 123.

b. A registered amusement device may be located on the premises for which a ~~class Class “B” or class “C” beer permit~~ Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123, but new registrations shall not be issued to devices to be located at premises with ~~class a Class “B” or class “C” beer permits~~ Class “E” retail alcohol license.

(1) A registered amusement device at a location for which only a ~~class Class “B” or class “C” beer permit~~ Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 may only be relocated to a location for which a ~~class “A,” class “B,” class Class “C,” special class Class “C,” or class Class “D₂” liquor~~ or Class “F” retail alcohol license has been issued and shall not be transferred, assigned, sold or leased to another person for which only a ~~class Class “B” or class “C” beer permit~~ Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123.

(2) If ownership of the location changes, the ~~class Class “B” or class “C” beer permit~~ Class “E” retail alcohol license does not lapse and the registered amusement device is not removed from the location, the device may remain at the location.

ITEM 15. Amend rule 481—105.7(99B) as follows:

481—105.7(99B) Violations. Failure to comply with the limitations imposed on the use and possession of registered amusement devices in Iowa Code chapter 99B may result in the following:

1. No change.
2. Suspension or revocation of a ~~wine or beer permit or of a liquor~~ retail alcohol license may result under the provisions of Iowa Code chapter 123.
3. to 7. No change.

ITEM 16. Amend subrule 105.9(1) as follows:

105.9(1) The department may revoke, suspend, or deny a registration issued pursuant to Iowa Code section ~~99B.10A~~ 99B.56 for cause following 30 days’ written notice delivered by certified mail, return receipt requested, or by personal service and an opportunity for hearing pursuant to 481—105.8(10A,99B).

ITEM 17. Amend paragraph **105.11(2)“a”** as follows:

a. The location of the device when placed in operation is not a premises with a ~~Class “A,” Class “B,”~~ Class “C,” special Class “C,” or Class “D₂” liquor control or Class “F” retail alcohol license.

ITEM 18. Amend rule 481—105.12(10A,99B) as follows:

481—105.12(10A,99B) Suspension or revocation of a registration. If a registrant or the person responsible for the amusement device violates the law, including Iowa Code chapter 99B, 481—Chapter 104, this chapter, or any other laws or administrative rules, the registrant’s registration may be suspended or revoked.

Examples of violations of law or rules include: awarding cash prizes, redeeming tokens or tickets for more than \$50 of merchandise in a transaction, allowing a person younger than 21 years of age to use a registered amusement device, moving an amusement device without updating its registration to the new location, allowing an amusement device in a location without the appropriate ~~liquor control~~ retail alcohol license, and failing to file an annual verification of device location.

ARC 6881C**LABOR SERVICES DIVISION[875]****Notice of Intended Action****Proposing rule making related to occupational health and safety penalties for citations and providing an opportunity for public comment**

The Labor Commissioner hereby proposes to amend Chapter 3, “Posting, Inspections, Citations and Proposed Penalties,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 91.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, 29 U.S.C. 667(c)(2) (OSH Act of 1970).

Purpose and Summary

Iowa’s Occupational Safety and Health Administration (Iowa OSHA) is required to be at least as effective as federal OSHA. The proposed amendment to Chapter 3 aligns Iowa’s penalties for occupational safety and health citations with the corresponding federal OSHA penalties by making mandatory annual cost-of-living adjustments.

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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

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 Commissioner no later than 4:30 p.m. on February 28, 2023. Comments should be directed to:

Lanny Zieman
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50309
Email: lanny.zieman@iwd.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.

LABOR SERVICES DIVISION[875](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 action is proposed:

Amend subrule 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after June 1, ~~2022~~ 2023, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than ~~\$10,360~~ \$11,162 and shall not exceed ~~\$145,027~~ \$156,259.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~\$145,027~~ \$156,259.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~\$14,502~~ \$15,625.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~\$14,502~~ \$15,625.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~\$14,502~~ \$15,625 per day.

f. Posting, reporting, or record-keeping violation. The penalty for each posting, reporting, or record-keeping violation under Iowa Code section 88.14(9) shall not exceed ~~\$14,502~~ \$15,625.

ARC 6874C**PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to controlled and precursor substances and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 10, "Controlled Substances," and Chapter 12, "Precursor Substances," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 124.201 and 124B.2(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124B.2(2).

Purpose and Summary

This proposed rule making temporarily adds four substances (three stimulants and one opiate) to Schedule I, excludes one substance from Schedule II, and adds one substance as a precursor substance to the Iowa Controlled Substances Act in response to similar action taken by the federal Drug Enforcement Administration.

Fiscal Impact

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

PHARMACY BOARD[657](cont'd)

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.

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 February 28, 2023. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@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 subrule 10.39(7) as follows:

10.39(7) Amend Iowa Code section 124.204(6) by adding the following new ~~paragraph~~ paragraphs:
~~*i.* 4,4'-Dimethylaminorex. Other names: 4,4'-DMAR; 4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine.~~
j. Amineptine (7-[(10,11-dihydro-5H-dibenzo[alpha,delta]cyclohepten-5-yl)amino]heptanoic acid).
k. Mesocarb (N-phenyl-N'-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamidate).
l. Methiopropamine (N-methyl-1-(thiophen-2-yl)propan-2-amine).

ITEM 2. Adopt the following **new** subrule 10.39(9):

10.39(9) Amend Iowa Code section 124.206(2) “d” by adding the following new subparagraph:
 (3) [18\F]FP-CIT.

ITEM 3. Adopt the following **new** subrule 10.39(10):

10.39(10) Amend Iowa Code section 124.204(2) by adding the following new paragraph:
cn. 1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol. Other name: Zipeprol.

PHARMACY BOARD[657](cont'd)

ITEM 4. Amend subrule 12.1(1) as follows:

12.1(1) Amend Iowa Code section 124B.2(1) by adding the following new paragraphs:

~~*ae.* 3,4-MDP-2-P-methyl-glycidate (PMK-glycidate) and its optical and geometric isomers.~~

~~*af.* 3,4-MDP-2-P-methyl-glycidic acid (PMK-glycidic acid) and its salts, optical and geometric isomers, and salts of isomers.~~

~~*ag.* Alpha-phenylacetamide (APAA) and its optical isomers.~~

ah. No change.

ai. 1-boc-4-AP (tert-butyl 4-(phenylamino)piperidine-1-carboxylate) and its salts.

REVENUE DEPARTMENT

Notice of Municipal Electric Transfer Replacement Tax Rates for Each Competitive Service Area

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the municipal electric transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2022 by each taxpayer to determine the tax due for each taxpayer in the 2023-2024 fiscal year.

2022 ELECTRIC TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
3226	Akron Municipal Utilities	0.01837989
3201	Algona Municipal Utilities	*
3205	Alta Municipal Power Plant	0.00299775
3069	Alta Vista Municipal Utilities	*
3070	Alton Municipal Light & Power	*
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00498934
3227	Anthon Municipal Electric Utility	*
3209	Atlantic Municipal Utilities	0.00229187
3073	Auburn Municipal Utility	0.00701108
3074	Aurelia Municipal Electric Utility	*
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	0.02419403
3228	Bigelow Municipal Utilities	*
3229	Bloomfield Municipal Electric Utility	0.01879962
3075	Breda Municipal Electric System	*
3076	Brooklyn Municipal Utilities	*
3216	Buffalo Municipal Electric System	*
3217	Burt Municipal Electric Utility	*
3077	Callender Electric	*
3078	Carlisle Municipal Utilities	*
3079	Cascade Municipal Utilities	0.00000000
3221	Cedar Falls Mun. Electric Utility	0.00632766
3068	City of Afton	0.00178107
3072	City of Aplington	*

REVENUE DEPARTMENT[701]

CO. #	COMPANY	REPLACEMENT TAX RATE
3082	City of Dike	*
3088	City of Estherville	0.02156792
3089	City of Fairbank	*
3090	City of Farnhamville	*
3230	City of Fredericksburg	*
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000
3108	City of Lehigh	*
3113	City of Marathon	*
3311	City of Pella	0.00381589
3125	City of Renwick	*
3129	City of Sergeant Bluff	*
3139	City of Westfield	0.00000000
3143	City of Woolstock	*
3236	Coggon Municipal Light Plant	*
3237	Coon Rapids Municipal Utilities	*
3242	Corning Municipal Utilities	*
3080	Corwith Municipal Utilities	*
3243	Danville Municipal Electric Utility	*
3081	Dayton Light & Power	*
3244	Denison Municipal Utilities	*
3245	Denver Municipal Electric Utility	*
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.01782533
3085	Earlville Municipal Utilities	*
3086	Eldridge Electric & Water Utility	*
3087	Ellsworth Municipal Utilities	*
3091	Fonda Municipal Electric	*
3252	Fontanelle Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	*
3231	Glidden Municipal Electric Utility	0.01049312
3093	Gowrie Municipal Utilities	*
3256	Graettinger Municipal Light Plant	0.00231594
3094	Grafton Municipal Utilities	0.01954842
3258	Grand Junction Municipal Utilities	0.00257157
3095	Greenfield Municipal Utilities	0.00270029
3096	Grundy Center Light & Power	*
3232	Guttenberg Municipal Electric	0.01045008
3263	Harlan Municipal Utilities	*
3097	Hartley Municipal Utilities	*
3098	Hawarden Municipal Utility	*
3099	Hinton Municipal Electric/Water	*
3267	Hopkinton Municipal Utilities	*
3100	Hudson Municipal Utilities	*

REVENUE DEPARTMENT[701]

CO. #	COMPANY	REPLACEMENT TAX RATE
3101	Independence Light & Power	*
3271	Indianola Municipal Utilities	0.00628773
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	*
3104	Lake Mills Municipal Utilities	0.00779765
3105	Lake Park Municipal Utilities	0.00402084
3233	Lake View Municipal Utilities	*
3274	Lamoni Municipal Utilities	0.00278341
3276	LaPorte City Utilities	0.00230035
3277	Laurens Municipal Utilities	0.00346065
3109	Lenox Municipal Light & Power	*
3110	Livermore Municipal Utilities	*
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	*
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	0.00468190
3285	Maquoketa Municipal Electric	0.00234077
3288	McGregor Municipal Utilities	*
3291	Milford Municipal Utilities	0.00004987
3114	Montezuma Municipal Light & Power	*
3115	Mount Pleasant Municipal Utilities	0.00139730
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	*
3297	New Hampton Municipal Light Plant	0.00305248
3298	New London Municipal Utility	0.00450729
3304	Ogden Municipal Utilities	0.00275801
3234	Onawa Municipal Utilities	*
3117	Orange City Municipal Utilities	*
3118	Orient Municipal Utilities	*
3307	Osage Municipal Utilities	0.00281650
3309	Panora Municipal Electric Utility	*
3119	Paton Municipal Utilities	*
3120	Paullina Municipal Utilities	*
3121	Pocahontas Municipal Utilities	*
3122	Preston Municipal Utilities	0.00000000
3315	Primghar Municipal Light Plant	*
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	*
3318	Rock Rapids Municipal Utilities	0.00380168
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	*
3128	Sanborn Municipal Light Plant	*
3130	Shelby Municipal Utilities	*
3131	Sibley Municipal Utilities	*

REVENUE DEPARTMENT[701](cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3321	Sioux Center Municipal Utilities	0.00405952
3324	Spencer Municipal Utilities	0.00438723
3132	Stanhope Municipal Utilities	*
3360	Stanton Municipal Utilities	0.00421210
3326	State Center Municipal Light Plant	0.00550796
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.02887526
3135	Strawberry Point Electric Utility	*
3136	Stuart Municipal Utilities	*
3328	Sumner Municipal Light Plant	*
3330	Tipton Municipal Utilities	*
3332	Traer Municipal Utilities	0.00829233
3337	Villisca Municipal Power Plant	*
3137	Vinton Municipal Utilities	*
3138	Wall Lake Municipal Utilities	*
3338	Waverly Utilities	0.00556153
3342	Webster City Municipal Utilities	*
3345	West Bend Municipal Power Plant	0.00214508
3346	West Liberty Municipal Electric Util.	*
3347	West Point Municipal Utility System	*
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	*
3142	Woodbine Municipal Utilities	0.00346135
3143	Woolstock Municipal Utilities	*

* No rate provided to the Department by the Municipal

ARC 6882C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to electronic signatures
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 8, "Forms and Communications," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14 and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.21.

REVENUE DEPARTMENT[701](cont'd)

Purpose and Summary

Paragraph 8.5(2)“b” currently lists a requirement for electronic return originators to use a process for electronic signatures that is much more stringent than the current practice of the Department. The proposed amendment changes the language of the rule to align with current practice.

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 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 February 28, 2023. Comments should be directed to:

Abigail Sills
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.1140
Email: abigail.sills@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 **8.5(2)“b”** as follows:

b. Electronic signature via remote transaction. ~~Before a taxpayer electronically signs a Declaration for e-File Return form in which the ERO is not physically present with the taxpayer, the ERO must record the name, social security number, address and date of birth of the taxpayer. The ERO must verify that the name, social security number, address, date of birth and other personal information of the taxpayer on record are consistent with the information provided through record checks with the applicable agency or institution or through credit bureaus or similar databases. This process is not necessary for handwritten~~

REVENUE DEPARTMENT[701](cont'd)

signatures on a Declaration for e-File Return form sent to the ERO by hand delivery, U.S. mail, private delivery service, fax, email or an Internet site. In lieu of in-person handwritten signatures, a paid preparer, at the discretion of the taxpayer, may collect taxpayers' electronic signatures remotely by a process using identity verification and audit trail in the manner that the IRS allows for Form 8879.

ARC 6886C**SECRETARY OF STATE[721]****Notice of Intended Action****Proposing rule making related to five-year review of rules
and providing an opportunity for public comment**

The Secretary of State hereby proposes to amend Chapter 1, "Description of Organization," Chapter 2, "Rules of Practice," Chapter 3, "Administrative Hearings," Chapter 4, "Forms," Chapter 30, "Uniform Commercial Code," Chapter 40, "Corporations," Chapter 42, "Athlete Agent Registration," Chapter 43, "Notarial Acts," and Chapter 45, "Mechanics' Notice and Lien Registry," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.7.

Purpose and Summary

The proposed changes are intended to do the following:

Item 1: Amend subrule 1.1(1) by clarifying the location of the Secretary's Capitol office and updating the main phone number, strike subrule 1.1(3) to reflect current organizational structure, and renumber subrule 1.1(4) accordingly.

Item 2: Amend subrule 1.2(1) to reflect current division names and account for a change in terminology in Iowa Code chapter 490, amend subrule 1.2(2) to account for the change in business entity reporting frequency from annual to biennial, and amend subrule 1.2(3) to direct questions about corporation matters to the Business Services Division generally, rather than to the director specifically.

Item 3: Amend subrules 1.3(1) and 1.3(2) to reflect current division names and structure and the current phone number.

Item 4: Amend subrule 1.5(1) to reflect current officer titles and subrule 1.5(3) to reflect the current phone number.

Item 5: Strike subrule 1.6(1) to reflect current division structure, renumber the subsequent subrules accordingly, and amend renumbered subrule 1.6(1) to reflect current division names and structure.

Item 6: Amend rule 721—1.8(17A) to improve clarity by removing unnecessary language and to reflect current division names and structure.

Item 7: Amend rule 721—1.9(17A) to reflect current officer titles and structure.

Item 8: Amend rule 721—1.10(17A) to indicate that 28E agreements are now submitted electronically.

Item 9: Adopt a new implementation sentence in Chapter 1.

Item 10: Amend rule 721—2.1(17A) to indicate the availability of forms for viewing and download through the Secretary of State website.

Item 11: Amend rule 721—2.2(17A) to adjust grammar.

Item 12: Amend rule 721—2.3(9,631) to reflect the fact that the Secretary no longer approves new payment accounts; amend subrule 2.3(5) to reflect reversion of the annual fee for payment accounts from \$100 to \$25 and removal of the note about the reversion, both pursuant to 2017 Iowa Acts, Senate File 516; strike subrule 2.3(6) since it is no longer applicable; and renumber subrule 2.3(7) accordingly.

SECRETARY OF STATE[721](cont'd)

Item 13: Amend subrule 2.4(4) to reflect a renumbered Iowa Code chapter.

Item 14: Amend the implementation sentence in Chapter 2 to reflect the repeal of Iowa Code section 9.4A as enacted by 2017 Iowa Acts, Senate File 516, section 23.

Item 15: Amend rule 721—3.1(17A) to add a serial comma.

Item 16: Amend the definition of “presiding officer” in rule 721—3.2(17A) to reflect current roles.

Item 17: Amend subrule 3.3(2) to correct a typographical error.

Item 18: Amend subrule 3.6(8) to account for the nature of current recording technology.

Item 19: Amend rule 721—4.1(17A) to improve clarity; account for current technology by adding the assertion that the forms used by the Secretary of State Fast Track Filing online system are substantively the same forms described in the rule; indicate the availability of forms at the Secretary of State’s Lucas State Office Building office and through the Secretary of State website; reflect changes in the titles of forms, addition of new forms, and removal of forms that are no longer used; and reorganize the listing of forms.

Item 20: Rescind and replace rule 721—4.2(17A) to reflect changes in the titles of forms, addition of new forms, and removal of forms that are no longer used, as well as reorganize the listing of forms.

Item 21: Rescind and replace rule 721—4.4(17A) to reflect changes in the titles of forms, addition of new forms, and removal of forms that are no longer used, as well as reorganize the listing of forms.

Item 22: Rescind and replace rule 721—4.5(17A) to reflect changes in the titles of forms, addition of new forms, and removal of forms that are no longer used, as well as reorganize the listing of forms.

Item 23: Rescind rule 721—4.6(9A,17A) as a result of the reorganization of the listing of forms.

Items 24 to 28: Amend rule 721—30.1(554) to improve clarity, update Iowa Code references, update the Secretary of State website address, correct the name of the International Association of Commercial Administrators, and reflect updated computer file formats and data transmission methods.

Item 29: Amend rule 721—30.2(554) to update an Iowa Code reference and to better reflect Secretary of State procedures.

Item 30: Amend rule 721—30.3(554) to improve clarity, update Iowa Code references, correct the name of the International Association of Commercial Administrators, and reflect updated computer filing and search methods.

Item 31: Amend rule 721—30.4(554) to improve clarity, account for the nature of current data storage technology, strike subrule 30.4(14) to remove the reference to a filing method that is no longer available, and replace it with a subrule reflecting the addition of a method for asserting that a Uniform Commercial Code (UCC) Article 9 filing was made without authorization pursuant to Iowa Code section 554.9513A.

Item 32: Amend rule 721—30.5(554) to improve clarity and correct the name of the International Association of Commercial Administrators.

Item 33: Amend the implementation sentence in Chapter 30 to reflect the repeal of Iowa Code section 9.4A as enacted by 2017 Iowa Acts, Senate File 516, section 23.

Item 34: Amend rule 721—40.1(490,499,504A) to update Iowa Code chapter references to account for renumbering and applicable chapters in the parenthetical implementation statute and the implementation sentence; indicate that the rule applies to limited liability companies and limited partnerships; update references to “telecopier” and “microfilming” to “fax” and “scanning,” respectively; add email as a communication method by which the Secretary of State may contact document remitters; add new subrules 40.1(2), 40.1(3), and 40.1(4), specifying the requirement for proper captioning of business entity document submissions, delivery method parameters of same-day preclearance service, and the requirement that forms provided by the Secretary of State must be used if such requirement is permitted by law; renumber the subsequent subrules accordingly; strike subrule 40.1(6) to account for elimination of the Iowa Code section 490.130 multiple-copy requirement; and renumber subrule 40.1(7) accordingly.

Item 35: Rescind rule 721—40.2(490,499,504A) since it is no longer applicable.

Item 36: Renumber subsequent rules in Chapter 40 accordingly.

Item 37: Amend renumbered rule 721—40.2(487,490,504A) to update Iowa Code chapter references to account for renumbering and applicable chapters in the parenthetical implementation statute and sections in the implementation sentence; update the term “corporate” to “business entity” to reflect the

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broader content of the rule; revise the list in renumbered subrule 40.2(2) to improve clarity, incorporate the provisions of renumbered subrules 40.2(3) to 40.2(6), and account for the addition of “Benefit Corporation” as an available suffix under Iowa Code chapter 490; amend renumbered subrule 40.2(3) to account for protected series suffixes; strike renumbered subrules 40.3(4) to 40.3(10) and 40.3(12); renumber the remaining subrules accordingly; change the numbered list to lettered paragraphs in renumbered subrule 40.2(7) and to account for a change in terminology in Iowa Code chapter 490.

Item 38: Amend renumbered rule 721—40.3(490,496C,497,498,499,504A) to update Iowa Code chapter references to account for renumbering and applicable chapters; update the term “corporate entity” to “business entity” to reflect the broader content of the rule; and update Iowa Code references to reflect the addition of paragraphs to Iowa Code sections 490.122 and 504.113 and to reflect renumbering.

Item 39: Amend renumbered rule 721—40.4(491,496A,499,504A,548) to update Iowa Code chapter references in the parenthetical implementation statute to account for renumbering and applicable chapters.

Item 40: Amend the list of trademark classes in renumbered subrule 40.5(1) to correct punctuation, improve clarity, and add modern goods and services classes; amend renumbered subrule 40.5(4) to improve clarity and more clearly reflect internal procedure; amend renumbered subrule 40.5(9) to improve clarity; and add new subrule 40.5(13) to prescribe trademark filing-related fees pursuant to Iowa Code section 548.117.

Item 41: Amend renumbered rule 721—40.6(80GA,SF2274) to update the reference from the legislation to the Iowa Code chapter in the parenthetical implementation statute, update the Iowa Code reference related to and remove the name of the Revised Iowa Nonprofit Corporation Act fees list, and amend subrule 40.7(1) to eliminate the inapplicable words “not to exceed a total of” from the statement of change list entry.

Item 42: Amend renumbered rule 721—40.7(488,489,490) to improve grammar and conciseness.

Item 43: Amend renumbered rule 721—40.9(488,489,490,504) to improve conciseness and eliminate reference to payment by check for electronic filings.

Item 44: Amend the implementation sentence in Chapter 40 to reflect the repeal of Iowa Code section 9.4A as enacted by 2017 Iowa Acts, Senate File 516, section 23.

Item 45: Renumber rule 721—42.4(9A,17A) as 721—42.2(9A,17A).

Item 46: Amend renumbered rule 721—42.2(9A,17A) to reflect current division names.

Item 47: Amend rule 721—43.1(9B) to eliminate references to legislation that has been codified in the Iowa Code.

Item 48: Amend rule 721—43.2(9B) to strike references to legislation that has been codified in the Iowa Code.

Item 49: Amend rule 721—43.5(9B) to strike references to legislation that has been codified in the Iowa Code.

Item 50: Amend rule 721—43.7(9B) to strike references to legislation that has been codified in the Iowa Code.

Item 51: Amend rule 721—43.9(9B) to strike references to legislation that has been codified in the Iowa Code and improve clarity.

Item 52: Amend rule 721—43.10(9B) to strike references to legislation that has been codified in the Iowa Code.

Item 53: Amend paragraph 43.11(1)“a” to strike a reference to legislation that has been codified in the Iowa Code.

Item 54: Amend subrule 45.1(1) to strike references to time-limited conditions that can no longer exist.

Item 55: Amend rule 721—45.2(572) to improve conciseness.

Item 56: Amend rule 721—45.3(572) to improve conciseness.

Item 57: Amend rule 721—45.4(572) to improve conciseness and account for the addition of “county or counties” language in Iowa Code section 572.8(3).

Item 58: Amend rule 721—45.5(572) to improve conciseness and account for the addition of “county or counties” language in Iowa Code section 572.8(3).

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Item 59: Amend rule 721—45.6(572) to improve conciseness and account for the addition of “county or counties” language in Iowa Code section 572.8(3).

Item 60: Adopt new subrule 45.8(3) to account for a submission requirement adopted by the Office of the Secretary of State for the purpose of documenting requests by property owners for release of bond.

Item 61: Amend rule 721—45.11(572) to improve conciseness.

Item 62: Amend rule 721—45.12(572) to improve conciseness.

Item 63: Amend rule 721—45.13(572) to improve conciseness and amend subrule 45.13(3) to eliminate Mechanic’s Notice and Lien Registry (MNL) data download subscription service and to eliminate an outdated data-delivery method.

Item 64: Amend rule 721—45.14(572) to improve conciseness.

Item 65: Amend rule 721—45.15(572) to improve conciseness and account for the addition of “county or counties” language in Iowa Code section 572.8(3).

Item 66: Amend rule 721—45.16(572) to improve conciseness by incorporating the content of paragraph 45.16(1)“a”(3) into subparagraph 45.16(1)“a”(2) and renumbering subparagraph 45.16(1)“a”(4) accordingly.

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 Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

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 Secretary of State no later than 4:30 p.m. on February 28, 2023. Comments should be directed to:

Eric Gookin
Office of the Secretary of State
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: eric.gookin@sos.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

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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 721—1.1(17A) as follows:

721—1.1(17A) Central organization.

1.1(1) The secretary of state is the head of the agency. The secretary is an elected official elected for a term of four years. The secretary's office is on the ~~main~~ first floor of the Statehouse, Des Moines, Iowa 50319, telephone number ~~(515)281-5864~~ (515)281-6230. The secretary is assisted by the following appointed officials who are responsible to the secretary.

1.1(2) The deputy secretary of state is appointed by the secretary and performs such duties as the secretary may prescribe, including general ~~supervisor~~ supervision of all matters and personnel pertaining to the office. During the absence or disability of the secretary, or as directed by the secretary, the deputy possesses most of the powers and performs the duties of the secretary.

~~**1.1(3)** Two administrative assistants are appointed by the secretary and perform such duties as presented by the secretary or the deputy. One of the administration assistants acts as the corporation director and the other acts as the uniform commercial code director.~~

1.1(4) 1.1(3) The secretary of state's office is an administrative and ministerial office performing the following duties: in the following rules.

ITEM 2. Amend rule 721—1.2(17A) as follows:

721—1.2(17A) Corporations.

1.2(1) All matters involving corporations, profit and nonprofit, organized in Iowa or authorized to do business in Iowa, are handled by the ~~corporation business services~~ business services division ~~under the supervision of a director~~. The office issues all certificates of incorporation for new domestic corporations and issues certificates for authority and certificates of registration to do business in Iowa for foreign corporations. Also, certificates of good standing, amendments, mergers, certified copies of articles and other corporate papers are issued by the office.

1.2(2) The ~~annual~~ biennial report forms required of all corporations are sent from the office and upon return by the corporations are processed for accuracy and proper fee and kept for public record.

1.2(3) Any questions on corporations or procedures should be directed to the ~~director of the~~ business services division located in the Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

ITEM 3. Amend rule 721—1.3(17A) as follows:

721—1.3(17A) Uniform Commercial Code.

1.3(1) All matters pertaining to the secretary of state's responsibilities under the Uniform Commercial Code are processed by the ~~uniform commercial code~~ business services division of the office. See 721—Chapter 30.

1.3(2) The ~~uniform commercial code~~ business services division is ~~under the supervision of a director~~. The office is located in the Lucas State Office Building, 321 E. East 12th Street, Des Moines, Iowa 50319, and the telephone number is ~~(515)281-5274~~ (515)281-5204.

ITEM 4. Amend rule 721—1.5(17A) as follows:

721—1.5(17A) Land office.

1.5(1) The state land office is a part of the general office and is under the supervision of a land ~~office~~ clerk records officer. A record of all lands owned by the state of Iowa, the original land surveys and plats are part of the records.

1.5(2) Patents issued by the state of Iowa are prepared by the land office.

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1.5(3) The land office is located in the general office on the first floor of the Statehouse, and the telephone number is ~~(515)281-8360~~ (515)281-5864.

ITEM 5. Amend rule 721—1.6(17A) as follows:

721—1.6(17A) Notaries public.

~~1.6(1) The notary public division is part of the general office and is under the supervision of a notary public clerk.~~

~~1.6(2)~~ **1.6(1)** The ~~notary public~~ business services division processes all applications for notary public commissions and on expiration of commissions sends out applications for renewal and processes their return. The commission is signed by the secretary of state.

~~1.6(3)~~ **1.6(2)** The division also issues certificates of good standing upon the payment of the proper fee. Notaries public have statewide jurisdiction.

~~1.6(4)~~ **1.6(3)** Notary public services are part of the business services division located in the Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

ITEM 6. Amend rule 721—1.8(17A) as follows:

721—1.8(17A) Process agent. The secretary of state, by various chapters in the Iowa Code, especially ~~Iowa Code sections 496A.13, 496A.112, 496A.116 and 617.3,~~ is made the process agent upon whom the service of original notices in law suits may be made. The filing of the original notices is handled by the ~~secretary to the deputy who is in the general office~~ business services division. For location see ~~1.1(1)~~ 1.2(3).

ITEM 7. Amend rule 721—1.9(17A) as follows:

721—1.9(17A) Oaths and bonds. Oaths of office, and bonds where required, for elected officials, appointed officials, and appointees to various boards and commissions are filed in the general office. The ~~secretary to the secretary~~ records officer is in charge of this function. For location and telephone number see ~~1.1(1)~~ 1.5(3).

ITEM 8. Amend rule 721—1.10(17A) as follows:

721—1.10(17A) Joint governmental agreements. Joint governmental agreements under Iowa Code chapter 28E are filed, without charge, ~~in the general office~~ electronically through the secretary of state website. ~~The secretary to the deputy handles this function. For location and telephone number see 1.1(1).~~

ITEM 9. Adopt the following new implementation sentence in **721—Chapter 1**:

These rules are intended to implement Iowa Code chapter 17A.

ITEM 10. Amend rule 721—2.1(17A) as follows:

721—2.1(17A) Forms used. Copies of all forms are ~~kept in the main office and may be inspected by anyone during the working day~~ available for viewing and download on the secretary of state website: sos.iowa.gov.

ITEM 11. Amend rule 721—2.2(17A) as follows:

721—2.2(17A) Filing complaints. All complaints or objections relating to any matter involving the secretary of state's office shall be in writing addressed to the secretary of state. The complaint or objection may be either mailed or hand delivered. Oral complaints or objections will be handled ~~in~~ through an informal procedure by the secretary or secretary's designee with the complainant at the convenience of both parties.

ITEM 12. Amend rule 721—2.3(9,631) as follows:

721—2.3(9,631) Payment for services. ~~The secretary of state may approve accounts to be used for the payment of services provided by the secretary of state.~~ A user of a service provided by the secretary of

SECRETARY OF STATE[721](cont'd)

state may make payment for the service by authorizing a charge to be made upon ~~an~~ a current secretary of state payment account held by the user.

2.3(1) The secretary of state may prescribe and furnish forms for the purpose of authorizing a charge to be made upon an account. The secretary of state may refuse to charge an account for service requested without the appropriate form.

2.3(2) ~~Application for account. Application for an account shall be made upon a form prescribed and furnished by the secretary of state. The account holder is subject to the terms and conditions contained in the application.~~ The secretary of state reserves the right to adopt changes to the terms and conditions of the account. The secretary of state reserves the right to close a delinquent account.

2.3(3) Account holders will receive a monthly statement of account. The statement will include, for each transaction, the date and amount of the transaction. A transaction may include more than one filing fee.

2.3(4) Payment in full is due within 15 days of the date of the statement of account. An account is considered delinquent after the expiration of 30 days from the date of the statement of account. Interest and finance charges may be assessed on delinquent accounts in accordance with Iowa Code chapter 535.

2.3(5) An annual fee of ~~\$100~~ \$25 shall be paid by an account holder for the privilege of maintaining an account. The annual fee shall cover a 12-month period measured from the first day of the month in which the account is was approved by the secretary of state. An account that is not delinquent one month prior to the expiration of the annual period shall be renewed upon the payment of the annual fee. The secretary of state shall charge the annual fee to the account on the statement of the account for the monthly period prior to the expiration date. The annual fee shall be used for the purpose of offsetting the expenses incurred by the secretary of state in maintaining the account. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert to the amount authorized prior to July 1, 2017. Funds generated by the increase of this fee shall be exclusively used for improving business services technology.~~

2.3(6) ~~Accounts maintained by the secretary of state prior to July 1, 1989, shall be terminated at the close of business on June 30, 1989, unless the holder of the account complies with subrule 2.3(5) and authorizes the secretary of state to continue the account by filing a renewal application on a form prescribed and furnished by the secretary of state.~~

2.3(7) ~~2.3(6)~~ The secretary of state shall assess a fee of \$10 for the receipt of a document filed under Iowa Code section 631.4(1)“d.”

ITEM 13. Amend subrule 2.4(4) as follows:

2.4(4) Public records shall not be removed from the offices of the secretary of state, except for the purposes of:

- a. Complying with a subpoena duces tecum,
- b. Microfilming the records by the department of general services, or
- c. Retaining and preserving the public records pursuant to Iowa Code chapter ~~304~~ 305.
- d. Complying with Iowa Code section 2B.10.

ITEM 14. Amend **721—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 490, 491, 497, 498, 499, 504, and 554 (Article 9) ~~and 2017 Iowa Acts, Senate File 516, section 23.~~

ITEM 15. Amend rule 721—3.1(17A) as follows:

721—3.1(17A) Scope. Iowa Code chapter 17A and the rules contained in this chapter govern the practice, procedure, and conduct of contested case proceedings, including proceedings related to the grant, denial, revocation, or renewal of any license issued by the agency where such action is required by constitution or statute to be preceded by notice and opportunity for an evidentiary hearing.

ITEM 16. Amend rule **721—3.2(17A)**, definition of “Presiding officer,” as follows:

“*Presiding officer*” means the person assigned to hear and decide the contested case, whether that individual is the ~~agency director~~ secretary or secretary’s designee, or an administrative law judge appointed according to Iowa Code chapter 17A.

SECRETARY OF STATE[721](cont'd)

ITEM 17. Amend subrule 3.3(2) as follows:

3.3(2) Prehearing conference. At the discretion of the presiding officer or on the motion of any party to the contested case, a ~~preheating~~ prehearing conference may be held for the purpose of settlement of the case, facilitating the hearing, or facilitating the decision of the presiding officer. Notice shall be given to the parties of the time and place of the conference and its purpose. A record shall be made of all agreements and actions resulting from any conference. The presiding officer may issue an order setting forth all agreements and actions.

ITEM 18. Amend subrule 3.6(8) as follows:

3.6(8) Proceedings recorded and open to the public. The hearing shall be recorded by ~~tape~~ audio recording. An individual may demand that the hearing be recorded by a certified shorthand reporter, but that party must bear all costs associated with the shorthand reporter. The record of hearing or a transcript shall be filed with the authority and maintained for a period of five years.

ITEM 19. Amend rule 721—4.1(17A) as follows:

721—4.1(17A) Forms and instructions. Forms and their instructions are developed by the agency in accordance with statutory directives. Forms used on the secretary of state website's fast track filing system have the same functions and descriptions as the forms described in this chapter.

~~Copies of forms and instructions of a general nature may be seen at the Office of Secretary of State, Statehouse, Des Moines, Iowa 50319. Copies of forms and instructions relating to corporation matters, the uniform commercial code Uniform Commercial Code, elections, and other services may be seen at the respective divisions which are located in the secretary of state's Lucas State Office Building office, Des Moines, Iowa 50319; or on the secretary of state website at sos.iowa.gov.~~

~~The subrules which follow list and describe those forms and instructions which members of the public use when dealing with the agency and its various divisions. Each direction of every instruction shall be complied with and each question or portion of every form answered in the same manner as if the forms and instructions were embodied in these rules.~~

4.1(1) Forms of general application.

Form Number	Description
GLO-1	Public disclosure of gifts made to a "local official," "local employee" or to the person's immediate family
GEN-1	Certification of various filings in the office of the Secretary of State, for example, incorporation of cities, legislative bills and other documents

a. Public disclosure of gifts made to a "local official," "local employee," or to the person's immediate family.

b. Disaster Recovery Registration—used for registering in compliance with Iowa Code chapter 29C.

c. Apostille or Certification Request Form—used to order apostilles or certified copies.

d. Condemnation Application—for use by county recorders and sheriffs pursuant to Iowa Code sections 6B.3(3)"b" and 6B.38(2).

e. Credit Card Payment Authorization Form—used to pay fees with a credit or debit card.

f. Charge Transaction Form—used to charge fees to an existing secretary of state charge account.

g. Transient Merchant Application—application for transient merchant license required by Iowa Code section 9C.3.

h. Application for Registration/Renewal as an Athlete Agent—used to apply for a new certificate of registration to act as an athlete agent in the state of Iowa or to renew an existing registration.

4.1(2) Notary public forms. Copies of notary public forms are available to the public on the secretary of state website at sos.iowa.gov or upon request to the Notary Clerk, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

SECRETARY OF STATE[721](cont'd)

- a. Application for Commission as Notary Public—used to apply to be commissioned as an Iowa notary public.
- b. Application for Renewal of Commission—used to apply to renew an existing Iowa notary public commission.
- c. Notary Public Change/Amendment to Application—used to update an Iowa notary public commission record.
- d. Certificate of Notarial Commission.
- e. Statement of Complaint Regarding a Notary Public, Notarial Officer, or Remote Notarization Transaction.
- f. Application for Approval to Perform Notarial Acts for Remotely Located Individuals.

Form Number	Description
NO-1	Application for appointment of Notary Public
NO-2	Notarial Bond Form
NO-3	Application for reappointment of Notary Public
NO-4	Certificate of Notarial Commission
NO-5	Certificate of Prothonotary

Copies of application and bond forms for notaries public are available to the public upon request to the Notary Clerk, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

4.1(3) Trademark registration forms.

- a. Trademark/Service Mark Registration Application—application to register a mark currently in use in Iowa.
- b. Trademark/Service Mark Renewal Application—application to apply to renew mark registration for one additional five-year period.
- c. Trademark Assignment Application—to assign a mark registration from current registrant to a new registrant.

4.1(4) Credit services organization forms.

- a. Registration of Credit Services Organization—registration statement required by Iowa Code section 538A.5.
- b. Credit Services Organization Bond Form—submitted with Iowa Code section 538A.4 surety bond filing.
- c. Surety Account Notice for a Credit Services Organization—submitted in accordance with Iowa Code section 538A.4 to notify the secretary of state of establishment of a surety account.

This rule is intended to implement Iowa Code chapter 17A.

ITEM 20. Rescind rule 721—4.2(17A) and adopt the following **new** rule in lieu thereof:

721—4.2(17A) Business entity forms. Copies of business entity forms are available to the public on the secretary of state website at sos.iowa.gov or upon request to the Business Services Division, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

4.2(1) For-profit and nonprofit business entity forms.

- a. Certificate of Good Standing—shows that a corporation is in good standing and is also used to reflect that certain filings have not been made.
- b. Certification Certificates—certifies copies attached are true reproductions of documents on file.
- c. Application for Certificate of Withdrawal—used by a foreign entity to stop business in Iowa.
- d. Profit Corporation Statement of Withdrawal—used by a foreign profit corporation to stop business in Iowa.
- e. Application for Certificate of Authority—used by a foreign entity to apply for authority to do business in Iowa.

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- f.* Foreign Profit Corporation Registration Statement—used by a foreign profit corporation to apply for authority to do business in Iowa.
- g.* Certificate of Authority—issued to foreign entities that have registered to do business in Iowa.
- h.* Application for Reinstatement—used by an administratively dissolved corporation, limited liability company, or cooperative to apply for reinstatement.
- i.* Application for Reservation of Name—form by which applicant can reserve an entity name for future use.
- j.* Fictitious Name Resolution—used by a registered entity to notify the office of its adoption of a fictitious name.
- k.* Statement of Change of Registered Office and/or Registered Agent—used by a registered entity to change its registered office and/or registered agent.
- l.* Appointment of Agent (501B)—used by an unincorporated nonprofit association to appoint its registered office and registered agent.
- m.* Application for Amended Certificate of Authority—used by authorized foreign entities to reflect changes of name or authorized purposes.
- n.* Amended Foreign Registration Statement—used by authorized foreign profit corporations to reflect changes of name or other information.
- o.* Application for Registration of a Corporate Name—form by which a foreign corporation may register a name.
- p.* Application for Renewal of Registration of Corporate Name—used to renew registration of name.
- q.* Notice of Transfer of Reservation of Name—used to transfer an entity name reservation from one person to another.

4.2(2) Biennial reports.

- Biennial Report for an Iowa Corporation—required to be filed by all domestic for-profit corporations.
- Biennial Report for a Foreign Corporation—required to be filed by all foreign for-profit corporations.
- Iowa Nonprofit Biennial Report—required to be filed by all domestic nonprofit corporations.
- Foreign Nonprofit Biennial Report—required to be filed by all foreign nonprofit corporations.
- Iowa Professional Biennial Report—required to be submitted by domestic professional corporations.
- Domestic Professional Corporation Biennial Report Statement Under Oath—required by Iowa Code section 496C.21(1)“*b*” to be submitted with the Iowa professional biennial report.
- Foreign Professional Biennial Report—required to be filed by foreign professional corporations.
- Foreign Professional Corporation Biennial Report Statement Under Oath—required by Iowa Code section 496C.21(1)“*c*” to be submitted with the foreign professional biennial report.
- Cooperative Association Biennial Report—required to be filed by cooperative associations.

4.2(3) Agricultural reporting.

- a.* Biennial Agricultural Report—used by U.S. holders of Iowa agricultural land to comply with Iowa Code chapter 10B biennial reporting requirements.
- b.* Pork and Beef Processor Report—used by Iowa pork and beef processors to comply with Iowa Code chapter 202B annual reporting requirements.
- c.* Registration of Nonresident Alien Land Ownership—used by non-U.S. holders of Iowa agricultural land to comply with Iowa Code chapter 9I registration requirements.
- d.* Nonresident Alien Land Ownership Report—used by non-U.S. holders of Iowa agricultural land to comply with Iowa Code chapter 9I annual reporting requirements.

Information regarding forms for agricultural reporting may be requested from the Business Services Division, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

This rule is intended to implement Iowa Code sections 9I.7, 9I.8, 9I.9, 10B.4, 202B.301, and 202B.302.

ITEM 21. Rescind rule 721—4.4(17A) and adopt the following **new** rule in lieu thereof:

721—4.4(554,17A) Uniform Commercial Code forms.

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UCC1—Financing Statement.

UCC1Ad—Financing Statement Addendum (used in connection with UCC1).

UCC3—Financing Statement Amendment.

UCC3Ad—Financing Statement Amendment Addendum (used in connection with UCC3).

UCC5—Information Statement.

UCC11—Information Request.

Affidavit of Wrongful Filing—used to assert that a UCC document was not authorized to be filed and was caused to be communicated to the filing office with the intent to harass or defraud the affiant.

Master File Agreement—used to order corporation and UCC data.

Security Authorization Request—used to apply for security authorization to receive corporation and UCC data.

This rule is intended to implement Iowa Code chapter 554 (Article 9).

ITEM 22. Rescind rule 721—4.5(17A) and adopt the following new rule in lieu thereof:

721—4.5(572,17A) Mechanic's notice and lien registry (MNL) forms.

1. Mechanic's Notice and Lien Registry—used to provide submitter information in conjunction with other MNL forms.

2. Cover Page for Commencement of Work Notice—used in compliance with Iowa Code section 572.13A.

3. Cover Page for Preliminary Notice—used in compliance with Iowa Code section 572.13B.

4. Cover Page for Mechanic's Lien - Commercial—used in compliance with Iowa Code section 572.8.

5. Cover Page for Mechanic's Lien - Residential—used in compliance with Iowa Code section 572.8.

6. Mechanic's Lien—used to comply with Iowa Code section 572.8.

7. Assignment of Mechanic's Lien—used to transfer a lien.

8. Cover Page for Bond for Discharge of Lien—used in compliance with Iowa Code section 572.15.

9. Cover Page for Bond to Prevent Exemplary Damages—used in compliance with Iowa Code section 572.30(2).

10. Affidavit for Release of Mechanic's Lien Bond—used in compliance with 721—subrule 45.8(3).

11. Cover Page for Demand for Acknowledgment—used in compliance with Iowa Code section 572.23.

12. Cover Page for Demand to Commence Action—used in compliance with Iowa Code section 572.28.

Information regarding forms for the mechanic's notice and lien registry may be requested from the Business Services Division, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

This rule is intended to implement Iowa Code chapter 572.

ITEM 23. Rescind and reserve rule **721—4.6(9A,17A)**.

ITEM 24. Amend subrules 30.1(2) to 30.1(5) as follows:

30.1(2) Definitions. The following terms shall have the respective meanings provided in this rule. Terms not defined in this rule which are defined in the UCC shall have the respective meanings accorded such terms in the UCC.

“Active” means a UCC record that has not reached the one-year anniversary of its lapse date.

“Amendment” means a UCC document that purports to amend the information contained in a financing statement. Amendments include assignments, continuations and terminations.

“Assignment” means an amendment that purports to reflect an assignment of all or a part of a secured party's power to authorize an amendment to a financing statement.

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“*Continuation*” means an amendment that purports to continue the effectiveness of a financing statement.

“*Correction statement*” means a UCC document that purports to indicate that a financing statement is inaccurate or wrongfully filed.

“*File number*” means the unique ~~identifying information~~ identification number assigned to an initial financing statement by the filing officer for the purpose of identifying the financing statement and UCC documents relating to the financing statement in the filing officer’s information management system. The filing number bears no relation to the time of filing and is not an indicator of priority.

“*Filing office*” and “*filing officer*” mean the office of the secretary of state. The address of the office is Lucas State Office Building, First Floor, 321 East 12th Street, Des Moines, Iowa 50319.

“*Financing statement*” means a record or records composed of an initial financing statement and any filed record(s) relating to the initial financing statement.

“*Inactive*” means a UCC record ~~that~~ has reached the first anniversary of its lapse date.

“*Individual*” means a human being, or a decedent in the case of a debtor that is such decedent’s estate.

“*Initial financing statement*” means a UCC document that does not identify itself as an amendment or identify an initial financing statement to which it relates, as required by ~~2000 Iowa Acts, chapter 1149, sections 83, 85, and 89~~ Iowa Code sections 554.9512, 554.9514, and 554.9518.

“*Organization*” means a legal person who is not an individual as defined above.

“*Remitter*” means a person who tenders a UCC document to the filing officer for filing, whether the person is a filer or an agent of a filer responsible for tendering the document for filing. “Remitter” does not include a person responsible merely for the delivery of the document to the filing office, such as the postal service or a courier service, but does include a service provider who acts as a filer’s representative in the filing process.

“*Secured party of record*” means, with respect to a financing statement, a person whose name is provided as the name of a secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under ~~2000 Iowa Acts, chapter 1149, section 85, subsection 1~~ Iowa Code section 554.9514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement. If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under ~~2000 Iowa Acts, chapter 1149, section 85, subsection 2~~ Iowa Code section 554.9514(2), the assignee named in the amendment is a secured party of record. A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

“*Termination*” means an amendment intended to indicate that the related financing statement has ceased to be effective with respect to the secured party authorizing the termination.

“*UCC*” means the Uniform Commercial Code as adopted in this state and in effect from time to time.

“*UCC document*” means an initial financing statement, an amendment, an assignment, a continuation, a termination or a correction statement. The word “document” in the term “UCC document” shall not be deemed to refer exclusively to paper or paper-based writings; it being understood that UCC documents may be expressed or transmitted electronically or through media other than such writings. (NOTE: This definition is used for the purpose of these rules only. The use of the term “UCC document” in these rules has no relation to the definition of the term “document” in ~~2000 Iowa Acts, chapter 1149, section 2, subsection 1, paragraph “ad.”~~ Iowa Code section 554.9102(1)“af.”)

30.1(3) Singular and plural forms. Singular nouns shall include the plural form, and plural nouns shall include the singular form, unless the context otherwise requires.

30.1(4) Place to file. The filing office is the office for filing UCC documents relating to all types of collateral except for timber to be cut, as-extracted collateral (~~2000 Iowa Acts, chapter 1149, section 2, subsection 1, paragraph “f”~~ Iowa Code section 554.9102(1)“f”) and, when the relevant financing statement is filed as a fixture filing, goods which are or are to become fixtures. Regardless of the nature of

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the collateral, the filing office is the office for filing all UCC documents where the debtor is a transmitting utility.

30.1(5) Filing office identification. In addition to the promulgation of these rules, the filing office will disseminate information of its location, mailing address, telephone and fax numbers, and its Internet and other electronic “addresses” through usual and customary means.

a. ~~On-line~~ Online information service. The filing officer offers ~~on-line~~ online information services at ~~www.sos.state.ia.us~~ sos.iowa.gov.

b. Electronic mail. Electronic mail cannot be used for filing UCC documents or for requesting searches of the records of financing statements.

ITEM 25. Amend subrule 30.1(7) as follows:

30.1(7) UCC document delivery. UCC documents may be tendered for filing at the filing office as follows:

a. to d. No change.

e. Electronic filing. UCC documents may be transmitted electronically using the XML standard approved by the International Association of ~~Corporation~~ Commercial Administrators as described in 30.3(3). UCC documents may also be transmitted electronically through ~~on-line~~ online entry as described in 30.3(4). The file time for a UCC document delivered by this method is the time that the filing office’s UCC information management system analyzes the relevant transmission and determines that all the required elements of the transmission have been received in a required format and are machine-readable.

ITEM 26. Amend subrule 30.1(9) as follows:

30.1(9) Approved forms. Forms for UCC documents that conform to the requirements of this rule will be accepted by the filing office. Other forms will not be accepted by the filing office.

a. Approved forms. Only those forms approved for the relevant UCC document by the International Association of ~~Corporation~~ Commercial Administrators (the UCC National Forms) will be acceptable. Copies of these forms are available on the secretary of state’s website at ~~www.sos.state.ia.us~~ www.sos.iowa.gov or by request to the secretary of state’s office.

NOTE: The debtor’s taxpayer identification number (TAX ID #), social security number (SSN), and employer identification number (EIN) are not required, and will be readily available to the public if entered on UCC documents.

b. Form—UCC search. The information request form approved by the International Association of ~~Corporation~~ Commercial Administrators will be acceptable. Other request forms will also be acceptable, provided they contain the information required by 30.5(2).

c. Electronic filings. A UCC document transmitted electronically pursuant to the International Association of ~~Corporation~~ Commercial Administrators’ XML standard and the procedures set forth in 30.3(3) or pursuant to ~~on-line~~ online data entry procedures set forth in 30.3(4) will be acceptable.

ITEM 27. Amend subrule 30.1(10) as follows:

30.1(10) Filing fees.

a. Filing fee. The fee for filing and indexing a UCC document of one or two pages communicated on paper or in a paper-based format (including faxes) is \$10. If there are additional pages, the fee is \$20. ~~But the~~ The fee for filing and indexing a UCC document communicated ~~by using~~ by using a medium authorized by these rules ~~which that~~ which that is other than on paper or in a paper-based format shall be \$5.

b. UCC search fee. The fee for a UCC search request ~~communicated verbally, on paper or in a paper-based format~~ communicated verbally, on paper or in a paper-based format is \$5.

c. UCC search—copies. The fee for paper copies of UCC documents is \$1 per page.

ITEM 28. Amend subrules 30.1(13) and 30.1(14) as follows:

30.1(13) Public records services. Public records services are provided on a nondiscriminatory basis to any member of the public on the terms described in these rules. The following methods are available for obtaining copies of UCC documents and copies of data from the UCC information management system.

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a. Individually identified documents. Copies of individually identified UCC documents are available in the following forms.

- (1) Paper.
- (2) ~~THE~~ PDF files.

b. Bulk copies of documents. Bulk copies of UCC documents are available in a ~~THE~~ PDF format ~~on CD-ROM or DVD~~ via download from the office.

c. Data from the information management system. A list of available data elements from the UCC information management system and the file layout of the data elements are available from the filing officer upon request. Data from the information management system is available as follows.

(1) Full extract. A bulk data extract of information from the UCC information management system is available on a weekly basis.

(2) Format. Extracts from the UCC information management system are available via downloads from the filing office ~~or CD-ROM~~.

d. Direct ~~on-line~~ online services. ~~On-line~~ Online services make UCC data and images available.

30.1(14) Fees for public records services. Fees for public records services are established as follows.

a. Paper copies of individual documents.

- (1) Regular delivery method—\$1 per page.
- (2) Fax delivery—\$2 per page.

b. Bulk copies of documents.

- (1) Subscription basis—4 cents per page plus \$25 per week (~~delivered on CD-ROM~~).
- (2) Document image master file—4 cents per document.

c. Data from the information management system—full extract. Download—\$300.

- (1) ~~Download—\$300.~~
- (2) ~~CD-ROM—\$325.~~

ITEM 29. Amend rule 721—30.2(554) as follows:

721—30.2(554) Acceptance and refusal of documents.

30.2(1) No change.

30.2(2) Grounds for refusal of UCC document. The following grounds are the sole grounds for the filing officer's refusal to accept a UCC document for filing. As used herein, the term "legible" is not limited to refer only to written expressions on paper: it requires a machine-readable transmission for electronic transmissions and an otherwise readily decipherable transmission in other cases.

a. to d. No change.

e. Identifying information. A UCC document that does not identify itself as an amendment or identify an initial financing statement to which it relates, as required by ~~2000 Iowa Acts, chapter 1149, sections 83, 85, and 89~~ Iowa Code sections 554.9512, 554.9514, and 554.9518, is an initial financing statement.

f. to i. No change.

30.2(3) Grounds not warranting refusal. The sole grounds for the filing officer's refusal to accept a UCC document for filing are enumerated in 30.2(2). The following are examples of defects that do not constitute grounds for refusal to accept a document. They are not a comprehensive enumeration of defects outside the scope of permitted grounds for refusal to accept a UCC document for filing.

a. to c. No change.

d. Insufficient information. The UCC document contains less than the information required by Article 9 of the UCC, provided that the document contains the information required in 30.2(2) "a" through 30.2(2) "e."

NOTE: The debtor's taxpayer identification number (TAX ID #), social security number (SSN), and employer identification number (EIN) are not required, and will may be readily available to the public if entered on UCC documents.

e. and f. No change.

30.2(4) and 30.2(5) No change.

30.2(6) Acknowledgment.

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a. At the request of a filer or remitter who ~~files~~ submits a paper or paper-based UCC document, the filing officer shall either:

- (1) Send to said filer or remitter an image of the record of the UCC document showing the file number assigned to it and the date and time of filing; or
- (2) If such filer or remitter provides a copy of such UCC document, note the file number and the date and time of filing on the copy and deliver or send it to said filer or remitter.

b. No change.

30.2(7) and **30.2(8)** No change.

ITEM 30. Amend rule 721—30.3(554) as follows:

721—30.3(554) UCC information management system.

30.3(1) No change.

30.3(2) General provisions—UCC information management system.

a. No change.

b. Names of debtors who are individuals. For the purpose of this paragraph, “individual” means a human being, or a decedent in the case of a debtor that is such decedent’s estate. This rule applies to the name of a debtor or a secured party on a UCC document who is an individual.

(1) to (3) No change.

(4) Truncation—individual names. Personal name fields in the UCC database are fixed in length. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. The lengths of data entry name fields, except for ~~on-line~~ online filing (30.3(4) “b”), are as follows.

1. to 4. No change.

c. Names of debtors that are organizations. This rule applies to the name of an organization that is a debtor or a secured party on a UCC document.

(1) Single field. The names of organizations are stored in files that include only the names of organizations and not the names of individuals. A single field is used to store an organization name.

(2) Truncation—organization names. The organization name field in the UCC database is fixed in length. The maximum length, ~~except for on-line filing (30.3(4) “b”)~~, is 100 characters. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field.

d. and *e.* No change.

f. Initial financing statement. Upon the filing of an initial financing statement, the status of the parties and the status of the financing statement shall be as follows:

(1) Status of secured party. Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC document names an assignee, the secured party/assignor shall not be a secured party of record and the secured party/assignee shall be a secured party of record.

(2) Status of debtor. The status of a debtor named on the document shall be active and shall continue as active until one year after the financing statement lapses.

(3) Status of financing statement. The status of the financing statement shall be active. A lapse date shall be calculated five years from the file date, unless the initial financing statement indicates that it is filed with respect to a public-financing transaction or a manufactured-home transaction, in which case the lapse date shall be ~~thirty~~ 30 years from the file date, or if the initial financing statement indicates that it is filed against a transmitting utility, in which case there shall be no lapse date. A financing statement remains active until one year after it lapses, or if it is indicated to be filed against a transmitting utility, until one year after it is terminated with respect to all secured parties of record.

g. to *l.* No change.

30.3(3) XML documents.

a. and *b.* No change.

c. IACA standard adopted. The XML format for filing a UCC document, as adopted by the International Association of ~~Corporation~~ Commercial Administrators and in effect from time to time, is adopted in this state as a format for electronic transmission of UCC documents, although the filing

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officer shall, periodically and at the request of an authorized XML remitter, identify which versions and releases of the XML format are then in use by and acceptable to the filing office.

d. No change.

30.3(4) *Direct ~~on-line~~ online filing and search procedures.*

a. Direct ~~on-line~~ online filing and search services are available to any person with Internet access to the UCC secretary of state website: sos.iowa.gov. ~~On-line filing services require a preapproved account, in accordance with 30.1(11)“d.”~~

b. Document filing procedures. Initial financing statements and amendments may be filed via the UCC secretary of state website, which allows for entry of information required on the approved UCC forms specified in 30.1(9). The ~~on-line~~ online filing procedure does not allow for the maximum length of characters as defined in 30.3(2)“b”(4), ~~and 30.3(2)“e.”~~ Therefore, ~~on-line~~ online filing should be used only if the filer is able to key all information without truncation. A record which is created by the filer in this manner is subject to all of the provisions of the UCC, as if it were a paper document submitted to the filing office. However, attachments may not be submitted. Filing instructions are provided on the website.

c. Search request procedures. A certified search naming a particular debtor may be obtained via the UCC secretary of state website: sos.iowa.gov. A request that is created by the filer in this manner is subject to all of the provisions of the UCC as if it were a paper search request submitted to the filing office. Images of individual financing statements may be obtained ~~on-line~~ online. Instructions are provided on the website.

ITEM 31. Amend rule 721—30.4(554) as follows:

721—30.4(554) Filing and data entry procedures.

30.4(1) No change.

30.4(2) *Document indexing and other procedures before archiving.*

a. to *d.* No change.

e. *Correspondence.*

(1) Acknowledgment of filing. If there is no ground for refusal of the document, an acknowledgment of filing is prepared as provided in 30.2(6) and communicated as follows:

1. to 4. No change.

5. UCC document transmitted by ~~on-line~~ online entry. Acknowledgment of filing is returned electronically.

(2) Notice of refusal. If there is a ground for refusal of the document, notification of refusal to accept the document is prepared as provided in 30.2(5) and communicated as follows:

1. to 4. No change.

5. UCC document transmitted by ~~on-line~~ online entry. Notice of refusal is returned electronically.

f. No change.

30.4(3) *Filing date.* The filing date of a UCC document is the date the UCC document is received with the proper filing fee if the filing office is open to the public on that date or, if the filing office is not open on that date, the filing date is the next date the filing office is open, except that, in each case, UCC documents received after 4:30 p.m. shall be deemed received on the ~~following day~~ next date the filing office is open. The filing officer may perform any duty relating to the document on the filing date or on a date after the filing date.

30.4(4) and **30.4(5)** No change.

30.4(6) *Errors of the filing officer.* The filing office may correct the errors of filing officer personnel in the UCC information management system at any time. If the correction is made after the filing officer has issued a UCC search report with a certification date that includes the filing date of a corrected document, the filing officer shall ~~proceed as follows:~~ place a record relating to the relevant initial financing statement will be placed in the UCC information management system stating the date of the correction and explaining the nature of the corrective action taken. The record shall be preserved for so long as the record of the initial financing statement is preserved in the UCC information management system.

30.4(7) to **30.4(10)** No change.

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30.4(11) *Initial financing statement.* A new record bearing the file number of the financing statement and the date and time of filing is opened in the UCC information management system for each initial financing statement that bears the file number of the financing statement and the date and time of filing.

a. The name and address of each debtor that are legibly set forth in the financing statement are entered into the record of the financing statement. Each debtor name and city is are included in the searchable index and not removed until one year after the financing statement lapses.

b. The name and address of each secured party that are legibly set forth in the financing statement are entered into the record of the financing statement.

c. The record is indexed according to the name of the debtor(s) and is maintained for public inspection.

d. A lapse date is established for the financing statement and the lapse date is maintained as part of the record, unless the initial financing statement indicates that it is filed against a transmitting utility.

30.4(12) *Amendment.* A record is created for the amendment that bears the file number for the amendment and the date and time of filing.

a. The record of the amendment is associated with the record of the related initial financing statement in a manner that causes the amendment to be retrievable each time a record of the financing statement is retrieved.

b. The name and address of each additional debtor and secured parties party are entered into the UCC information management system in the record of the financing statement. Each additional debtor name and city is are added to the searchable index and not removed until one year after the financing statement lapses.

c. If the amendment is a continuation, a new lapse date is established for the financing statement and maintained as part of its record.

30.4(13) No change.

30.4(14) *Global filings.*

~~*a.* The filing officer may accept for filing a single UCC document for the purpose of amending more than one financing statement, for one or both of the following purposes:~~

~~(1) Amendment to change secured party name;~~

~~(2) Amendment to change secured party address.~~

~~*b.* A blanket filing shall consist of a written document describing the requested amendment on a form approved by the filing office, and a machine-readable file furnished by the remitter and created to the filing officer's specifications containing appropriate indexing information. A copy of blanket filing specifications is available from the filing officer upon request. Acceptance of a blanket filing is conditioned upon the determination of the filing officer in the filing officer's sole discretion.~~

30.4(14) *Affidavit of wrongful filing.* Assessment is made, notices are sent, and records determined to be wrongful are terminated and reinstated in accordance with Iowa Code section 554.9513A.

30.4(15) *Archives—general.* This subrule relates to the maintenance of inactive financing statements and the ability of those archives to be searched.

a. Paper UCC documents.

(1) Storage. Paper UCC documents are scanned into the UCC information management system.

(2) Retention. Paper is not retained.

b. Databases. The UCC information management system is backed up to ~~magnetic tape~~ every business day.

30.4(16) to 30.4(18) No change.

ITEM 32. Amend rule 721—30.5(554) as follows:

721—30.5(554) Search requests and reports.

30.5(1) *General requirements.* The filing officer maintains for public inspection a searchable index ~~for~~ of all records of active UCC documents that provides for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement to which the record relates and which associates with one another each initial financing statement and each filed UCC document relating to the initial financing statement.

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30.5(2) *Search requests.* Search requests shall contain the following information.

a. Name searched. A search request should set forth the full correct name of a debtor or the name variant desired to be searched and must specify whether the debtor is an individual or an organization.

(1) Individual. The full name of an individual shall consist of a first name, a middle name or initial, and a last name, although a search request may be submitted with no middle name or initial and, if only a single name is presented (e.g., “Cher”), it will be treated as a last name, and a search will disclose only those UCC documents where only the last name was entered.

(2) Organization. The full name of an organization shall consist of the name of the organization as stated on the articles of incorporation or other organic documents in the state or country of organization or the name variant desired to be searched. A search request will be processed using the name in the exact form it is submitted.

b. Requesting party. The name and address of the person to whom the search report is to be sent, if applicable.

c. Fee. The appropriate fee shall be enclosed, if applicable, payable by a method described in 30.1(11).

d. Search request with filing. If a filer requests a search at the time a UCC document is filed, by checking the box on the form set forth in 30.1(9) “a,” the name to be searched will be the debtor name as set forth on the form, the requesting party will be the remitter of the UCC document, and the search request will be deemed to request a search that would be effective to retrieve all financing statements filed on or prior to the date the UCC document is filed.

30.5(3) No change.

30.5(4) *Rules applied to search requests.* Search results are created by applying standardized search logic to the name presented to the filing officer by the person requesting the search. Human judgment does not play a role in determining the results of the search. Only the following rules are applied to conduct searches.

a. to c. No change.

d. Words and abbreviations at the end of a name that indicate the existence or nature of an organization as set forth in the “Ending Noise Words” list as promulgated by the International Association of ~~Corporation~~ Commercial Administrators, and adopted from time to time, are disregarded (e.g., company, limited, incorporated, corporation, limited partnership, limited liability company or abbreviations of the foregoing).

e. to h. No change.

30.5(5) No change.

ITEM 33. Amend **721—Chapter 30**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A and 554 ~~and 2017 Iowa Acts, Senate File 516, section 23.~~

ITEM 34. Amend rule 721—40.1(490,499,504A) as follows:

721—40.1(9,490,499,504A 504) Filing of documents. Documents pertaining to profit corporations, nonprofit corporations, limited liability companies, limited partnerships, and cooperative associations shall be delivered for filing to the office of Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319.

40.1(1) A copy of a signature, however made, is acceptable with regard to documents delivered to the secretary of state for filing pursuant to Iowa Code chapter 490.

40.1(2) A document pertaining to a profit corporation, a nonprofit corporation, a limited liability company, a limited partnership, or a cooperative association delivered to the secretary of state for filing must be captioned to describe the record’s purpose and be in a medium permitted by the secretary of state.

40.1(3) A document submitted for same-day preclearance service as provided in Iowa Code chapter 9 may be delivered by fax or in person. Preclearance service speed is not guaranteed on a document delivered by any other method.

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~~40.1(4)~~ **40.1(4)** Where the secretary of state prescribes and furnishes a form for the filing of a document pertaining to a profit corporation, a nonprofit corporation, a limited liability company, a limited partnership, or a cooperative association, the secretary requires the use of that form as permitted by Iowa law.

~~40.1(2)~~ **40.1(5)** A document pertaining to a profit corporation, a nonprofit corporation, a limited liability company, a limited partnership, or a cooperative association delivered to the secretary of state for filing pursuant to the Iowa business corporation Act, Iowa Code chapter 490, may be delivered by telecopier fax to (515)242-5953.

~~40.1(3)~~ **40.1(6)** A document delivered by telecopier fax may be delivered at any time of day. The date and time of receipt printed on the document by the telecopier fax machine constitutes the date and time endorsement required by Iowa Code section 490.125(2).

~~40.1(4)~~ **40.1(7)** A document delivered by telecopier fax shall be printed on paper measuring 8½" by 11", unless a copy of a larger document, reduced to 8½" by 11" paper, is acceptable to the filing party. The document received by the secretary of state via telecopier fax shall constitute the copy that is filed and returned to the corporation pursuant to Iowa Code section 490.125(2).

~~40.1(5)~~ **40.1(8)** A document delivered by telecopier fax shall be accompanied by a cover sheet that provides the name, address, and telephone number of the filing party, and instructions as to the manner by which the filing fee will be paid. The filing fee may be billed to an account maintained by the filing party pursuant to rule ~~721—2.3(17A)~~ **721—2.3(9,631)**. The filing fee may be paid by any other means authorized by the secretary of state.

~~40.1(6)~~ If a telecopier is used to deliver a document that is subject to the multiple copy requirement of Iowa Code section 490.130, the additional copy or copies shall be delivered by telecopier contemporaneously with the copy of the document to be filed.

~~40.1(7)~~ **40.1(9)** A document delivered by telecopier fax for filing may be rejected if the print quality of the document is deemed by agency personnel to be unacceptable for microfilming scanning purposes. The secretary of state will notify the filing party by telephone, email, or regular mail of the rejection of a document pursuant to this subrule. The secretary of state will accept for filing the original copy of the document, effective on the date of the transmission by telecopier fax, if the original document is received in the office of the secretary of state within ten days of date of the notification of the rejection.

This rule is intended to implement Iowa Code ~~chapter~~ chapters 9 and 490.

ITEM 35. Rescind rule ~~721—40.2(490,499,504A)~~.

ITEM 36. Renumber rules ~~721—40.3(487,490,504A)~~ to ~~721—40.9(488,489,490,504)~~ as ~~721—40.2(487,490,504A)~~ to ~~721—40.8(488,489,490,504)~~.

ITEM 37. Amend renumbered rule ~~721—40.2(490,499,504A)~~ as follows:

~~721—40.2(487,490,504A)~~ **486A,488,489,490,496C,499,501,501A,504** Names distinguishable upon corporate records.

40.2(1) Except as provided in these rules, a name is considered distinguishable upon the records of the secretary of state if it contains one or more different letters or numerals, or if it contains a different sequence of letters or numerals. A single space used to divide a sequence of letters or numerals into separate words is considered to be a letter for the purpose of this subrule. Differences between singular and plural forms of words are distinguishable. Differences between numerals, Roman numerals, and words representing numerals are distinguishable. The following characters are considered as letters for the purpose of this subrule: \$ (dollar sign); + (plus sign); % (percent sign); ¢ (cent sign).

40.2(2) The following words and abbreviations, when positioned as the last word or abbreviation in the corporate business entity name, are not considered in determining whether a name is distinguishable upon the records of the secretary of state:

- ~~1.~~ a. Corporation
- ~~2.~~ b. Company
- ~~3.~~ c. Incorporated
- ~~4.~~ d. Limited

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- 5. ~~Corp.~~
- 6. ~~Co.~~
- 7. ~~Inc.~~
- 8. ~~Ltd.~~
- e. Benefit Corporation
- f. Cooperative
- g. Limited Partnership
- h. Limited Liability Partnership
- i. Registered Limited Liability Partnership
- j. Limited Liability Limited Partnership
- k. Professional Corporation
- l. Limited Company
- m. Limited Liability Company
- n. Professional Limited Liability Company
- o. Any abbreviation of any of the above

~~40.2(3) The presence or absence of the words “limited partnership,” or the abbreviation “L.P.” in any limited partnership name, when positioned at the end of the name, is not considered in determining whether a name “protected series” or the abbreviation “PS” in the name of a protected series, when such words or abbreviation is meant to comply with Iowa Code section 489.14202(2) “b,” is not considered in determining whether the name of a protected series is distinguishable upon the records of the secretary of state.~~

~~40.2(4) The presence or absence of the words “professional corporation” or the abbreviation “P.C.” in the name of any professional corporation, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.~~

~~40.2(5) The presence or absence of the words “registered limited liability partnership,” or the abbreviation “L.L.P.” in any limited liability partnership name, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.~~

~~40.2(6) The presence or absence of the words “limited liability company,” or the abbreviation “L.L.C.” or “L.C.” in any limited liability company name, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.~~

~~40.2(7) to 40.2(10) Reserved.~~

~~40.2(11) 40.2(4) Differences in punctuation and special characters are not considered in determining whether a name is distinguishable upon the records of the secretary of state. Punctuation and special characters include, but are not limited to:~~

' (apostrophe)	[(left bracket)
] (right bracket)	: (colon)
, (comma)	— (dash)
- (hyphen)	! (exclamation point)
((left parenthesis)) (right parenthesis)
. (period)	? (question mark)
' (single quote mark)	” (double quote mark)
; (semicolon)	/ (slash)
* (asterisk)	@ (at sign)
\ (back slash)	{ (left brace)
} (right brace)	^ (caret)
= (equal sign)	> (greater than sign)
< (less than sign)	# (number sign)
~ (tilde)	_ (underline)

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~~40.2(12)~~ Reserved.

~~40.2(13)~~ **40.2(5)** Differences in capitalization are not considered in determining whether a name is distinguishable upon the records of the secretary of state.

~~40.2(14)~~ **40.2(6)** Differences between an ampersand (&) and the word “and” are not considered in determining whether a name is distinguishable upon the records of the secretary of state.

~~40.2(15)~~ Reserved.

~~40.2(16)~~ **40.2(7)** In determining whether a name is distinguishable upon the records of the secretary of state, names found in the following records will not be considered:

1. ~~a.~~ Fictitious names.
2. ~~b.~~ Assumed names of nonprofit corporations.
3. ~~c.~~ Names of corporations (profit or nonprofit) whose certificates of incorporation have been canceled.
4. ~~d.~~ Names of corporations (profit or nonprofit) whose certificates of authority or certificates of registration have been revoked.
5. ~~e.~~ Expired or terminated assumed names.
6. ~~f.~~ Expired name reservations.
7. ~~g.~~ Expired name registrations.

This rule is intended to implement Iowa Code sections ~~487.102(4), 490.401, 504A.6, and 504A.67~~ 486A.1002, 488.108, 489.108, 490.401, 496C.5, 499.4, 501.104, 501A.301, and 504.401.

ITEM 38. Amend renumbered rule 721—40.3(490,491,496C,497,498,499,504A) as follows:

721—40.3(490,491,496C,497,498,499,504A 501,501A,504) Payment and refund of fees.

40.3(1) The office of secretary of state requires a payment of all fees in full at the time of filing of any corporate document or request for copies.

40.3(2) Filing under any of the ~~corporation or cooperative~~ business entity chapters may be effected only upon the receipt of the correct filing fee. Failure to include the filing fee or partial payment of the filing fee will result in the return of the filing to the sender with instructions to include the correct filing fee.

40.3(3) In the event that a filing fee overpayment is made, the amount in excess of the correct filing fee shall be returned to the filing party. No adjustment is required if the amount of overpayment is one dollar or less.

40.3(4) This subrule implements the pilot project authorized by 2000 Iowa Acts, House File 2545, section 32, for fees required by Iowa Code section ~~490.122, subsection 1, paragraphs “a” and “s.”~~ 490.122(1) “a” and “v.”

a. The secretary of state may refund payment of the corporate filing fees required pursuant to the provisions of Iowa Code section ~~490.122, subsection 1, paragraphs “a” and “s.”~~ 490.122(1) “a” and “v.” if, within five business days from the time the corporate filing is received and date stamped, the entity has not been entered on the records of the secretary of state.

b. To receive a refund under this subrule, the ~~corporate~~ business entity must make a written request with the business services division of the secretary of state’s office. The written request must specify the reason(s) for the refund and provide evidence of entitlement to the refund.

c. The filing fee shall not be refunded if the corporate filing fails to satisfy all of the filing requirements of Iowa Code chapter 490.

d. The decision of the secretary of state not to issue a refund under this subrule is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

40.3(5) This subrule implements the pilot project authorized by 2000 Iowa Acts, House File 2545, section 32, for fees required by Iowa Code section ~~504A.85, subsections 1 and 9.~~ 504.113(1) “a” and “s.”

a. The secretary of state may refund payment of the corporate filing fees required pursuant to the provisions of Iowa Code section ~~504A.85, subsections 1 and 9,~~ 504.113(1) “a” and “s,” if, within five business days from the time the corporate filing is received and date stamped, the entity has not been entered on the records of the secretary of state.

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b. To receive a refund under this subrule, the corporate entity must make a written request with the business services division of the secretary of state's office. The written request must specify the reason(s) for the refund and provide evidence of entitlement to the refund.

c. The filing fee shall not be refunded if the corporate filing fails to satisfy all of the filing requirements of Iowa Code chapter ~~504A~~ 504.

d. The decision of the secretary of state not to issue a refund under this subrule is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

ITEM 39. Amend renumbered rule 721—40.4(~~491,496A,499,504A,548~~) as follows:

721—40.4(~~491,496A,499,504A,548~~ 486A,488,489,490,499,501,501A,504) Document to county recorder.

40.4(1) Any corporate document that is required by law to be filed in the office of the county recorder will be forwarded directly to the office of the county recorder in the county where the corporation's registered office is located.

40.4(2) Reserved.

ITEM 40. Amend renumbered rule 721—40.5(548) as follows:

721—40.5(548) Registration and protection of marks.

40.5(1) Classification. The following general classes of goods and services are established, but do not limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used comprised in a single class, but in no event shall a single application include goods or services upon which the mark is being used which fall within different classes of goods or services.

The said classes are as follows:

GOODS

Class	Title
1	Raw or partly prepared materials
2	Receptacles
3	Baggage, animal equipments, portfolio, and pocketbooks
4	Abrasives and polishing materials
5	Adhesives
6	Chemicals and chemical compositions
7	Cordage
8	Smokers' articles, not including tobacco products
9	Explosives, firearms, equipments, and projectiles
10	Fertilizers
11	Inks and inking materials
12	Construction materials
13	Hardware, and plumbing, and steam-fitting supplies
14	Metals and metal castings and forgings
15	Oils and greases
16	Paints and painters' materials
17	Tobacco products
18	Medicines and pharmaceutical preparations
19	Vehicles
20	Linoleum and oiled cloth
21	Electrical apparatus, machines, and supplies

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22	Games, toys, and sporting goods
23	Cutlery, machinery, and tools, and parts thereof
24	Laundry appliances and machines
25	Locks and safes
26	Measuring and scientific appliances
27	Horological <u>Clocks, watches, and other horological instruments</u>
28	Jewelry and precious-metal ware
29	Brooms, brushes, and dusters
30	Crockery, earthenware, and porcelain
31	Filters and refrigerators
32	Furniture and upholstery
33	Glassware
34	Heating, lighting, and ventilating apparatus
35	Belting, hose, machinery packing, and nonmetallic tires
36	Musical instruments and supplies
37	Paper and stationery
38	Prints and publications
39	Clothing
40	Fancy goods, furnishings, and notions
41	Canes, parasols, and umbrellas
42	Knitted, netted, and textile fabrics, and substitutes thereof
43	Thread and yarn
44	Dental, medical, and surgical appliances
45	Soft drinks and carbonated waters
46	Foods and ingredients of foods
47	Wines
48	Malt beverages and liquors
49	Distilled alcoholic liquors
50	Merchandise not otherwise classified
51 50	Cosmetics and toilet preparations
52 51	Detergents and soaps
52	<u>Digital products and software applications</u>
53	<u>Goods not otherwise classified</u>

SERVICES

Class	Title
100	<u>Miscellaneous Services not otherwise classified</u>
101	Advertising and business
102	Insurance and financial
103	Construction, <u>maintenance</u> , and repair
104	Communication
105	Transportation and storage
106	Material treatment, <u>recycling</u> , and waste disposal
107	Education and entertainment

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<u>108</u>	<u>Software as a service</u>
<u>109</u>	<u>Medical</u>
<u>110</u>	<u>Hair and cosmetic</u>
<u>111</u>	<u>Restaurant and bar</u>
<u>112</u>	<u>Real estate sales and property management</u>
<u>113</u>	<u>Retail sales</u>

40.5(2) No change.

40.5(3) *Incomplete or defective applications.* An application will not be filed unless the application and accompanying facsimiles or specimens are in proper form, comply with the statutory requirements and are accompanied by the statutory fee established by rule. Specimens which are metal need not be submitted, a facsimile being preferable in order to avoid filing problems. Documents not filed will be returned with a statement of the reasons therefor.

40.5(4) *Registration dates.* The registration date is the date ~~on which the mark is actually posted in the registration indices of the registration application is stamped received by the office of the secretary of state, if,~~ after the application has been examined and found acceptable, it is allowed for registration.

40.5(5) to 40.5(8) No change.

40.5(9) *Conflicts.* Whenever application is made for registration of a mark or trade name which so resembles a mark registered in this state or a mark previously used in this state by another and not abandoned, so as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive, a conflict shall be declared to exist and registration denied.

40.5(10) to 40.5(12) No change.

40.5(13) *Fees.* Fees for mark applications, assignments, and cancellations are established as follows:

<u>Application for registration of mark</u>	<u>\$10</u>
<u>Application for renewal of registered mark</u>	<u>\$10</u>
<u>Assignment of registration of mark</u>	<u>\$5</u>
<u>Cancellation of registration of mark</u>	<u>\$5</u>

ITEM 41. Amend renumbered rule 721—40.6(80GA,SF2274) as follows:

721—40.6(80GA,SF2274 504) Revised nonprofit corporation Act fees. The following are the fees for ~~the revised nonprofit corporation Act, 2004 Iowa Acts, Senate File 2274~~ Iowa Code section 504.113.

40.6(1) The secretary shall collect the following fee when the documents described below are delivered to the secretary's office for filing.

Articles of incorporation	\$20
Application for use of indistinguishable name	\$5
Application for reserved name	\$10
Notice of transfer of reserved name	\$10
Application for registered name	\$2 per month or part thereof
Application for renewal of registered name	\$20
Corporation's statement of change of registered agent or registered office or both	No Fee
Agent's statement of change of registered office for each affected corporation not to exceed a total of	No Fee
Agent's statement of resignation	No Fee
Amendment of articles of incorporation	\$10

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Restatement of articles of incorporation with amendments	\$20
Articles of merger	\$20
Articles of dissolution	\$5
Articles of revocation of dissolution	\$5
Certificate of administrative dissolution	No Fee
Application for reinstatement following administrative dissolution	\$5
Certificate of reinstatement	No Fee
Certificate of judicial dissolution	No Fee
Application for certificate of authority	\$25
Application for amended certificate of authority	\$25
Application for certificate of withdrawal	\$5
Certificate of revocation of authority to transact business	No Fee
Biennial report	No Fee
Articles of correction	\$5
Application for certificate of existence or authorization	\$5
Any other document required or permitted by the Act	\$5

40.6(2) The secretary of state shall collect a fee of \$5 each time process is served on the secretary under this chapter.

40.6(3) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- a. \$1 per page for copying.
- b. \$5 per page for the certificate.

ITEM 42. Amend renumbered rule 721—40.7(488,489,490) as follows:

721—40.7(488,489,490) Biennial reports. The secretary of state shall collect the following fees at the time the documents described in this rule are delivered to the secretary for filing.

40.7(1) A limited partnership or foreign limited partnership authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 488.210.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is \$45. This fee may be provided in the form of credit card, cash, personal check, cashier's check, or money order, or by secretary of state charge account.

b. The fee for an electronic filing through the secretary of state Internet website is \$30. This fee must be paid by credit card or secretary of state charge account.

40.7(2) A limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 489.209.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is \$45. This fee may be provided in the form of credit card, cash, personal check, cashier's check, or money order, or by secretary of state charge account.

b. The fee for an electronic filing through the secretary of state Internet website is \$30. This fee must be paid by credit card or secretary of state charge account.

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ITEM 43. Amend renumbered rule 721—40.8(488,489,490,504) as follows:

721—40.8(488,489,490,504) Online filing requirements. The following requirements apply to the electronic filing of documents and the certification of electronic documents. This rule applies to documents filed in conjunction with the filing requirements in Iowa Code chapters 488, 489, 490, and 504.

40.8(1) No change.

40.8(2) For filings requiring an online account, an applicant must follow the terms and conditions on the secretary of state's ~~Internet~~ website for each electronic filing.

40.8(3) No change.

40.8(4) Documents filed electronically shall be accompanied by the appropriate fee. This fee must be paid by ~~check~~, credit card, or secretary of state charge account.

ITEM 44. Amend **721—Chapter 40**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 490, 491, 499, 504, and 548 ~~and 2017 Iowa Acts, Senate File 516, section 23.~~

ITEM 45. Renumber rule **721—42.4(9A,17A)** as **721—42.2(9A,17A)**.

ITEM 46. Amend renumbered rule 721—42.2(9A,17A) as follows:

721—42.2(9A,17A) General information. Further information pertaining to the Registration of Athlete Agents Act and all application forms may be obtained by contacting the Secretary of State, ~~Corporations Business Services Division~~, Lucas State Office Building, Des Moines, Iowa 50319, (515)281-5204 during regular office hours, 8 a.m. to 4:30 p.m. Monday through Friday except legal holidays.

ITEM 47. Amend rule 721—43.1(9B) as follows:

721—43.1(9B) Certificate of notarial acts. A notarial act shall be evidenced by a certificate signed and dated by a notarial officer, be executed contemporaneously with the performance of the notarial act for which the certificate applies, and not be completed until the notarial act has been performed. The certificate shall include all of the information required by Iowa Code section 9B.15(1). A certificate of a notarial act is sufficient if it meets the requirements set out in Iowa Code section 9B.15(3). A certificate of a notarial act performed under Iowa Code section 9B.14A ~~as enacted by 2019 Iowa Acts, chapter 44, section 6,~~ must also meet the requirements of Iowa Code section 9B.14A(4) ~~as enacted by 2019 Iowa Acts, chapter 44, section 6.~~

ITEM 48. Amend rule 721—43.2(9B) as follows:

721—43.2(9B) Short form certificates. Short form certificates of notarial acts may be used provided the certificates comply with the provisions of Iowa Code sections 9B.15 and 9B.16. For purposes of this rule, a "record" and an "instrument" have the same meaning and effect. A short form certificate of a notarial act performed under Iowa Code section 9B.14A ~~as enacted by 2019 Iowa Acts, chapter 44, section 6,~~ must meet the requirements of Iowa Code section 9B.14A(5) ~~as enacted by 2019 Iowa Acts, chapter 44, section 6.~~

ITEM 49. Amend rule 721—43.5(9B) as follows:

721—43.5(9B) Commission as notary public. An individual applying to the secretary of state for a commission as a notary public shall comply with the requirements and qualifications of Iowa Code section 9B.21.

43.5(1) Application. The applicant shall complete and file with the secretary of state an Application for Appointment as Notary Public. The affirmation section on an Application for Appointment as Notary Public shall constitute an executed oath of office as required by Iowa Code section 9B.21(3). An individual who wishes to perform notarial acts for remotely located individuals shall also complete

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and file with the secretary of state an additional application containing information indicating that the applicant meets the additional training and technology requirements of Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, and this chapter, as well as any additional information the secretary of state may require.

43.5(2) Reapproval. A notary public's approval to perform notarial acts for remotely located individuals shall expire on the same date as the individual's notary public commission. Two months preceding the expiration of approval, the secretary of state shall notify the notary public of the expiration date and furnish an application for reapproval. The secretary of state may provide for combining its reappointment and reapproval forms.

43.5(3) Training.

a. A notary public who wishes to begin performing notarial acts under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, shall, within the six-month period immediately preceding the first performance of such an act, satisfactorily complete a training course approved by the secretary of state concerning the requirements and methods for performing notarial acts for remotely located individuals and shall provide satisfactory proof to the secretary of state that the applicant has completed the course.

b. An applicant for reappointment as a notary public who currently holds a notary public commission, who wishes to continue performing notarial acts under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, and who has satisfactorily completed the initial training course required by paragraph 43.5(3)"a" at least one time prior to the 12-month period immediately preceding application for reappointment shall, within the 6-month period immediately preceding the deadline for application for reappointment, satisfactorily complete an update course approved by the secretary of state concerning the requirements and methods for performing notarial acts for remotely located individuals and shall provide satisfactory proof to the secretary of state that the applicant has completed the course.

ITEM 50. Amend rule 721—43.7(9B) as follows:

721—43.7(9B) Protection of recording and personally identifiable information. A notary public shall protect from unauthorized access the recording of a notarial act pursuant to Iowa Code section 9B.14A(3)"c" as enacted by 2019 Iowa Acts, chapter 44, section 6, and any "personally identifiable information" as defined in Iowa Code section 9B.14C(1) as enacted by 2019 Iowa Acts, chapter 44, section 8, disclosed during the performance of an electronic notarial act using audiovisual communications, except as permitted pursuant to Iowa Code sections 9B.14C(2) and 9B.14C(3) as enacted by 2019 Iowa Acts, chapter 44, section 8.

ITEM 51. Amend rule 721—43.9(9B) as follows:

721—43.9(9B) Standards for communication technology and identity proofing for notarial acts performed for remotely located individuals.

43.9(1) A notary public may not perform a notarial act for a remotely located individual unless the technology identified by the notary public pursuant to Iowa Code section 9B.14A(7) as enacted by 2019 Iowa Acts, chapter 44, section 6, satisfies all of the following:

- a.* to *c.* No change.
- d.* Provides sufficient captured image resolution for identity proofing performed in accordance with Iowa Code section 9B.14A(3) as enacted by 2019 Iowa Acts, chapter 44, section 6.
- e.* No change.
- f.* Provides for the recording of the electronic notarial act in compliance with this chapter and Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, in sufficient quality to ensure the verification of the electronic notarial act.
- g.* to *j.* No change.
- k.* Provides security measures the secretary of state deems reasonable to prevent unauthorized access to all of the following:

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(1) to (5) No change.

43.9(2) Identity proofing and credential analysis must be performed by a third-party credential service provider whose methods and standards are substantially similar to those defined in the most recent edition of the National Institute of Standards and Technology's Digital Identity Guidelines, and that has provided evidence to the notary public of the ability to satisfy the following requirements:

a. and *b.* No change.

c. Credential analysis shall, at a minimum, do all of the following:

(1) Use automated software processes to aid the notary public in verifying the identity of a principal or any credible witness;

(2) and (3) No change.

d. No change.

43.9(3) Upon change of any of the technology identified by the notary public pursuant to Iowa Code section 9B.14A(7) as enacted by 2019 Iowa Acts, chapter 44, section 6, which affects compliance with the requirements of Iowa Code chapter 9B or this chapter, the provider of the technology shall immediately notify the secretary of state and all Iowa notaries public using its technology of the change. Information that qualifies as trade secret under Iowa law shall be kept confidential in accordance with Iowa Code section 22.7(3). It is the responsibility of the provider to specify to the secretary of state the information it believes falls within the definition of "trade secret" under Iowa Code section 550.2(4) and other applicable law.

ITEM 52. Amend rule 721—43.10(9B) as follows:

721—43.10(9B) Providers of communication technology.

43.10(1) *Provider requirements.* A notary public authorized to perform notarial acts for remotely located individuals may only use a provider of communication technology for the audiovisual recording of electronic notarial acts subject to the provisions of this chapter and Iowa Code sections 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, and 9B.14B as enacted by 2019 Iowa Acts, chapter 44, section 7, if the provider:

a. Has registered with and been approved by the secretary of state in accordance with this chapter;

b. Allows the remote notary public sole control of the recording of the electronic notarial act using audiovisual communication, subject to the authorized access granted by the notary; and

c. Provides the notary with access to the recording of the electronic notarial act using audiovisual communication pursuant to this chapter.

43.10(2) *Backup strategy requirement—release of records to secretary of state.*

a. The secretary of state may not approve a provider of communication technology as defined in Iowa Code section 9B.14A(1) "a" as enacted by 2019 Iowa Acts, chapter 44, section 6, unless the provider uses a backup strategy that is acceptable to the secretary of state for use as a record keeper for any record that is related to a remote notarial act.

b. If the provider of communication technology and the owner of the backup strategy described in paragraph 43.10(2) "a" are the same entity, in the event that the provider ceases business operations, the provider shall notify the secretary of state in advance of such cessation of business operations and, at the secretary of state's request, shall release to the secretary of state any record described in paragraph 43.10(2) "a."

c. If the provider of communication technology and the owner of the backup strategy described in paragraph 43.10(2) "a" are separate entities, the provider shall sign an agreement with the owner of the backup strategy that, in the event that the provider or the owner ceases business operations, the entity ceasing business operations shall notify the other entity and the secretary of state in advance of such cessation of business operations, and, at the secretary of state's request, the owner of the backup strategy shall release to the secretary of state any record described in paragraph 43.10(2) "a."

43.10(3) *Protection of recording and personally identifiable information.* A provider of communication technology shall protect from unauthorized access the recording of a notarial act pursuant to Iowa Code section 9B.14A(3) "c" as enacted by 2019 Iowa Acts, chapter 44, section 6, and any "personally identifiable information" as defined in Iowa Code section 9B.14C(1) as enacted by

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~~2019 Iowa Acts, chapter 44, section 8~~, disclosed during the performance of an electronic notarial act using audiovisual communications.

ITEM 53. Amend paragraph **43.11(1)“a”** as follows:

a. A provider of communication technology that wishes to apply for approval by the secretary of state for use of its technology by Iowa notaries public to perform notarial acts under Iowa Code section 9B.14A ~~as enacted by 2019 Iowa Acts, chapter 44, section 6~~, shall submit a registration electronically to the secretary of state, which shall include:

(1) to (11) No change.

ITEM 54. Amend subrule 45.1(1) as follows:

45.1(1) Scope. This chapter applies to the creation and administration of a mechanics' notice and lien registry under Iowa Code chapter 572. All filed mechanics' liens filed on or after January 1, 2013, must be posted in the office of the administrator in accordance with these rules. ~~The residential notice provisions of these rules apply to labor performed and materials supplied on or after January 1, 2013.~~

Mechanics' liens filed prior to January 1, 2013, shall remain with the clerk of the district court of the county in which the building, land, or improvement charged with the lien is situated.

Rules 721—45.4(572) and 721—45.5(572) apply only to residential construction. All other rules in this chapter apply to both residential and commercial construction.

ITEM 55. Amend rule 721—45.2(572) as follows:

721—45.2(572) Creation of mechanics' notice and lien registry. The administrator shall create and administer a mechanics' notice and lien registry, hereafter known as the MNLN.

45.2(1) Access to MNLN by the general public. The MNLN shall be accessible to the general public through the administrator's ~~Web site~~ website at www.sos.iowa.gov/mnlr. A notice, lien or any other document posted is immediately accessible to the general public.

45.2(2) MNLN searchable by index. The MNLN shall be searchable by the following indexes:

- a. Owner name.
- b. General contractor name.
- c. MNLN number.
- d. Property address.
- e. Legal description.
- f. Tax parcel identification number.
- g. County.

45.2(3) Acknowledgment of receipt. The administrator shall provide a receipt acknowledging submission of a notice if the submission of information is by U.S. mail, facsimile transmission, personal delivery, or courier delivery, or acknowledging submission of a lien if the submission of information is by U.S. mail. The acknowledgment shall be sent to the ~~e-mail~~ email address provided by the person submitting the required information to post a notice or lien.

45.2(4) MNLN user registration. To post information on the MNLN ~~Internet Web site~~ website, the person must register as a user on the MNLN. Procedures for MNLN user registration and allowed use of the MNLN shall be posted on the administrator's ~~Web site~~ website.

ITEM 56. Amend rule 721—45.3(572) as follows:

721—45.3(572) Administrator identification. In addition to the promulgation of these rules, the administrator will disseminate the administrator's location, mailing address, telephone and facsimile numbers, and the administrator's ~~Internet website~~ and other electronic ~~“addresses”~~ addresses through usual and customary means.

ITEM 57. Amend rule 721—45.4(572) as follows:

721—45.4(572) Posting of notice of commencement of work.

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45.4(1) Posting by general contractor. A general contractor for residential construction shall post a notice of commencement of work to the MNLRL within ten days of commencement of work, or the general contractor is not entitled to a lien or remedies provided in Iowa Code chapter 572.

45.4(2) Information in notice of commencement of work. The information provided shall, at a minimum, include:

- a. The name and address of the owner.
- b. The name, address, and telephone number of the general contractor or owner-builder.
- c. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- d. The legal description of the property.
- e. The date work commenced.
- f. The tax parcel identification number.
- g. The county or counties in which the building, land, or improvement to be charged with the lien is situated.
- h. The ~~e-mail~~ email address of the person posting or submitting the notice of commencement of work or the ~~e-mail~~ email address of another individual or entity designated to receive electronic correspondence on behalf of this person.

45.4(3) Commencement of work owner notice. At the time a notice of commencement of work is posted on the MNLRL, the administrator shall mail a written owner notice to the owner's address. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner.

a. The owner notice shall be in boldface type and of a minimum size of ten points and contain the following language:

"Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The mechanics' notice and lien registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. If the person or company has posted its notice or lien to the mechanics' notice and lien registry, you may be required to pay the person or company even if you have paid the general contractor the full amount due. Therefore, check the mechanics' notice and lien registry ~~internet~~ website for information about the property including persons or companies furnishing labor or materials before paying your general contractor. In addition, when making payment to your general contractor, it is important to obtain lien waivers from your general contractor and from persons or companies registered as furnishing labor or materials to your property. The information in the mechanics' notice and lien registry is posted on the ~~internet~~ website of the mechanics' notice and lien registry."

b. The owner notice shall include the MNLRL ~~Internet-Web-site~~ website address and MNLRL toll-free telephone number.

ITEM 58. Amend rule 721—45.5(572) as follows:

721—45.5(572) Posting of preliminary notice.

45.5(1) No change.

45.5(2) Contents of preliminary notice. The information provided by the subcontractor shall, at a minimum, include:

- a. and b. No change.
- c. The name, address, and telephone number of the subcontractor furnishing the labor, service, equipment, or material.
- d. to i. No change.
- j. The county or counties in which the building, land, or improvement to be charged with the lien is situated.
- k. The ~~e-mail~~ email address of the subcontractor or the ~~e-mail~~ email address of another individual or entity designated to receive electronic correspondence on behalf of the subcontractor.

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45.5(3) and **45.5(4)** No change.

ITEM 59. Amend rule 721—45.6(572) as follows:

721—45.6(572) Posting of mechanic's lien.

45.6(1) and **45.6(2)** No change.

45.6(3) *Mechanic's lien owner notice.* At the time that a lien is posted on the MNLR, the administrator shall mail a copy of the lien to the owner's address. The owner notice shall include the MNLR ~~Internet Web site~~ website address and MNLR toll-free telephone number.

45.6(4) *Identification of lien county or counties.* A lien posted to the MNLR under this rule shall be limited to the county or counties in which the building, land, or improvement to be charged with the lien is situated. The county or counties identified on the MNLR ~~Web site~~ website at the time of posting the required notices in rules 721—45.4(572) and 721—45.5(572) shall be the only county or counties in which the building, land, or improvement may be charged with a mechanic's lien.

45.6(5) No change.

45.6(6) *Additional information for posting of a mechanic's lien for commercial property.* The person posting the mechanic's lien for a commercial property must register as a user with the MNLR and must provide the following additional information:

- a. The name and mailing address of the owner.
- b. The name, address, and telephone number of the general contractor or owner-builder.
- c. The county or counties in which the building, land, or improvement to be charged with the lien is situated.
- d. The ~~e-mail~~ email address of the person posting or submitting the mechanic's lien or the ~~e-mail~~ email address of another individual or entity designated to receive electronic correspondence on behalf of the person posting the lien.

ITEM 60. Adopt the following **new** subrule 45.8(3):

45.8(3) *Affidavit for release of bond.* Upon satisfaction or forfeiture of a mechanic's lien, the owner may release a bond submitted to discharge the lien pursuant to Iowa Code section 572.15 by submitting to the administrator an affidavit for release of bond.

ITEM 61. Amend rule 721—45.11(572) as follows:

721—45.11(572) Nondisclosure of MNLR information. The following information, provided in compliance with this chapter, shall not be viewed as a public record under Iowa Code chapter 22 and shall not be disclosed by the administrator:

1. An ~~e-mail~~ email address.
2. MNLR user account or payment information.

ITEM 62. Amend rule 721—45.12(572) as follows:

721—45.12(572) Obligation to update information. The administrator may use ~~e-mail~~ email for official correspondence with a registered user, except when law requires delivery by U.S. mail. If the registered user wants to receive timely notice by the administrator, it is the obligation of the registered user to update the user's contact information on the MNLR.

ITEM 63. Amend rule 721—45.13(572) as follows:

721—45.13(572) Fees and services.

45.13(1) *Fee for posting and mailing.* The following fees shall be charged for posting on the MNLR and for the mailing of notices:

- a. The fee for posting a notice of commencement of work using the ~~Internet Web site~~ website is \$7. The fee for posting a notice of commencement of work by submitting the notice to the administrator by U.S. mail, facsimile, personal delivery, or courier delivery is \$10.

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b. The fee for posting a preliminary notice on the MNLR using the ~~Internet Web site~~ website is \$7. The fee for posting a preliminary notice by submitting the notice to the administrator by U.S. mail, facsimile, personal delivery, or courier delivery is \$10.

c. The fee for posting a mechanic's lien using the ~~Internet Web site~~ website is \$30. The fee for posting a mechanic's lien by submitting the lien to the administrator by U.S. mail is \$40.

d. The fee for mailing a copy of the demand for acknowledgment is \$5 per party's mailing address.

e. The fee for mailing a copy of the demand to commence action is \$5 per party's mailing address.

f. The fee for posting a correction statement is \$5 to mail a new owner notice.

45.13(2) Searching the MNLR. A search of the MNLR by index list is available at no cost via the administrator's ~~Web site~~ website. Any person may search the MNLR without registering as an MNLR user. When a search of the MNLR is performed by the administrator, the following fees apply:

a. The fee for an MNLR search request is \$5. The search will only be performed if an MNLR number is provided by the requester. Other than by MNLR number, no other search will be performed by the administrator. The request may be made by verbal communication, on paper, by facsimile, or by ~~e-mail~~ email. The search provides the requester with a copy of the summary of postings for the provided MNLR number, and an estimate of the cost to obtain a paper copy of the documents listed on the summary of postings.

b. The fee for a paper copy of a document posted on the MNLR is:

(1) \$1 per page, delivered by U.S. mail.

(2) \$2 per page, delivered by facsimile machine.

Documents will not be delivered via ~~e-mail~~ email.

45.13(3) Public records services. Public records services are provided on a nondiscriminatory basis to any member of the public on the terms described in these rules. The following fees shall be charged for obtaining copies of MNLR documents and copies of data from the MNLR information management system, as generated and provided by the administrator, by the following methods:

a. Paper copies of individual documents. The requester must provide the MNLR document number.

(1) U.S. mail delivery — \$1 per page.

(2) Facsimile delivery — \$2 per page.

Documents will not be delivered via ~~e-mail~~ email.

b. Data download.

(1) ~~Subscription service that allows a subscriber to electronically receive data fields via a spreadsheet format (unlimited downloads): \$500 annual fee, renewable January 1 each year. For subscribers, bulk copies of PDF images of postings may be purchased for 4 cents per document, delivered to the subscriber on a computer disk.~~

(2) One-time full extract of data for a calendar year via download: up to \$1,000 per year. In addition to the purchase of the download, a requester for full data extract may purchase a copy of all PDF images of postings for the calendar year for 4 cents per document, ~~delivered to the requester on a computer disk.~~

45.13(4) to 45.13(6) No change.

ITEM 64. Amend rule 721—45.14(572) as follows:

721—45.14(572) Grounds for refusal of a posting or submission. A posting or submission may be refused by the administrator on the following grounds:

1. to 5. No change.

Additional grounds for the administrator's refusal to accept an MNLR document for posting may be established by policy. The policy shall be noticed to the public by the posting of the policy on the MNLR ~~Web site~~ website.

ITEM 65. Amend rule 721—45.15(572) as follows:

721—45.15(572) Posting of a filing office statement, correction statement, or withdrawal statement.

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45.15(1) Filing office statement. The administrator may post a filing office statement to correct information that was incorrectly transcribed from a paper submission.

45.15(2) Correction statement. A correction statement for a commencement of work or a preliminary notice is an electronic posting by a registered MNLR user. A correction statement does not allow for a change in the county or counties where the building, land or improvement to be charged with the lien is situated; in the date of the commencement of work; or in the date that material was first furnished or labor was first performed by the subcontractor.

45.15(3) No change.

45.15(4) Notice of filing office statement, correction statement, or withdrawal statement to registered users. At the time of the posting of a filing office statement, a correction statement, or a withdrawal statement, a notice will be sent by ~~e-mail~~ email to all registered users, except the administrator, who have posted to the MNLR number.

ITEM 66. Amend rule 721—45.16(572) as follows:

721—45.16(572) Assignment of date and time stamp and MNLR number.

45.16(1) Method and time of posting.

a. For a notice of commencement of work or preliminary notice, the posting shall be date- and time-stamped as follows:

(1) If posted electronically on the MNLR, the time of posting shall be upon posting of all required information and payment of the required fees.

(2) If the required information and fee are submitted by U.S. mail or facsimile transmission to the filing office, the administrator shall post to the MNLR within three business days of receipt.

~~(3) If the required information and fee are submitted by facsimile transmission to the filing office, the administrator shall post to the MNLR within three business days of receipt.~~

(4) ~~(3)~~ If the required information and fee are submitted by personal delivery or courier delivery to the filing office's street address, the administrator shall post to the MNLR within three business days of receipt.

b. and *c.* No change.

45.16(2) No change.

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TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to tourist-oriented directional signing
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 119, "Tourist-Oriented Directional Signing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.252.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.252.

Purpose and Summary

Currently, Chapter 119 limits participation for tourist-oriented directional signing to businesses that provide motorist services such as gas, food, and lodging, and to other businesses or sites that may be deemed "of significant interest to the traveling public." This key phrase has been the subject of substantial discussion for many years between applicants, Department staff, and the Tourist Signing Committee.

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The decision as to whether a particular site is of significant interest to the traveling public has been made by majority vote of the Committee, after a presentation (photographs, descriptions, etc.) is given by Department staff at a regular monthly meeting. Although the Committee is diverse and adequately represents the various agencies and organizations related to tourism in Iowa, the qualifying standard of being “of significant interest to the traveling public” allows for a fair amount of subjectivity, despite attempts by the Committee to remain consistent and draw reasonable lines. Opinions might well be limited only by the number of people asked, and obviously rely greatly on intangible factors.

This proposed rule making aims to include more businesses into the program by adopting a less subjective singular set of standards for all applicants. This change will benefit more rural businesses that are not positioned along a highway and still serve the original program objective of providing service and tourist information to the traveling public.

The following paragraphs further explain each proposed amendment:

- A definition of “destination” is created so that this term can be used throughout the chapter instead of the phrase “activity or site.” This term matches the term used in the “Manual on Uniform Traffic Control Devices” (MUTCD), Chapter 2K, published by the U.S. Department of Transportation.
- The definition of “tourist-oriented directional signing” is amended so the term refers to a system of guide signs that display the identification of and directional information for an eligible destination.
- Subrule 119.3(1) is expanded to include the minimum operational requirements for all businesses.
 - Existing requirements relating to the location of a destination are retained and grouped together.
 - A condition is added to require that a major portion of income or visitors come from road users not residing in the area of the destination. This language is contained in the MUTCD and serves as the minimum baseline for being a “tourist-oriented” program under federal requirements.
 - Two existing requirements relating to compliance with other laws and regulations are grouped together.
 - The four categories describing how applicants can qualify are eliminated.
 - The title of the appropriate office for contacting purposes is corrected.
 - Proper nouns are replaced by general terms to reflect the committee’s composition.

The Tourism Signing Committee has approved the proposed amendments within Chapter 119.

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 may be a slight positive impact on jobs because the easing of entry requirements will increase the number of businesses being able to qualify for the signing program. The signs are installed in advance of intersections where the businesses can be accessed and generally boost customer traffic to the business. These changes may lead to a demand for more employees.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 28, 2023. Comments should be directed to:

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Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on March 2, 2023, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on February 28, 2023, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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.

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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** definition of "Destination" in rule **761—119.1(321)**:

"*Destination*," for the purpose of this chapter, means a business, service, activity, or site that meets the program requirements established in rule 761—119.3(321).

ITEM 2. Amend rule **761—119.1(321)**, definition of "Tourist-oriented directional signing," as follows:

~~"Tourist-oriented directional signing" is official signing that is located within the right-of-way of a primary highway and that identifies and gives directions to activities or sites of significant interest to the traveling public. However, official signing for campgrounds and ski area facilities is not included in this definition. This signing is provided for elsewhere means a system of guide signs with one or more sign panels that display the identification of and directional information for an eligible destination.~~

ITEM 3. Amend paragraph **119.2(2)"a"** as follows:

a. Tourist-oriented directional signing shall be installed only when sufficient space is available. The determination of whether sufficient space is available is the responsibility of the department in accordance with the MUTCD and department policies. If the number of applications exceeds the capacity to accommodate all of the requests, a lottery drawing shall be held to determine which applications will be accepted. However, ~~activities and sites which~~ destinations that are already participating in the tourist-oriented directional signing program shall not be subject to the lottery drawing, provided that each applicant's participation remains in compliance with this chapter, including the timely payment of fees.

ITEM 4. Amend paragraph **119.2(2)"b"** as follows:

b. Tourist-oriented directional signing shall be installed in advance of the intersection where the motorist leaves the primary highway system to travel to the activity or site destination. However, tourist-oriented directional signs may be placed on a higher classified highway to direct motorists onto

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a lower classified highway, or on a greater traveled highway to direct motorists onto a lesser traveled highway.

ITEM 5. Amend subrule 119.2(3) as follows:

119.2(3) Message. The message on a tourist-oriented directional sign is limited to a descriptive name, a directional arrow, the travel distance to the activity or site destination, and in some cases for motorist services, an additional short word or acronym indicating an essential fuel type such as diesel, E-85, or EV (electric vehicle charging station). ~~However, if an agricultural business activity offers tours, the message for the activity shall include the word "tours."~~

ITEM 6. Amend rule 761—119.3(321) as follows:

761—119.3(321) General eligibility Eligibility requirements for an activity or site a destination. This rule describes the general requirements which ~~an individual activity or site a destination~~ must meet to qualify for tourist-oriented directional signing.

119.3(1) Hours Operational requirements. ~~The activity or site shall be open to the general public during regular and reasonable hours and not by appointment, reservation or membership only.~~

~~a. Seasonal activities shall be in operation a minimum of four consecutive weeks~~ The destination shall be open to the general public for a minimum of 20 hours per week.

~~b. The current months, days and hours of operation shall be conspicuously posted on the premises~~ The destination shall be open to the general public at least four days per week.

~~c. Hours of operation that are available to the public only by appointment, reservation, or membership shall not count toward meeting the minimum requirements set forth in this subrule.~~

~~d. Manufacturing plants, trucking terminals, distribution centers, warehouses, production facilities, and other industrial activities for which the general public has access but for which employees and contractors are the primary users shall not qualify as destinations. However, if the facility has developed public tours and is prepared to receive unscheduled visitors, the tourist signing committee may consider this information during the application review and make an exception to the general rule as set forth above.~~

~~e. Unless the destination is open 24 hours per day, the hours of operation shall be conspicuously posted on the destination premises.~~

~~f. Entrance to the destination shall not be restricted based on age.~~

~~g. The destination shall be properly licensed by all governing authorities relative to the nature of the activity engaged in by the destination.~~

~~h. Seasonal destinations shall be in operation for a minimum of four consecutive weeks.~~

119.3(2) Building or area Location requirements. ~~The activity shall be conducted in an appropriate area or in a building appropriately designed or well-suited for the purpose.~~

~~a. The activity shall not be conducted in a building principally used as a residence unless there is a convenient, separate, and well-marked entrance~~ The destination shall be located within ten miles of the intersection on the primary highway where the tourist-oriented directional signs will be placed.

~~b. The building or area must be maintained in a manner consistent with standards generally accepted for that type of business or activity~~ The destination shall be located outside the city limits of any incorporated municipality with a population of 5,000 or more (population as established by the U.S. Census Bureau).

~~c. The destination shall not be visible from the highway in a way that allows for motorists to react safely by slowing and making a turn.~~

~~d. The building and site for the destination shall be appropriately designed and suited for the purpose. Buildings used principally as a residence shall not be used, unless there is a convenient, separate, and well-marked entrance to access the activity identified on the sign.~~

~~e. Buildings and grounds must be maintained in a manner consistent with standards generally accepted for that type of business or activity.~~

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~~119.3(3) *Location of activity or site Customer base.* The activity or site shall be located: A destination shall derive a major portion of income or visitors from road users not residing in the area of the destination.~~

~~a. Within ten miles of the intersection on the primary highway where the tourist-oriented directional sign will be placed.~~

~~b. Outside the urban area, as established by the U.S. Census Bureau, of an incorporated municipality with a population of 5000 or more.~~

~~119.3(4) *Signing restrictions Compliance with other laws and regulations.* An activity or site does not qualify for a tourist-oriented directional sign if:~~

~~a. The activity or site or an on-premises sign advertising the activity or site is readily recognizable from the primary highway far enough ahead of the entrance to allow the motorist time to safely make the turn into the entrance destination shall comply with all applicable laws concerning public accommodations without regard to age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.~~

~~b. An advertising device which serves the activity or site is erected or maintained in violation of The destination shall comply with Iowa Code chapter 306B; Iowa Code chapter 306C, division II; or Iowa Code chapter 318; and all other statutes or administrative rules regulating outdoor advertising.~~

~~119.3(5) *Nondiscrimination.* The activity or site shall comply with all applicable laws concerning public accommodations without regard to age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.~~

ITEM 7. Rescind and reserve rule 761—119.4(321).

ITEM 8. Amend rule 761—119.5(321) as follows:

761—119.5(321) Application and approval procedure.

119.5(1) Applications for tourist-oriented directional signing shall be submitted to: Advertising Management Section, Office of Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

119.5(2) No change.

119.5(3) The tourist signing committee consists of representatives from the economic development authority, the department of transportation, the department of agriculture and land stewardship, the department of natural resources, the department of cultural affairs, ~~the Travel Federation of Iowa~~ Iowa's tourism industry, and the ~~Outdoor Advertising Association of~~ outdoor advertising association for Iowa. The committee's responsibility is to approve or deny applications.

ITEM 9. Amend rule 761—119.6(321) as follows:

761—119.6(321) Installation, maintenance, replacement and removal.

119.6(1) No change.

119.6(2) *Installation and maintenance of trailblazing signs.* If the ~~activity or site~~ destination is not located adjacent to the secondary road or city street intersecting the primary route, trailblazing signs are required. Trailblazing signs shall conform to requirements in the MUTCD.

a. to c. No change.

119.6(3) No change.

119.6(4) *Seasonal activity or site destination.* A tourist-oriented directional sign for a seasonal ~~activity or site~~ destination must either be masked or have a “closed” panel installed over the sign's directional information when the ~~activity or site~~ destination is closed or when the hours of operation decrease below the minimum requirements during the off-season period. Either the department or the ~~activity or site~~ destination with the department's permission shall perform the work. If the department performs the work, the approved applicant must pay the actual cost to install and remove the “closed” panel or to mask the sign.

119.6(5) *Required replacement.*

TRANSPORTATION DEPARTMENT[761](cont'd)

a. The department shall determine when a tourist-oriented directional sign is no longer serviceable and needs to be replaced. If such a determination is made, the ~~activity or site~~ destination must pay for the cost of a new sign and its installation prior to installation.

b. The department is not responsible for theft of or damage to any tourist-oriented directional signs ~~or damage to them caused by vandalism, vehicle accidents, or natural causes~~ sign. If a sign requires repair or replacement due to theft or damage, the ~~activity or site~~ destination must pay the cost of ~~a new sign and its installation~~ the repair or replacement and installation. At the ~~activity's or site's~~ destination's request, this cost may be spread over a 12-month period.

119.6(6) *Not-for-profit organizations.* A not-for-profit ~~organization operating an activity or site~~ destination in ~~accordance with the requirements of this chapter~~ is exempted from all fees and costs associated with the installation and maintenance of a single set of signs at a location determined by the department to be the most reasonable approach to the destination. If additional locations are requested by the not-for-profit organization, all fees and costs described in this chapter shall apply to the additional locations.

119.6(7) *Removal.* The department shall remove a tourist-oriented directional sign if the ~~activity or site~~ destination no longer qualifies for tourist-oriented directional signing. As official signs, all tourist-oriented directional signs are the property of the department and shall not be given to applicants upon the signs' removal.

ARC 6865C**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed****Rule making related to the annual comprehensive financial report**

The Administrative Services Department hereby amends Chapter 40, “Offset of Debts Owed State Agencies,” and Chapter 110, “Inventory Guidelines for State of Iowa Personal and Real Property,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 8A.104, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8A.111, 8A.502 and 8A.504.

Purpose and Summary

2022 Iowa Acts, House File 2126, renamed a report compiled by the Department to the Annual Comprehensive Financial Report (ACFR). The name was originally changed by the Government Accounting Standards Board (GASB). These amendments comport with 2022 Iowa Acts, House File 2126.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6752C**. 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 January 18, 2023.

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

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department’s rules concerning waivers.

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).

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **11—40.1(8A)**, definition of “Public agency,” as follows:

“*Public agency*” or “*agency*” means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa ~~comprehensive annual financial report~~ Annual Comprehensive Financial Report, or a political subdivision of the state, or an office or unit of a political subdivision, or a clerk of district court. However, “public agency” or “agency” does not mean any of the following:

1. The office of the governor;
2. The general assembly, or any office or unit under its administrative authority; or
3. The judicial branch, as provided in Iowa Code section 602.1102 other than the clerk of the district court. Offset procedures uniquely applicable to debts owed to clerks of the district court are set forth in rules 11—40.10(8A) to 11—40.15(8A).

ITEM 2. Amend rule 11—110.3(7A) as follows:

11—110.3(7A) Accounting for items in aggregate. Personal property may be accounted for in aggregate. If accounting in aggregate as defined in 110.2(2), one item or component of the item shall be tagged with a prenumbered tag and all other items or components marked with an unnumbered tag or other identifiable markings.

Any item that is accounted for in the aggregate whose individual values are less than \$5000 will not be included in the ~~Comprehensive Iowa Annual Comprehensive~~ Financial Report (CAFR) for the state (ACFR), even if the amount in the aggregate exceeds the minimum level for capitalization. If a department chooses to account for items in aggregate, or report items at a level that is more restrictive than \$5000, then the department must recognize that these items will be reconciling items when reporting for the ~~CAFR~~ ACFR.

To ensure proper accountability for these items, each department will prepare written policies and procedures for tracking and recording items accounted for in aggregate.

[Filed 1/19/23, effective 3/15/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6866C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Rule making related to physician assistants

The Administrative Services Department hereby amends Chapter 63, “Leave,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 8A.104, 8A.413, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.77 as enacted by 2022 Iowa Acts, House File 803, section 51.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Purpose and Summary

2022 Iowa Acts, House File 803, pertained to duties performed by physician assistants. 2022 Iowa Acts, House File 803, section 51, directed that the Department shall provide the same power, privilege, right, or duty by rule to a physician assistant licensed under Iowa Code chapter 148C as a physician licensed under Iowa Code chapter 148. These amendments comport with 2022 Iowa Acts, House File 803.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6753C**. 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 January 18, 2023.

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

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **63.2(2)“h”** as follows:

h. In the event of an illness or disability while on vacation, that portion of the vacation spent under the care of a physician or physician assistant shall be switched retroactively to and charged against the employee's accrued sick leave upon satisfactory proof from the physician or physician assistant of the illness or disability and its duration.

ITEM 2. Amend subrule **63.19(1)**, definition of “Catastrophic illness,” as follows:

“*Catastrophic illness*” means a physical or mental illness or injury of the employee, as certified by a licensed physician or physician assistant, that will result in the inability of the employee to work for more than 30 workdays on a consecutive or intermittent basis; or that will result in the inability of the employee to report to work for more than 30 workdays due to the need to attend to an immediate family member on a consecutive or intermittent basis.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 3. Amend subrule 63.19(4) as follows:

63.19(4) Certification requirements. The employee shall submit an application for donated leave on forms developed by the department. Appointing authorities may, at their department's expense, seek second medical opinions or updates from physicians or physician assistants regarding the status of an employee's or employee's immediate family member's illness or injury. If the employee is receiving FMLA leave, a second opinion must be obtained from a physician or physician assistant who is not regularly employed by the state.

[Filed 1/19/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6864C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Rule making related to state driver guidelines for state vehicle use and fueling

The Administrative Services Department hereby amends Chapter 103, "State Employee Driving Guidelines," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 8A.104, 8A.311, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 8A.362 as amended by 2022 Iowa Acts, House File 2128, and sections 8A.360, 8A.360A, 8A.368 and 8A.369 as enacted by 2022 Iowa Acts, House File 2128.

Purpose and Summary

2022 Iowa Acts, House File 2128, addressed qualified renewable fuel use in state motor vehicles. It also outlined the purchasing requirements of state motor vehicles as those requirements relate to the qualified use of renewable fuels. The Department oversees the state's fleet of vehicles. These amendments comport with 2022 Iowa Acts, House File 2128. These amendments also address a cleanup of language throughout Chapter 103 as part of the five-year review of rules pursuant to Iowa Code section 17A.7(2).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6751C**. 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 January 18, 2023.

Fiscal Impact

It is impossible to determine the fiscal impact based on future fleet car usage, the volume of fuel needed, and the fluctuating prices for fuel.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Jobs Impact

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

Waivers

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 under the Department's rules concerning waivers.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend **11—Chapter 103**, title, as follows:

STATE EMPLOYEE DRIVING DRIVER GUIDELINES FOR STATE VEHICLE USE AND FUELING

ITEM 2. Amend rule 11—103.1(8A) as follows:

11—103.1(8A) Purpose. The purpose of this chapter is to provide ~~for the assignment of state motor vehicles and for~~ state driver guidelines for motor vehicle use, fleet assignments, maintenance, and fueling. The chapter also provides for the administration of a self-insurance program for motor vehicles owned by the state.

ITEM 3. Amend rule 11—103.2(8A) as follows:

11—103.2(8A) Definitions.

"At-fault accident" means an accident in which the state driver is determined to be 50 percent or more responsible for the accident.

"Biodiesel blended fuel" means the same as defined in Iowa Code section 214A.1.

"Biofuel" means the same as defined in Iowa Code section 214A.1.

"Cargo payload" means the net cargo weight transported. The weight of the driver, passengers, and fuel shall not be considered in determining cargo payload.

"Cargo volume" means the space calculated in cubic feet behind the vehicle driver and passenger seating area. In station wagons, the cargo volume is measured to the front seating area with the second seat laid flat behind the driver.

"Defensive driving course" means course instruction provided by the Iowa state patrol or other courses of instruction provided in person or online as approved by the director of the department.

"Department" means the department of administrative services (DAS).

"Determination period" means any 12-month period beginning January 1 and ending December 31.

"Driver improvement course" means course instruction provided by an Iowa community college.

"Ethanol blended gasoline" means the same as defined in Iowa Code section 214A.1.

"Gross vehicle weight rating (GVWR)" means the weight specified by the manufacturer as the loaded weight of a single vehicle.

"Habitual ~~violation~~ violator" means that the person a state driver who has been convicted of three or more moving violations committed within a 12-month period.

"Passengers" means the total number of vehicle occupants transported on a trip, including the driver.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

“*Pool car*” means a vehicle assigned to the department of administrative services, fleet services.

“*Preventable accident*,” for purposes of this chapter, means an accident that could have been prevented or in which damage could have been minimized by proper evasive action.

“*Primary use*” means the utilized application exceeds 50 percent of the miles driven annually for United States Environmental Protection Agency (EPA)-designated light-duty trucks and vans and exceeds 75 percent of the miles driven annually for EPA-designated passenger sedans and wagons.

“*Private vehicle*” means any vehicle not registered to the state of Iowa.

“*Qualified renewable fuel*” means ethanol blended gasoline or biodiesel blended fuel that meets the standards and classifications for that type of motor fuel as provided in Iowa Code section 214A.2.

“*Special work vehicle*” means but is not limited to fire trucks, ambulances, motor homes, buses, medium- and heavy-duty trucks (~~25,999 lbs.~~ 26,000 lbs GVWR and larger), heavy construction equipment, and other highway maintenance vehicles, and any other classes of vehicles of limited application approved by the state vehicle dispatcher.

“*State driver*” means any person who drives a vehicle to conduct official state business other than a law enforcement officer employed by the department of public safety.

“*State vehicle*” means any vehicle registered to the state of Iowa, department of administrative services.

ITEM 4. Amend subrule 103.3(1) as follows:

103.3(1) *Agencies subject to vehicle assignment standards guidelines.* Pursuant to Iowa Code section 8A.362, the agencies listed below shall assign all vehicles within their possession, control, or use in accordance with the standards guidelines set forth in rule 11—103.4(8A). ~~The following agencies are subject to the vehicle assignment standards in rule 11—103.4(8A):~~

- a. The department, including all agencies required to obtain vehicles through the department;
- b. State department of transportation;
- c. Institutions under the control of the state board of regents;
- d. The department for the blind; and
- e. Any other state agency exempted from obtaining vehicles for use through fleet services.

ITEM 5. Amend subrule 103.3(2) as follows:

103.3(2) *Exceptions to vehicle assignment standards guidelines.* This rule shall not apply to special work vehicles, law enforcement vehicles and vehicles propelled by alternate fuels.

ITEM 6. Amend subrule 103.4(1) as follows:

103.4(1) In order to maximize the average passenger miles per gallon of motor vehicle fuel consumed, vehicles shall be assigned on the following basis:

- a. EPA-rated compact sedans ~~shall~~ may carry one or two passengers and their personal effects.
- b. EPA-rated midsize sedans or small sport utility vehicles shall carry three or more passengers and their personal effects.
- c. EPA-rated full-size sedans or midsize sport utility vehicles shall carry four or more passengers and their personal effects.
- d. to i. No change.

ITEM 7. Amend subrule 103.4(2) as follows:

103.4(2) Vehicles that are made available for temporary assignment, such as departmental pool vehicles, shall be assigned in accordance with this rule. If an appropriately classified vehicle is unavailable, a larger available classification may be substituted. Other substitutions may be authorized in consideration of passenger physical characteristics or disabilities or any other distinguishing circumstances and conditions as determined by the ~~state vehicle dispatcher,~~ fleet services manager, the director of the department of transportation, or the executive director of the board of regents for the vehicles under their respective authorities.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 8. Amend rule 11—103.5(8A) as follows:

11—103.5(8A) Type of accident. The determination as to whether an accident is without fault, at fault, or preventable shall be made by the ~~risk department's fleet services manager of the department~~. In making this determination, the ~~risk fleet services manager~~ will consider all relevant information including information provided by the state driver and others involved in the accident, information provided by witnesses to the accident and information contained in any investigating officer's reports.

ITEM 9. Amend rule 11—103.7(8A) as follows:

11—103.7(8A) Required reporting. A state driver must report any potential liability, collision or comprehensive loss which occurs while conducting state business to the ~~risk department's fleet services manager of the department~~. The failure to report may result in payment of any loss from the funds of the state driver's employing agency rather than from the state self-insurance fund. All documentation, such as proof of required class completion and insurance coverage, must be provided to the ~~department risk department's fleet services manager~~.

ITEM 10. Amend rule 11—103.11(8A) as follows:

11—103.11(8A) Access to driving records. The department has the authority to monitor the ~~Iowa department of transportation driving record records of employees state drivers~~ who drive a state vehicle or a private vehicle to conduct state business.

ITEM 11. Amend subrule 103.12(2) as follows:

103.12(2) If a state driver is involved in any one of the following occurrences, the state driver will be suspended from driving a state vehicle for a period not to exceed one year and will be required to attend ~~a driver improvement course. The driver shall attend and successfully complete at the state driver's expense the next available driver improvement course after one of the following occurrences.~~ While the state driver is suspended from driving a state vehicle, the state driver ~~will~~ may be allowed to receive mileage reimbursement from the state of Iowa for driving a private vehicle for state business. In addition, a state driver involved in one of the following occurrences shall provide proof of insurance which meets the minimum standards required by the state of Iowa, department of transportation, and proof of completion of the driver improvement course.

a. to c. No change.

d. ~~Transporting~~ The state driver transports alcoholic beverages in the passenger compartment of a motor vehicle.

e. ~~Habitual violation of traffic laws.~~ The state driver is a habitual violator of traffic laws.

ITEM 12. Amend subrule 103.16(1) as follows:

103.16(1) Fuel used in state-owned automobiles may be purchased at cost from the various state installations or garages such as but not limited to those of the state department of transportation, state board of regents, department of human services, department of corrections, or state motor pools throughout the state. Fuel may also be purchased at retail locations if a state fueling facility is not readily available. When possible, purchases shall be made using a fuel purchase card issued by the department. The fuel purchase card shall not be used to purchase motor fuel other than the classification of fuel described in subrule 103.16(2).

ITEM 13. Amend subrule 103.16(2) as follows:

103.16(2) All drivers of state motor vehicles shall fuel their assigned vehicles operating using an internal combustion engine with self-service gasohol, a mixture of 10 percent ethanol and 90 percent gasoline (E10), unless under emergency circumstances. If the vehicle is capable of running on a blend of 85 percent ethanol and 15 percent gasoline, subrule 103.16(3) applies. the highest possible classification of a qualified renewable fuel if all of the following apply:

a. The manufacturer of the motor vehicle or the EPA expressly states that the classification of a qualified renewable fuel is compatible with the motor vehicle's normal operation.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

b. That classification of a qualified renewable fuel is commercially available in the region where the motor vehicle is being operated.

c. No emergency situation exists that requires the immediate use of a motor fuel regardless of whether it has been blended with a biofuel.

ITEM 14. Amend subrule 103.16(3) as follows:

~~103.16(3) Agencies shall ensure that their flexible fuel vehicles that are capable of operating on 85 percent ethanol (E85) use E85 fuel whenever an E85 fueling facility is available to the driver when fuel is needed. E85 fuel may be procured at a retail establishment if a state fueling facility is not readily available. If an E85 facility is not readily available, the driver shall not completely fill the tank with fuel when a lesser quantity will be adequate to complete the trip to an E85 fueling site. A brightly colored, highly visible renewable fuel sticker shall be affixed to a motor vehicle for which a qualified renewable fuel is compatible with the motor vehicle's normal operation. The department shall distribute the stickers to state agencies maintaining a state motor pool. A qualified renewable fuel sticker is not required to be affixed to an unmarked motor vehicle used for purposes of providing law enforcement or security.~~

ITEM 15. Amend subrule 103.16(4) as follows:

~~103.16(4) Agencies shall ensure that their diesel vehicles operate on biodiesel blends whenever the blends are available. It is also recommended that biodiesel blends be used within six months of purchase to ensure that the quality of the fuel is maintained. As part of the department's competitive bidding procedure for the purchase of a motor vehicle operating using an internal combustion engine powered by diesel fuel, the director of the department shall require a bidder to certify that the motor vehicle's manufacturer expressly states that the engine is capable of being powered by the biodiesel blended fuel classified as B-20 or higher.~~

ITEM 16. Adopt the following new rule 11—103.17(8A):

11—103.17(8A) State fleet qualified renewable fuels compliance report. The department shall prepare a state fleet qualified renewable fuels compliance report that shall consolidate information compiled by the department in accordance with Iowa Code section 8A.369. The department shall submit the report to the governor and general assembly not later than March 1 of each year.

ITEM 17. Amend **11—Chapter 103**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 8A.104, ~~8A.361 to 8A.366, 80.9 and 801.4 and 8A.360 to 8A.369.~~

[Filed 1/19/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6889C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rule making related to health care award program

The College Student Aid Commission hereby amends Chapter 26, "Health Care Loan Repayment Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 261.3.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

This rule making implements amendments enacted in 2022 Iowa Acts, Senate File 2383. Senate File 2383 changed the Health Care Loan Repayment Program to the Health Care Award Program, removing the requirement for applicants to have federal student loan debt. The legislation also allowed a part-time nurse educator to qualify for an award if the individual is also employed as a registered nurse or advanced registered nurse practitioner. In addition, this rule making prioritizes awards to Iowa residents or members of the Iowa National Guard who are in their final year of study, in an attempt to incentivize newly trained individuals to become employed in the identified occupations in service commitment areas.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 19, 2022, as **ARC 6598C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on January 20, 2023.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend **283—Chapter 26**, title, as follows:

HEALTH CARE ~~LOAN REPAYMENT~~ AWARD PROGRAM

ITEM 2. Amend rule 283—26.1(261) as follows:

283—26.1(261) Health care ~~loan repayment~~ award program. The health care ~~loan repayment~~ award program is a state-supported and state-administered program established to ~~repay the qualified student~~

COLLEGE STUDENT AID COMMISSION[283](cont'd)

~~loans of~~ provide financial awards to nurse educators teaching at eligible Iowa colleges and universities, as well as applicants who agree to practice as registered nurses, advanced registered nurse practitioners, or physician assistants in service commitment areas for five consecutive years, and who meet the requirements of these rules.

ITEM 3. Amend rule **283—26.2(261)**, definitions of “Advanced registered nurse practitioner,” “Physician assistant,” “Registered nurse” and “Service commitment area,” as follows:

“*Advanced registered nurse practitioner*” means an individual who graduated from an accredited graduate or postgraduate advanced practice educational program, is licensed by the board of nursing as a registered nurse, is licensed by the board of nursing as an advanced registered nurse practitioner, and is employed as an advanced registered nurse practitioner ~~in an eligible service commitment area~~.

“*Physician assistant*” means an individual who graduated with a master’s degree, holds a practitioner’s license to practice as a physician assistant pursuant to Iowa Code chapter 148C, and is employed as a physician assistant ~~in an eligible service commitment area~~.

“*Registered nurse*” means a nurse who is licensed by the board of nursing as a registered nurse and is employed as a registered nurse ~~in an eligible service commitment area~~.

“*Service commitment area*” means a city in Iowa with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads. After an eligible applicant signs an agreement to practice in a service commitment area, subsequent population increases will not impact that applicant’s continued eligibility for the program, to the extent allowed in rule 283—26.3(261).

ITEM 4. Rescind the definition of “Qualified student loan” in rule **283—26.2(261)**.

ITEM 5. Amend rule 283—26.3(261) as follows:

283—26.3(261) Eligibility requirements.

26.3(1) An eligible applicant must be:

a. A student in the final year of a degree program leading to a license to practice as an advanced registered nurse practitioner, ~~nurse educator~~, physician assistant, or registered nurse who signs an agreement to practice in a service commitment area for five consecutive years; or

b. A licensed advanced registered nurse practitioner, physician assistant, or registered nurse who signs an agreement to practice in a service commitment area for five consecutive years; or

c. A nurse educator who signs an agreement to teach full-time during the fall and spring semesters, or the equivalent, for five consecutive years; or

d. A nurse educator who teaches at least part-time during the fall and spring semesters, or the equivalent. The individual must also be employed as an advanced registered nurse practitioner or registered nurse in Iowa, and the total hours worked between these occupations must equate to full-time employment. An advanced registered nurse practitioner or registered nurse who signs an agreement to teach at least part-time as a nurse educator is not required to be employed in a service commitment area but is required to work at least part-time as a nurse educator for five consecutive years.

26.3(2) An eligible applicant must ~~annually~~ complete and file an application for the program by the deadline established by the commission. If funds remain available after the application deadline, the commission will continue to accept applications.

26.3(3) An eligible applicant must annually complete and return to the commission an affidavit of practice verifying full-time employment, as defined by the employer, in a service commitment area during the entire year as an advanced registered nurse practitioner, physician assistant, or registered nurse, or full-time employment, as defined by the employer, as a nurse educator. A nurse educator who teaches part-time during the fall and spring semesters, or the equivalent, and is also employed as a registered nurse or advanced registered nurse practitioner in Iowa must annually complete and return an affidavit of practice verifying that the total hours worked equates to full-time employment.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

ITEM 6. Amend rule 283—26.4(261) as follows:

283—26.4(261) Awarding of funds.

26.4(1) Selection criteria. All completed applications received on or before the published deadline will be considered for funding. To the extent possible, an equal number of new advanced registered nurse practitioners, nurse educators, physician assistants, and registered nurses will be offered awards based on the availability of appropriated funds. In the event that funding is insufficient to award all eligible applicants within an occupation category, criteria for selection of eligible applicants within each occupation category will be prioritized as follows:

~~a. Renewal status. Recipients of awards through the registered nurse and nurse educator loan forgiveness program during the 2018 state fiscal year will be eligible for funding under the health care loan repayment program if the eligible applicants meet the eligibility criteria of the health care loan repayment program. Under this provision, no recipient will receive more than five consecutive awards between the registered nurse and nurse educator loan forgiveness program and the health care loan repayment program; The priority status of the applicant in the first year funding is received will be retained for renewal in priority determinations in future years as long as the applicant continues to meet the criteria in rule 283—26.3(261). Applicants within this category are prioritized as follows:~~

~~(1) Eligible applicants who are Iowa residents and eligible applicants who are members of the Iowa national guard, if requested by the adjutant general;~~

~~(2) Date of application;~~

~~b. Iowa residency status Students in the final year of a degree program leading to a license to practice in a specified occupation under this chapter who are Iowa residents or who are members of the Iowa national guard, if requested by the adjutant general; and advanced registered nurse practitioners and registered nurses who agree to begin practice as nurse educators on at least a part-time basis and who are Iowa residents or members of the Iowa national guard, if requested by the adjutant general. Applicants within this category are prioritized by date of application;~~

~~c. Members Iowa residents or members of the Iowa national guard, if requested by the adjutant general, who are licensed to practice in a specified occupation under this chapter and who agree to work in a service commitment area but who are not employed in a service commitment area at the time of application. Applicants within this category are prioritized by date of application;~~

~~(1) Members of the Iowa national guard are exempt from the service commitment area requirement, and~~

~~(2) Members of the Iowa national guard must have satisfactorily completed required guard training and must maintain satisfactory performance of guard duty;~~

~~d. Date of application. The most recent graduates of a degree program leading to a license to practice in a specified occupation under this chapter or leading to the qualification to be a nurse educator, with the most recent academic year graduates given priority, who are Iowa residents or members of the Iowa national guard, if requested by the adjutant general. Applicants within this category are prioritized by date of application;~~

~~e. Students in the final year of a degree program leading to a license to practice in a specified occupation under this chapter who are neither Iowa residents nor members of the Iowa national guard requested by the adjutant general; and advanced registered nurse practitioners and registered nurses who agree to begin practice as nurse educators on at least a part-time basis and who are neither Iowa residents nor members of the Iowa national guard requested by the adjutant general. Applicants within this category are prioritized by date of application;~~

~~f. Individuals who are neither Iowa residents nor members of the Iowa national guard requested by the adjutant general but who are licensed to practice in a specified occupation under this chapter, and who agree to work in a service commitment area but are not employed in a service commitment area at the time of application. Applicants within this category are prioritized by date of application;~~

~~g. The most recent graduates of a degree program leading to a license to practice in a specified occupation under this chapter or leading to the qualification to be a nurse educator, who are neither Iowa residents nor members of the Iowa national guard requested by the adjutant general, with the most~~

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recent academic year graduates given priority. Applicants within this category are prioritized by date of application.

26.4(2) *Applicants who are members of the Iowa national guard requested by the adjutant general.* Applicants who are members of the Iowa national guard, if requested by the adjutant general, are subject to the following provisions:

a. Members of the Iowa national guard are exempt from the service commitment area requirement, and

b. Members of the Iowa national guard must have satisfactorily completed required guard training and must maintain satisfactory performance of guard duty.

26.4(2) 26.4(3) *Annual award.* The maximum annual award shall be the lesser of: \$6,000.

a. \$6,000, or

b. Twenty percent of the eligible applicant's total outstanding qualified student loan.

26.4(3) 26.4(4) *Extent of repayment award.* Eligible applicants may receive loan repayment an award for no more than five consecutive years. Eligible applicants who fail to receive loan repayment awards in consecutive years will not be considered for subsequent years of loan repayment awards.

26.4(4) 26.4(5) *Disbursement of loan repayment funds.*

a. Loan repayment awards Awards will be disbursed upon completion of the year for which the award was approved and upon certification from the employer that the advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse was employed full-time, as defined by the employer, during the entire year and completed the year in good standing.

b. Loan repayment awards Awards will be distributed to the eligible applicant's student loan holder and applied directly to qualified student loans directly to the eligible applicant.

ITEM 7. Amend rule 283—26.5(261) as follows:

283—26.5(261) Loan repayment Award cancellation.

26.5(1) An eligible applicant who has been designated for a loan repayment an award shall notify the commission within 30 days following termination or cessation of full-time practice in a service commitment area as an advanced registered nurse practitioner, physician assistant, or registered nurse; or termination or cessation of full-time employment as a nurse educator; or combined full-time employment as a nurse educator and registered nurse or nurse educator and advanced registered nurse practitioner.

26.5(2) No change.

ITEM 8. Amend rule 283—26.6(261) as follows:

283—26.6(261) Restrictions. An advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse who is in default on a qualified student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment benefits. Eligibility may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5. A recipient of an award under Iowa Code section 261.114 or 261.115 shall not be eligible for an award under this chapter.

ITEM 9. Adopt the following new rule 283—26.7(261) as follows:

283—26.7(261) Transition provisions. Recipients of awards through the health care loan repayment program during the 2022 state fiscal year will be eligible for funding under the health care award program if the eligible applicants meet the eligibility criteria of the health care award program. Under this provision, no recipient will receive more than five consecutive awards between the health care loan

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repayment program and the health care award program. Under this provision, recipients can elect to continue to have the award applied directly to previously verified outstanding federal student loans.

[Filed 1/20/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6888C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rule making related to mental health professional loan repayment program

The College Student Aid Commission hereby adopts new Chapter 31, "Mental Health Professional Loan Repayment Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2549.

Purpose and Summary

This rule making implements a new loan repayment program enacted by 2022 Iowa Acts, House File 2549.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6759C**. No public comments were received. One change from the Notice has been made. A reference to 2022 Iowa Acts, House File 2549, has been removed in the implementation sentence of Chapter 31 since the amendments in the House File have been codified in the 2023 Iowa Code.

Adoption of Rule Making

This rule making was adopted by the Commission on January 20, 2023.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

COLLEGE STUDENT AID COMMISSION[283](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).

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making action is adopted:

Adopt the following **new** 283—Chapter 31:

CHAPTER 31

MENTAL HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM

283—31.1(261) Definitions.

“Eligible institution” means an institution of higher learning governed by the state board of regents or an accredited private institution as defined in Iowa Code section 261.9.

“Eligible loan” means the total subsidized, unsubsidized, and consolidated Federal Stafford Loan amount under the Federal Family Education Loan Program, Federal Direct Loan Program, federal Graduate PLUS Loan, or federal Perkins Loan, including principal and interest. Only the outstanding portion of a federal consolidation loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan, Federal Direct Loan, federal Graduate PLUS Loan, or federal Perkins Loan qualifies for loan repayment. An individual who signs a program agreement to receive loan repayment under this program and who refinances an eligible loan by obtaining a private educational loan may continue to receive loan repayment awards.

“Eligible practice area” means a location in Iowa that is within a federal mental health shortage area, as designated by the health resources and services administration of the United States Department of Health and Human Services. Mental health professionals who serve clients who reside in eligible practice areas, including rural locations outside of city limits but within the federal mental health shortage area, are eligible to receive the loan repayment award if they are serving those clients on at least a part-time basis. If the designation status of a mental health shortage area is removed after the mental health professional signs an agreement, the mental health professional will continue to qualify for loan repayments provided that all other provisions of the agreement continue to be met.

“Full-time” means that an average of at least 40 hours per week are spent providing services as a mental health professional to clients in eligible practice areas.

“Mental health professional” means a nonprescribing individual who meets all of the following qualifications:

1. The individual holds at least a master's degree from an eligible institution in a mental health field, including psychology, counseling and guidance, social work, marriage and family therapy, or mental health counseling.

2. The individual has at least two years of post-master's degree clinical experience, supervised by another individual in the mental health field, in assessing and diagnosing mental health needs and problems and in providing mental health counseling services to individuals or groups on a full-time or part-time basis.

3. The individual holds a current practitioner's license issued by an agency or board under the Iowa department of public health or its successor agency, authorizing the individual to practice as a licensed psychologist, licensed independent social worker or licensed master social worker, licensed marriage and family therapist, or licensed mental health counselor.

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“*Part-time*” means that an average of at least 28 hours, but fewer than 40 hours, per week are spent providing services as a mental health professional to clients in eligible practice areas.

283—31.2(261) Eligibility criteria.

31.2(1) *Eligible applicant.* An eligible applicant is a mental health professional or a person who agrees to become a mental health professional, agrees to sign a program agreement, and agrees to complete the obligation.

31.2(2) *Program agreement.* The program agreement specifies the obligation and other details pertaining to the program.

31.2(3) *Obligation.* An eligible applicant must agree to provide services as a mental health professional in an eligible practice area or eligible practice areas on a full-time basis for five consecutive years unless granted a waiver for part-time practice.

283—31.3(261) Awarding and payment of funds.

31.3(1) *Selection criteria.* New program agreements will be entered into with eligible applicants who are mental health professionals or agree to become mental health professionals.

31.3(2) *Priority for awards.* In the event that funding is insufficient to award all new eligible applicants, eligible applicants will be prioritized as follows:

a. Eligible applicants who are Iowa residents or eligible applicants who are members of the Iowa national guard, if requested by the adjutant general. Members of the Iowa national guard must have satisfactorily completed required guard training and must maintain satisfactory performance of guard duty. In the event that funding is insufficient to award all new eligible applicants who meet these criteria, selection of new eligible applicants will be further prioritized as follows:

(1) Eligible applicants who are students in their final year of the degree program that leads to their qualification as a mental health professional, according to the date the application was received by the commission.

(2) Eligible applicants completing the two-year post-degree clinical experience required to be a mental health professional, according to the date the application was received by the commission.

(3) All other eligible applicants based on the fiscal year in which the eligible applicant met the requirements of a mental health professional, with priority given to those meeting the requirements in the most recent fiscal year. In the event that funding is insufficient to award all new eligible applicants who met the requirements of a mental health professional within a given fiscal year, eligible applicants who met the criteria in that fiscal year will be prioritized according to the date the application was received by the commission.

b. Eligible applicants who are not Iowa residents and are not members of the Iowa national guard requested by the adjutant general. In the event that funding is insufficient to award all new eligible applicants who meet these criteria, selection of new eligible applicants will be further prioritized as follows:

(1) Eligible applicants who are students in their final year of the degree program that leads to their qualification as a mental health professional, according to the date the application was received by the commission.

(2) Eligible applicants completing the two-year post-degree clinical experience required to be a mental health professional, according to the date the application was received by the commission.

(3) Other eligible applicants based on the fiscal year in which the eligible applicant met the requirements of a mental health professional, with priority given to those meeting the requirements in the most recent fiscal year. In the event that funding is insufficient to award all new eligible applicants who met the requirements of a mental health professional within a given fiscal year, eligible applicants who met the criteria in that fiscal year will be prioritized according to the date the application was received by the commission.

31.3(3) *Mental health professional service requirement.* The service requirement for a full-time mental health professional is five years. The service requirement for a mental health professional who is granted a waiver for part-time practice will not exceed seven consecutive years. The mental health

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professional must annually verify, in a format acceptable to the commission, that the mental health professional provided mental health services in an eligible practice area or eligible practice areas on a full-time basis, or on a part-time basis if a waiver for part-time practice is granted, for each year of required service.

31.3(4) Award amounts. A mental health professional may receive up to \$40,000. The maximum award will be paid after the service requirement is completed.

31.3(5) Award proration and disbursement. An award will not exceed the outstanding balance of the mental health professional's eligible loans.

283—31.4(261) Part-time practice. The commission may waive the requirement that the mental health professional be employed full time if the mental health professional requests a waiver from the commission in writing and provides mental health services in eligible practice areas at least 28 hours per 40-hour workweek. If a waiver request is granted by the commission, the agreement will be amended to provide an allowance for part-time employment. The five-year employment obligation will be proportionally extended to ensure the mental health professional provides mental health services in eligible practice areas for the equivalent of five full-time years, not to exceed a total of seven consecutive years.

283—31.5(261) Satisfaction of employment obligation. All obligations under the mental health professional loan repayment program are considered to be satisfied when any of the following conditions are met:

1. All terms of the agreement are met.
2. The person who entered into the agreement dies.
3. The person who entered into the agreement, due to permanent disability, is unable to meet the requirements of these rules.
4. The person who entered into the agreement has no remaining eligible loan balance to repay.

283—31.6(261) Restrictions. A recipient of an award under Iowa Code section 261.114 shall not be eligible for an award under this chapter. A mental health professional who is in default on a Stafford loan, SLS Loan, Grad PLUS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for repayment benefits. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapter 5.

These rules are intended to implement Iowa Code section 261.117.

[Filed 1/20/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6870C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rule making related to licensure reciprocity

The Educational Examiners Board hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Chapter 18, "Issuance of Administrator Licenses and Endorsements," Chapter 22, "Authorizations," and Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 272.2 and 2022 Iowa Acts, Senate File 2383.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.12 and 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

2022 Iowa Acts, Senate File 2383, provided updated language for reciprocity laws. This rule making implements those updates.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6677C**. A public hearing was held on December 6, 2022, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. Six comments were received in support of the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 19, 2023.

Fiscal Impact

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

Jobs Impact

This rule making will have a positive impact on jobs because it will allow others to easily come to work in Iowa.

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 282—Chapter 6.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 13.1(1) as follows:

13.1(1) Definitions.

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“*Coursework*” means requirements completed for semester hour credit through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“*Degree*” means a specific qualification earned by a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“*Nontraditional*” means any method of teacher preparation that falls outside the traditional method of preparing teachers.

“*Proficiency*,” for the purposes of paragraph 13.5(2)“e,” means that an applicant has passed all parts of the standard.

“*Recognized non-Iowa teacher preparation institution*” means an institution that is state approved and accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“*State-approved*” means a program for teacher preparation approved for state licensure.

“*Traditional*” means a one- or two-year sequenced teacher preparation program of instruction taught at a state-approved college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education that includes commonly recognized pedagogy classes coursework and requires a student teaching component.

ITEM 2. Amend subrule 13.5(2) as follows:

13.5(2) Applicants from non-Iowa institutions.

a. Original application. Applicants under this subrule have completed a teacher preparation program outside the state of Iowa and are applying for their first Iowa teaching license. An applicant from a non-Iowa institution:

(1) Shall submit a copy of a valid or expired regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate. Endorsements shall be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.

(2) Shall provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed, if applicable.

(3) Shall not be subject to any pending disciplinary proceedings in any state or country.

(4) Shall comply with all requirements with regard to application processes and payment of licensure fees.

~~b. In addition to the requirements set forth in subrule 13.5(1), an applicant from a non-Iowa institution:~~

~~(1) Shall submit a copy of a valid or expired regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate.~~

~~(2) Shall provide verification of one of the following:~~

~~1. Successfully passing the Iowa mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013; or~~

~~2. Successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed; or~~

~~3. Three years of teaching experience while holding a valid teaching license.~~

~~(3) Shall provide an official institutional transcript(s) to be analyzed for the requirements necessary for Iowa licensure. An applicant must have completed at least 75 percent of the coursework as outlined in 281 subrules 79.15(2) to 79.15(5) and an endorsement requirement through a two- or four-year institution in order for the endorsement to be included on the license. An applicant who has not completed at least 75 percent of the coursework for at least one of the basic Iowa teaching endorsements completed will not be issued a license. An applicant seeking a board of educational examiners transcript review must have achieved a C- grade or higher in the courses that will be considered for licensure. An applicant who has met the minimum coursework requirements in this subrule will not be subject to additional coursework deficiency requirements if the applicant provides verification of ten years of successful~~

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teaching experience or if the applicant provides verification of five years of successful experience and a master's degree.

~~(4) Shall demonstrate recency of experience by providing verification of either one year of teaching experience or six semester hours of college credit during the five-year period immediately preceding the date of application.~~

~~(5) Shall not be subject to any pending disciplinary proceedings in any state or country.~~

~~(6) Shall comply with all requirements with regard to application processes and payment of licensure fees.~~

~~e. If through a transcript analysis, the teacher preparation coursework as outlined in 281—subrules 79.15(2) to 79.15(5) or one of the basic teaching endorsement requirements for Iowa is not met, the applicant may be eligible for the equivalent Iowa endorsement areas, as designated by the Iowa board of educational examiners, based on current and valid National Board Certification.~~

~~d. If the teacher preparation program was considered nontraditional, candidates will be asked to verify the following:~~

~~(1) That the program was for secondary education;~~

~~(2) A baccalaureate degree with a cumulative grade point average of 2.50 on a 4.0 scale; and~~

~~(3) The completion of a student teaching or internship experience or three years of teaching experience.~~

~~e. If the teacher preparation coursework as outlined in 281—subrules 79.15(2) to 79.15(5) cannot be reviewed through a traditional transcript evaluation, a portfolio review and evaluation process may be utilized.~~

~~(1) An applicant must demonstrate proficiency in a minimum of at least 75 percent of the teacher preparation coursework as outlined in 281—subrules 79.15(2) to 79.15(5).~~

~~(2) An applicant must meet with the board of educational examiners to answer any of the board's questions concerning the portfolio.~~

~~f. An applicant under this subrule or subrule 13.5(3) shall be granted an Iowa teaching license and will not be subject to additional assessments or coursework deficiencies if the following additional requirements have been met:~~

~~(1) Verification of Iowa residency, or, for military spouses, verification of a permanent change of military installation.~~

~~(2) Valid or expired regular teaching certificate or license in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate. Endorsements shall be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.~~

~~(3) Passing test scores for the required assessments for the state where the teaching license was issued.~~

~~g. b. Holders of an Iowa regional exchange license issued prior to January 1, 2021 June 16, 2022, may submit a new application if the requirements in this subrule would have been met at the time of their initial application.~~

ITEM 3. Rescind subrules **13.6(1)** to **13.6(3)**.

ITEM 4. Amend subrule 13.17(1) as follows:

13.17(1) Teacher exchange license.

a. For an applicant applying under subrule 13.5(2), a two-year nonrenewable exchange license may be issued to the applicant under any of the following conditions:

(1) The applicant has met the minimum coursework requirements for licensure but has some coursework deficiencies. An applicant must have completed a minimum of a bachelor's degree and at least 75 percent of the coursework as outlined in 281—subrules 79.15(2) to 79.15(5) and an endorsement requirement. Any coursework deficiencies must be completed for college credit, with the exception of human relations which may be taken for licensure renewal credit through an approved provider.

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(2) The applicant submits verification that the applicant has applied for and will receive the applicant's first teaching license and is waiting for the processing or printing of a valid and current out-of-state license. The lack of a valid and current out-of-state license will be listed as a deficiency.

~~(3) The applicant has not met the requirement for recency set forth in 13.5(2) "b" (4).~~

~~b. After the term of the exchange license has expired~~ At any time during the term of the exchange license, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.

ITEM 5. Amend rule 282—18.6(272) as follows:

282—18.6(272) Specific requirements for an administrator prepared out of state. An applicant seeking Iowa licensure who completes an administrator preparation program from a recognized non-Iowa institution shall verify the requirements of rules 282—18.1(272) and 282—18.4(272) through a transcript review. Applicants must hold and submit a copy of a valid or expired regular administrator certificate or license in another state, exclusive of a temporary, emergency or substitute license or certificate.

18.6(1) and 18.6(2) No change.

18.6(3) License without deficiencies. An applicant under this rule shall be granted an Iowa administrator license and will not be subject to coursework deficiencies if the ~~following additional requirements have been met:~~

~~a. Verification of Iowa residency, or, for military spouses, verification of a permanent change of military installation.~~

~~b. Valid applicant provides a valid or expired administrator certificate or license in good standing without pending disciplinary action from another state, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate. Endorsements shall be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.~~

~~18.6(4)~~ Holders of an Iowa administrator exchange license issued prior to ~~January 1, 2021~~ June 16, 2022, may submit a new application if the requirements in this rule would have been met at the time of their initial application.

ITEM 6. Rescind paragraph **22.1(2) "d."**

ITEM 7. Amend subrule 22.2(1) as follows:

22.2(1) Application process. Any person interested in the substitute authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at www.boee.iowa.gov or from institutions or agencies offering approved courses or contact hours. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

~~a. No change.~~

~~b. Additional requirements. An applicant under this subrule shall be granted a substitute authorization and will not be subject to the authorization program coursework if the following additional requirements have been met:~~

~~(1) Verification of Iowa residency or, for military spouses, verification of a permanent change of military installation.~~

~~(2) Valid or expired substitute authorization in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency license or certificate.~~

~~c. b. Validity.~~ The substitute authorization shall be valid for five years.

~~d. c. Renewal.~~ The authorization may be renewed upon application and verification of successful completion of:

(1) Renewal units. Applicants for renewal of the substitute authorization must provide verification of a minimum of two licensure renewal units or semester hours of renewal credits.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) Child and dependent adult abuse trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse trainings pursuant to 282—subrule 20.3(4).

ITEM 8. Amend rule 282—22.4(272) as follows:

282—22.4(272) Licenses—issue dates, corrections, duplicates, and fraud, and reciprocity.

22.4(1) to 22.4(4) No change.

22.4(5) Reciprocity. Applicants who hold a license, certificate, or authorization under this chapter from at least one other issuing jurisdiction in another state will not be subject to additional coursework if the following requirements have been met:

a. The applicant holds a valid or expired equivalent license in good standing from another state without pending disciplinary action, exclusive of a temporary or emergency certificate.

b. The applicant provides verification of passing the mandated assessment(s) in the state in which the applicant is currently licensed, if applicable.

ITEM 9. Amend rule 282—27.2(272) as follows:

282—27.2(272) Requirements for a professional service license.

27.2(1) Initial professional service license. An initial professional service license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant for licensure to serve as a school audiologist, school psychologist, school social worker, speech-language pathologist, supervisor of special education (support), director of special education of an area education agency, or school counselor who:

a. to c. No change.

~~*d.* Meets the recency requirement of 282—subparagraph 13.5(2)“b”(4).~~

~~*e. d.* Completes the background check requirements set forth in rule 282—13.1(272).~~

27.2(2) Standard professional service license. A standard professional service license valid for five years may be issued to an applicant who:

~~*a.* Completes requirements listed under 27.2(1)“a” to “d.” paragraphs 27.2(1)“a” to “c.”~~

~~*b.* No change.~~

~~*c.* Meets the recency requirement of 282—subparagraph 13.5(2)“b”(4).~~

27.2(3) Renewal. Renewal requirements for this license are set out in 282—Chapter 20.

27.2(4) Professional service exchange license.

~~*a.* For an applicant applying with out-of-state preparation under rule 282—27.1(272), a two-year nonrenewable exchange license may be issued to the applicant if the applicant has met at least 75 percent of the minimum coursework requirements for licensure but has some coursework deficiencies. At any time during the term of the exchange license, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.~~

~~*b.* An applicant under this section subrule shall be granted an Iowa professional service license and will not be subject to coursework deficiencies if the following additional requirements have been met: applicant provides a~~

~~(1) Verification of Iowa residency, or, for military spouses, verification of a permanent change of military installation.~~

~~(2) Valid valid or expired equivalent license in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate. Endorsements shall be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.~~

27.2(5) No change.

[Filed 1/19/23, effective 3/15/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6867C**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed****Rule making related to requirements for licenses and authorizations**

The Educational Examiners Board hereby amends Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Chapter 22, “Authorizations,” and Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2.

Purpose and Summary

This rule making allows out-of-country applicants to be exempt from Praxis testing if they hold a license in another country or a degree in education, allows candidates with a master’s degree or higher to obtain a content specialist authorization, and changes the requirements for a Class G license to 75 percent of coursework completion.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6680C**. A public hearing was held on December 6, 2022, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing. Six written comments were received in support of the rules.

One change from the Notice has been made in subparagraph 22.15(3)“d”(1) in Item 2 to remove the language “and techniques of teaching a foreign language.”

Adoption of Rule Making

This rule making was adopted by the Board on January 19, 2023.

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 282—Chapter 6.

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

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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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 13.5(3) as follows:

13.5(3) *Applicants from foreign institutions.* An applicant for initial licensure whose preparation was completed in a foreign institution must additionally obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file this report with the Iowa board of educational examiners for a determination of eligibility for licensure. After receiving the notification of eligibility by the Iowa board of educational examiners, the applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education. If the applicant submits a teaching credential from another country or a credential evaluation report that verifies the completion of a full teacher preparation program from an accredited institution, the testing requirement may be waived.

ITEM 2. Adopt the following **new** rule 282—22.15(272):

282—22.15(272) Content specialist authorization.

22.15(1) *Authorization.* This authorization is provided to applicants who have not completed a teacher preparation program but who hold a master's degree or higher in an endorsement area.

22.15(2) *Application process.* Any person interested in the content specialist authorization shall submit an application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

22.15(3) *Specific requirements for the initial content specialist authorization.*

a. The applicant must have completed a master's degree or higher in an endorsement area through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

b. Background check. The applicant must complete the background check requirements set forth in rule 282—13.1(272).

c. The applicant must obtain a recommendation from a school district administrator verifying that the school district wishes to hire the applicant. Before the applicant is hired, the school district administrator must verify that a diligent search was completed to hire a fully licensed teacher for the position.

d. During the term of the authorization, the applicant must complete board-approved training in the following:

(1) Methods and techniques of teaching. Develop skills to use a variety of learning strategies that encourage students' development of critical thinking, problem solving, and performance skills. The methods course must include specific methods and must be appropriate for the level of endorsement.

(2) Curriculum development. Develop an understanding of how students differ in their approaches to learning and create learning opportunities that are equitable and adaptable to diverse learners.

(3) Measurement and evaluation of programs and students. Develop skills to use a variety of authentic assessments to measure student progress.

(4) Classroom management. Develop an understanding of individual and group motivation and behavior which creates a learning environment that encourages positive social interactions, active engagement in learning, and self-motivation.

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(5) Code of ethics. Develop an understanding of how to foster relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development and become aware of the board's rules of professional practice and code of ethics.

(6) Human relations. Develop an understanding of diverse groups found in a pluralistic society, including students from diverse ethnic, racial, and socioeconomic backgrounds; students with disabilities and the gifted and talented; students who are struggling with literacy, including those with dyslexia; students who are English learners; and students who are at risk of not succeeding in school.

e. The applicant must be assigned a mentor by the hiring school district. The mentor must have four years of teaching experience in a related subject area.

22.15(4) *Validity—initial authorization.* The initial content specialist authorization is valid for three years.

22.15(5) *Renewal.* The initial content specialist authorization may be renewed once if the candidate can demonstrate that coursework progress has been made.

22.15(6) *Conversion.* The initial content specialist authorization may be converted to a content specialist authorization if the applicant has completed the required coursework set forth in paragraph 22.15(3)“*d.*”

22.15(7) *Specific requirements for the content specialist authorization.*

a. This authorization is valid for five years.

b. An applicant for this authorization must first meet the requirements for the initial content specialist authorization.

c. Renewal requirements for the content specialist authorization. Applicants for renewal must meet the requirements set forth in 282—subrule 20.5(1) and 282—paragraphs 20.5(2)“*a*” through “*d.*”

22.15(8) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the initial career and technical secondary authorization or the career and technical secondary authorization. If a school district hires an applicant without a valid license or authorization, a complaint may be filed against the teacher and the superintendent of the school district.

ITEM 3. Amend paragraph **27.2(5)“c”** as follows:

c. Verification that the individual has completed at least 75 percent of the coursework and competencies required prior to the practicum or internship.

[Filed 1/19/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6868C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rule making related to special education instructional strategist endorsement

The Educational Examiners Board hereby amends Chapter 14, “Special Education Endorsements,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2.

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Purpose and Summary

This rule making creates an optional K-12 Special Education Instructional Strategist—All endorsement.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6679C**. A public hearing was held on December 6, 2022, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing. Six written comments were received in support of the rule making. One person attended the Administrative Rules Review Committee meeting and spoke in favor of the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 19, 2023.

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 282—Chapter 6.

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 March 15, 2023.

The following rule-making action is adopted:

Adopt the following **new** subrule 14.2(10):

14.2(10) K-12 instructional strategist I and II: all. This endorsement authorizes instruction for students in K-12 mild and moderate instructional special education programs, students with behavior disorders and learning disabilities, and students with intellectual disabilities, from age 5 to age 21. The applicant must present evidence of having completed the following program requirements.

a. Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds. A review of special education law, including progress monitoring, data collection, and individualized education plans.

b. Characteristics of learners. Preparation which includes various etiologies of disabilities, an overview of current trends in educational programming for students with disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing

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more appropriate educational programming from age 5 to age 21. This preparation must include the psychological characteristics of students with disabilities, including classroom learning, cognition, perception, memory, and language development; medical complications including seizure management, tube feeding, catheterization and CPR; the social-emotional aspects of disabilities including adaptive behavior, social competence, social isolation, and learned helplessness; and the social and emotional aspects including dysfunctional behaviors, mental health issues, at-risk behaviors, social imperceptiveness, and juvenile justice.

c. Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions. A review of special education law, including progress monitoring, data collection, and individualized education plans.

d. Methods and strategies. Methods and strategies which include numerous models for providing curricular and instructional methodologies utilized in the education of individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these experiences is for students at all levels from age 5 to age 21. This preparation must include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction. Proficiency in adapting age-appropriate curriculum to facilitate instruction within the general education setting, to include partial participation of students in tasks, skills facilitation, collaboration, and support from peers with and without disabilities; the ability to select and use augmentative and alternative communications methods and systems. An understanding of the impact of speech-language development on behavior and social interactions. Approaches to create positive learning environments for individuals with special needs and approaches to utilize assistive devices for individuals with special needs. The design and implementation of age-appropriate instruction based on the adaptive skills of students with disabilities; integrate selected related services into the instructional day of students with disabilities. Knowledge of culturally responsive functional life skills relevant to independence in the community, personal living, and employment. Use of appropriate physical management techniques including positioning, handling, lifting, relaxation, and range of motion and the use and maintenance of orthotic, prosthetic, and adaptive equipment effectively.

e. Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with intellectual disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

f. Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

g. Transitional collaboration. Sources of services, organizations, and networks for individuals with intellectual disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

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h. Student teaching. Student teaching in special education programs across the age levels of this endorsement.

[Filed 1/19/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6869C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rule making related to work-based learning program supervisor authorization

The Educational Examiners Board hereby amends Chapter 22, "Authorizations," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 272.2 and 2022 Iowa Acts, Senate File 2383.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2 and 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

This rule making directs the Board to create a work-based learning program supervision authorization.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6678C**. A public hearing was held on December 6, 2022, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing. Six written comments were received in support of the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 19, 2023.

Fiscal Impact

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

Jobs Impact

This rule making will have a positive impact on jobs because it will allow more persons to be able to supervise students in a work-based learning program.

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 282—Chapter 6.

EDUCATIONAL EXAMINERS BOARD[282](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).

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making action is adopted:

Adopt the following **new** rule 282—22.14(272):

282—22.14(272) Work-based learning program supervisor authorization.

22.14(1) Authorization. The work-based learning program supervisor authorization is only valid for service or employment as a work-based learning program supervisor in grades 9-12.

22.14(2) Application process. Any person interested in the work-based learning program supervisor authorization shall submit an application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov.

22.14(3) Specific requirements for the work-based learning program supervisor authorization.

a. The applicant must complete the background check requirements set forth in rule 282—13.1(272).

b. The applicant must provide verification of completion of the work-based learning program supervisor course. The course must be approved by the board of educational examiners, shall not require more than 15 contact hours, shall be available over the Internet, and shall include content in the fundamentals of career education, curriculum, assessment, and the evaluation of student participation.

c. The applicant must provide verification of completion of child and dependent adult abuse trainings as stated in 282—subrule 20.3(4).

22.14(4) Validity. The work-based learning program supervisor authorization is valid for five years. No Class B license or license based on executive director decision may be issued to an applicant holding the work-based learning program supervisor authorization. No additional endorsement areas may be added to the work-based learning program supervisor authorization.

22.14(5) Renewal. An applicant for renewal of the work-based learning program supervisor authorization must provide verification of completion of child and dependent adult abuse trainings as stated in 282—subrule 20.3(4).

22.14(6) Temporary authorization. A one-year temporary work-based learning program supervisor authorization may be issued to applicants who have met all other requirements with the exception of the work-based learning program supervisor course. This temporary authorization is nonrenewable and cannot be extended.

22.14(7) Revocation and suspension. Criteria of the professional practice and rules of the board of educational examiners shall be applicable to holders of the work-based learning program supervisor authorization.

[Filed 1/19/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6873C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to federal air quality standards

The Environmental Protection Commission (Commission) hereby amends Chapter 20, “Scope of Title—Definitions,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” and Chapter 28, “Ambient Air Quality Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.133.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.133 and 455B.134.

Purpose and Summary

This rule making adopts several new mandatory federal air quality standards. The amendments are identical to the federal regulations, and the amendments do not impose any regulations on Iowa businesses not already required by federal law. Additionally, the adoption of these amendments ensures that Iowa’s administrative rules are consistent with federal regulations and not any more stringent.

More specifically, the amendments adopt updated federal new source performance standards (NSPS) and air toxics standards, also known as National Emissions Standards for Hazardous Air Pollutants (NESHAP). These standards apply whether they are adopted into state regulation or not; however, by incorporating these terms into the administrative rules, the Department of Natural Resources (Department) can continue to be a delegated authority under the Clean Air Act (CAA). This allows the Department, rather than the U.S. Environmental Protection Agency (EPA), to be the primary compliance and implementation agency in Iowa.

In more detail, this rule making adopts the following eight amendments:

Item 1 amends rule 567—20.2(455B), definition of “EPA reference method,” to adopt the most current EPA methods for measuring air pollutant emissions, performance testing (sometimes called “stack testing”), and continuous monitoring. EPA’s revisions to 40 Code of Federal Regulations (CFR) Part 60 to correct regulations for source testing of emissions were published in the Federal Register on February 16, 2021 (86 Fed. Reg. 9470 (Feb. 16, 2021)). EPA states that its final amendments correct errors for one of the test methods in 40 CFR Part 60, Appendix A. Adopting EPA’s updates ensures that state reference testing methods match current federal reference methods and are no more stringent than the federal methods.

The amendment in Item 2 is adopted concurrently with the amendment in Item 1. It revises the definition of “EPA reference method” in rule 567—22.100(455B) to similarly reflect updates to EPA testing and monitoring methods, which are the methods that apply to the Title V Operating Permit rules in Chapter 22.

The amendment in Item 3 adds a new chemical to the definition of “hazardous air pollutant” in rule 567—22.100(455B). On January 5, 2022, EPA published a final rule to add 1-Bromopropane (1-BP) to the CAA’s list of hazardous air pollutants (HAP). The addition of 1-BP, also known as n-propyl bromide, is the first time the EPA has added a new compound to the HAP list since the U.S. Congress provided the original HAP list in the 1990 CAA Amendments.

A wide variety of industries may be impacted by the listing of 1-BP, which is primarily used as a cleaning solvent in solvent cleaning machines or as an applied solvent (e.g., wipe cleaning). 1-BP also has reported uses in both the manufacturing process and the final cleaning of metal and plastic parts.

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A facility must include 1-BP in its potential emissions HAP inventory in construction permit applications as of February 4, 2022. Actual emissions of 1-BP are not required to be reported in Title V or minor source emissions inventories until 2023, for the 2022 emissions year. At this time, the Department is aware of only one facility that has reported actual or potential emissions of 1-BP.

More information on the short- and long-term regulatory impacts of EPA's listing of 1-BP is available in the Department's electronic air quality newsletter, which was sent to over 25,000 subscribers on January 25, 2022, and is available on the Department's website at www.iowadnr.gov/About-DNR/DNR-News-Releases/ArticleID/3885/EPA-adds-1-bromopropane-1-BP-to-the-Clean-Air-Act-List-of-Hazardous-Air-Pollutants.

The amendments in Items 4, 5, and 6 adopt changes to the federal NSPS and NESHAP. The CAA obligates EPA to issue standards to control air pollution. The NSPS and NESHAP set federal standards and deadlines for industrial, commercial, or institutional facilities to meet uniform standards for equipment operation and air pollutant emissions.

Because the NSPS and NESHAP adopted by reference are federal regulations, affected sources are subject to the federal requirements regardless of whether the Commission adopts the standards into the administrative rules. However, the CAA allows a state or local agency to implement NSPS and NESHAP as a delegated authority. Upon adoption of the standards, the Department becomes the delegated authority for the specific NSPS or NESHAP and is the primary implementation agency in Iowa. Two local agencies, those in Polk County and Linn County, implement these standards within their counties.

The administrative rules, including all compliance deadlines, are identical to the federal NSPS and NESHAP as of a specific federal publication date. With delegation authority and adoption of the federal standards into the administrative rules and the rules of Polk County and Linn County, the Department has the ability to make applicability determinations for facilities, rather than referring these decisions to EPA.

Stakeholders affected by NSPS and NESHAP typically prefer for the Department, rather than EPA, to be the primary implementation agency in Iowa. Upon adoption of the new and amended standards, the Department will work with affected facilities to provide any needed compliance assistance. Additionally, affected area sources that are small businesses are eligible for free technical assistance through the Iowa Air Emissions Assistance Program.

In more detail, Item 4 amends subrule 23.1(2) to adopt by reference changes EPA made to the NSPS. As described in the amendment for Item 1 above, EPA corrected an error to a test method in 40 CFR Part 60, Appendix A. Additionally, on January 19, 2021, EPA amended the NSPS for Volatile Organic Liquid Storage Vessels (40 CFR Part 60, Subpart Kb). These amendments will allow facilities with certain equipment to elect to comply with the corresponding NESHAP requirements in lieu of the NSPS requirements.

Risk and technology reviews for NESHAP (40 CFR Part 63)

Most of EPA's amendments adopted in subrule 23.1(4) address the risk and technology reviews required under the CAA. The CAA requires EPA to address air toxics emissions from large industrial facilities (major sources) in two phases.

The first phase of review is technology-based, where EPA develops standards for controlling the emissions of air toxics from sources in an industry group or "source category" (for example, industrial boilers). These maximum achievable control technology (MACT) standards are based on emissions levels that controlled and low-emitting sources in an industry are already achieving.

The second phase of review is a risk-based approach called residual risk. In this step, EPA must determine whether more health-protective standards are necessary. Within eight years of setting the MACT standards, the CAA requires EPA to assess the remaining health risks from each source category to determine whether the MACT standards protect public health with an ample margin of safety and protect against adverse environmental effects. On this same schedule, the CAA also requires EPA to review the standards and, if necessary, revise them to account for improvements in air pollution controls or prevention. The combined review of public health risk and air pollution control is called the "risk and technology review" (RTR).

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Impact of the NESHAP amendments

For most of the recent NESHAP RTR updates, EPA has determined that the risks from emissions from affected source categories are acceptable and that there are no new cost-effective controls available. However, the updates do include revisions to the requirements for periods of startup, shutdown, and malfunction (SSM) and require electronic reporting of performance test results and compliance reports.

In some cases, EPA made minor amendments to correct errors, clarify requirements, and provide technical updates. EPA also provided additional flexibilities in several of the final NESHAP RTRs, such as alternative testing methods or reduced monitoring. A few of the recent and upcoming NESHAP RTRs do include more substantive requirements for pollution control and monitoring.

Table 1 below identifies the EPA amendments to the NESHAP source categories adopted by reference in amendments in Item 5 and Item 6. The standards are identified by source category and are listed in order of publication date in the Federal Register. The table also indicates the subpart in 40 CFR Part 63, as well as the associated paragraph in subrule 23.1(4). Additionally, the table indicates the number of facilities that the Department estimates are currently affected by the specific standard. The Commission is adopting standards that currently do not affect any Iowa sources in case a new facility of that type is constructed in the future.

Table 1
Federal NESHAP Amendments Adopted by Reference

NESHAP: Affected Source Category	Date Published in Federal Register	40 CFR 63 Subpart/Subrule 23.1(4) Paragraph	Estimated Iowa Facilities Affected
Chemical Preparations Industry (Area Source)	12/30/2009*	BBBBBBB/"fb"	1
General Provisions	3/26/2021	A/"a"	N/A
Flexible Polyurethane Foam Fabrication Operations	11/18/2021	MMMMM/"dm"	0
Surface Coating of Automobiles and Light-Duty Trucks	11/19/2021	III/"ci"	0
Surface Coating of Metal Cans	11/19/2021	KKKK/"ck"	0
Boat Manufacturing	11/19/2021	VVVV/"cv"	0
Refractory Products Manufacturing	11/19/2021	SSSS/"ds"	0
Carbon Black Production and Cyanide Chemicals Manufacturing	11/19/2021	YY/"ay"	0
List of Hazardous Air Pollutants (Addition of 1-Bromopropane (1-BP))	1/5/2022	A/"a"	N/A
Mercury Cell Chlor-Alkali Plants	5/6/2022	IIII/"di"	0

*The Commission did not adopt this NESHAP (Subpart BBBBBBB) upon finalization by EPA because there were no affected Iowa facilities at that time. Recently, the Department became aware of one facility that is subject to this NESHAP. The Commission is now adopting the NESHAP to have the Department become the delegated authority for this federal regulation.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Item 7 amends subrule 25.1(9) to adopt the changes EPA made to the federal test methods for measuring emissions, as explained above for Item 1.

Item 8 amends rule 567—28.1(455B) to adopt the National Ambient Air Quality Standards (NAAQS) for ozone that were published in the Federal Register on October 26, 2015 (80 Fed. Reg. 65291-65468 (Oct. 26, 2015)). The Commission did not adopt the 2015 ozone NAAQS at the time of EPA promulgation due to active litigation of the 2015 standards. The substantive issues in the legal challenges have since been resolved, and the Commission is now adopting the 2015 ozone NAAQS. All areas in Iowa are currently attaining the 2015 ozone NAAQS.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as **ARC 6631C**. A public hearing was held on December 5, 2022, at 1 p.m. via video/conference call. 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 Commission on January 17, 2023.

Fiscal Impact

After analysis and review of this rule making, these amendments will have no fiscal impact on the State of Iowa and a neutral impact on regulated facilities, the general public, and county and local governments. Some of the amendments may benefit the private sector because they streamline current air quality programs. Affected businesses and the public benefit from up-to-date air quality requirements and increased effectiveness. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review, it has been determined that the amendments will have an overall neutral impact on private sector jobs and employment opportunities. Some of the rules may ultimately benefit the private sector because they streamline current air quality programs. Others may result in an unquantifiable jobs impact; however, because these are mandatory federal standards, any such impact would originate at the federal level. These amendments are identical to the federal regulations and will not impose any regulations on Iowa businesses not already required by federal law. In some cases, the revised federal standards being adopted provide more flexibility and potential cost savings for affected businesses, offering a positive impact on private sector jobs. A copy of the jobs impact statement is available from the Department upon request.

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 561—Chapter 10.

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).

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **567—20.2(455B)**, definition of “EPA reference method,” as follows:

“EPA reference method” means the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended or corrected through October 7, 2020); 40 CFR 60, Appendix A (as amended or corrected through ~~October 7, 2020~~ February 16, 2021); 40 CFR 61, Appendix B (as amended or corrected through October 7, 2020); and 40 CFR 63, Appendix A (as amended or corrected through December 2, 2020).

2. No change.

ITEM 2. Amend rule **567—22.100(455B)**, definition of “EPA reference method,” as follows:

“EPA reference method” means the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended or corrected through October 7, 2020); 40 CFR 60, Appendix A (as amended or corrected through ~~October 7, 2020~~ February 16, 2021); 40 CFR 61, Appendix B (as amended or corrected through October 7, 2020); and 40 CFR 63, Appendix A (as amended or corrected through December 2, 2020).

2. No change.

ITEM 3. Amend rule **567—22.100(455B)**, definition of “Hazardous air pollutant,” by adding the following **new** chemical in alphabetical order:

cas #	chemical name
106945	1-Bromopropane

ITEM 4. Amend subrule 23.1(2), introductory paragraph, as follows:

23.1(2) New source performance standards. The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~October 7, 2020~~, February 16, 2021, are adopted by reference, except §60.530 through §60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. A different date for adoption by reference may be included with the subpart designation in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 5. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~November 3, 2020~~, May 6, 2022, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. A different date for adoption by reference may be included with the subpart designation in parentheses or as indicated in this introductory paragraph. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A ~~as amended or corrected through December 2, 2020~~), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has the

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same meaning found in rule 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4) “a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

ITEM 6. Adopt the following **new** paragraph **23.1(4)“fb”**:

fb. National emission standards for hazardous air pollutants for area sources: chemical preparations industry. This standard applies to chemical preparations at new and existing facilities that are area sources for hazardous air pollutant emissions. (Part 63, Subpart BBBB)BBB)

ITEM 7. Amend subrule 25.1(9) as follows:

25.1(9) Methods and procedures. Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are as follows:

a. Performance test (stack test). A stack test shall be conducted according to EPA reference methods as specified in 40 CFR 51, Appendix M (as amended or corrected through October 7, 2020); 40 CFR 60, Appendix A (as amended or corrected through ~~October 7, 2020~~ February 16, 2021); 40 CFR 61, Appendix B (as amended or corrected through October 7, 2020); and 40 CFR 63, Appendix A (as amended or corrected through December 2, 2020). The owner of the equipment or the owner’s authorized agent may use an alternative methodology if the methodology is approved by the department in writing before testing. Each test shall consist of at least three separate test runs. Unless otherwise specified by the department, compliance shall be assessed on the basis of the arithmetic mean of the emissions measured in the three test runs.

b. and c. No change.

ITEM 8. Amend rule 567—28.1(455B) as follows:

567—28.1(455B) Statewide standards. The state of Iowa ambient air quality standards shall be the National Primary and Secondary Ambient Air Quality Standards as published in 40 Code of Federal Regulations Part 50 (1972) and as amended at 38 Federal Register 22384 (September 14, 1973), 43 Federal Register 46258 (October 5, 1978), 44 Federal Register 8202, 8220 (February 9, 1979), 52 Federal Register 24634-24669 (July 1, 1987), 62 Federal Register 38651-38760, 38855-38896 (July 18, 1997), 71 Federal Register 61144-61233 (October 17, 2006), 73 Federal Register 16436-16514 (March 27, 2008), 73 Federal Register 66964-67062 (November 12, 2008), 75 Federal Register 6474-6537 (February 9, 2010), 75 Federal Register 35520-35603 (June 22, 2010), and 78 Federal Register 3086-3287 (January 15, 2013), and 80 Federal Register 65291-65468 (October 26, 2015). The department shall implement these rules in a time frame and schedule consistent with implementation schedules in federal laws and regulations.

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

[Filed 1/19/23, effective 3/15/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6850C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to five-year rules review**

The Human Services Department hereby amends Chapter 7, “Appeals and Hearings,” and Chapter 58, “Emergency Assistance,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 29C.20A and 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 29C.20A and 217.6.

Purpose and Summary

Chapter 58 was reviewed as part of the Department’s five-year rules review. This rule making adds a new definition for the term “mitigation” and updates other definitions to match the definitions in Iowa Code chapter 321. The names of forms are removed to eliminate unnecessary future changes as form names change. This rule making clarifies that reimbursement for replacement of food or personal property through the Iowa Individual Assistance Grant Program (IIAGP) may be given in the form of checks or gift cards and the applicant must sign a promise to purchase replacement food or personal property.

Requirements relating to submission of receipts for claimed expenses and a request to participate in a voucher system are removed; however, an applicant must provide proof of the household’s annual income and an itemized list of items that were damaged by a disaster. Applications are to be submitted within 45 days of a disaster declaration; however, the rule making allows the application period to be extended beyond 45 days if the Governor extends the disaster proclamation.

This rule making allows insurance deductibles to be reimbursed up to the \$5,000 limit per household as long as the household provides a denial letter from the insurance company. This rule making clarifies that home repair assistance will be denied if preexisting conditions are the cause of the damage. Repairs to rental dwellings, dwelling units or landlord-owned equipment are excluded under this program. This rule making clarifies that grant funding is limited to personal property, food assistance, home repair and temporary housing and cannot exceed \$5,000. The list of items that may be considered personal property is being revised to recategorize items in a more logical manner and remove maximum limits for each personal property type. The list of authorized home repair assistance is also being revised to remove maximum limits for each repair type. This rule making increases the total temporary housing assistance from \$2,500 to \$5,000 and includes this assistance as part of disaster assistance.

Requirements for notices of adverse action were moved from Chapter 7 to Chapter 16, effective April 15, 2020. Chapter 7 is updated to reflect that change. The rule making increases the amount of time from 15 days to 30 days that a household may request reconsideration or file an appeal regarding an eligibility determination or a disagreement with the amount of assistance awarded.

This rule making clarifies that the program shall commence on the day following the Governor’s disaster proclamation and shall be provided for a period of up to 180 days. The program may be extended in 90-day intervals when adequate justification is presented, but it cannot exceed 730 days from the date of the proclamation. If the disaster becomes a presidentially declared disaster and a Federal Emergency Management Agency (FEMA) disaster care management (DCM) grant is approved, then assistance may be provided for a period of up to 24 months from the date of the proclamation.

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Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6690C**.

The Department received comments from two community action agencies.

Comment 1:

One respondent commented that the proposed changes were positive changes that were needed to make a more efficient program. The chapter was revised to clarify the expenses that were eligible for grant funding, including vehicle replacement or repairs. The respondent is concerned that the \$5,000 limit on funds makes it difficult to purchase an appropriate, reliable car. The respondent also questions if the funds could be used as a down payment for a car.

Response 1:

The Department appreciates the comment submitted by the respondent. While the respondent makes a valid point that it may be difficult for applicants to purchase a reliable car within the limit imposed on grant funding, the Department has no authority to authorize additional funding. Iowa Code section 29C.20A(3) clearly states the amount of the grant for a household shall not exceed \$5,000. Grant funding shall be limited to personal property, food assistance, home repair and temporary housing and shall not exceed a total of \$5,000. Recipients may choose to use the funds as a down payment for a car, but no additional funds will be provided if the purchase price of the vehicle exceeds the grant maximum. No changes were made based on this comment.

Comment 2:

One respondent commented on the proposed change to subrule 58.4(4) that requires the applicant to provide a denial letter from an insurance company. The respondent suggested the verbiage be changed to clarify the applicant must provide claim documentation from the insurance company, instead of a denial letter, since there may be times when a household is approved by insurance but the insurance doesn't cover the entire need.

Response 2:

Based on the respondent's comment, subrule 58.4(4) in Item 7 has been revised and now reads as follows:

“58.4(4) The household has unmet disaster-related expenses or serious needs that are not covered by insurance. The applicant must provide claim documentation from the insurance company.”

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on January 12, 2023.

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).

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

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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 April 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Adopt the following new paragraph **7.3(3)“c”**:

c. A final decision from a previous hearing with a presiding officer has been implemented.

ITEM 2. Amend paragraphs **7.4(3)“d”** and **“e”** as follows:

d. *Iowa individual disaster assistance program.* For appeals pertaining to the Iowa individual disaster assistance program, the appellant must appeal on or before the ~~fifteenth~~ thirtieth day following the date of the department’s reconsideration decision, pursuant to 441—subrule 58.7(1).

e. *Iowa disaster case management program.* For appeals pertaining to the Iowa disaster case management program, the appellant must appeal on or before the ~~fifteenth~~ thirtieth day following the date of the department’s reconsideration decision, pursuant to 441—subrule 58.7(1).

ITEM 3. Adopt the following new definition of “Mitigation” in rule **441—58.1(29C)**:

“*Mitigation*” means the effort to reduce the loss of life and property by lessening the impact of disasters to reduce human and financial consequences later.

ITEM 4. Amend rule **441—58.1(29C)**, definitions of “Bona fide residence,” “Fifth-wheel travel trailer,” “Manufactured home,” “Manufactured or mobile home,” “Motor home” and “Travel trailer,” as follows:

“*Bona fide residence*” or “*bona fide address*,” as set forth in Iowa Code section 321.1(6C), means the pre-disaster street or highway address of an individual’s dwelling or dwelling unit. The bona fide residence of a person with more than one dwelling is the dwelling for which the person claims a homestead tax credit under Iowa Code chapter 425, if applicable. The bona fide residence of a homeless person is a primary nighttime residence meeting one of the criteria listed in Iowa Code section ~~48A.2(2)~~ 48A.2(3).

~~“*Fifth-wheel travel trailer*,” as set forth in Iowa Code section 321.1(36C)“e,” 321.1(36D)“c,” means a type of travel trailer which is towed by a pickup by a connecting device known as a fifth wheel. However, this type of travel trailer may have an overall length which shall not exceed 45 feet. If the vehicle is used in this state as a place of human habitation for more than 180 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.~~

“*Manufactured home*” or “*modular home*,” as set forth in Iowa Code section ~~321.1(36B)~~ 321.1(36C), is a factory-built structure constructed under authority of 42 U.S.C. §5403 as amended to August 25, 2022, which is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976.

“*Manufactured or mobile home*,” as set forth in Iowa Code section ~~321.1(36C)“a,” 321.1(36D)“a,”~~ means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons.

“*Motor home*,” as set forth in Iowa Code section ~~321.1(36C)“d,” 321.1(36D)“d,”~~ means a motor vehicle designed as an integral unit to be used as a conveyance upon the public streets and highways and for use as a temporary or recreational dwelling and having at least four, two of which shall be systems specified in paragraph “1,” “4,” or “5” of this definition, of the following permanently installed systems which meet American National Standards Institute and National Fire Protection Association standards in effect on the date of manufacture:

1. Cooking facilities.
2. Ice box or mechanical refrigerator.

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3. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.

4. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.

5. Heating or air conditioning system or both, separate from the vehicle engine or the vehicle engine electrical system.

6. A 110- to 115-volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply. ~~If the vehicle is used in this state as a place of human habitation for more than 90 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.~~

"Travel trailer," as set forth in Iowa Code section ~~321.1(36C)~~ *"b,"* 321.1(36D) *"b,"* means a vehicle without motive power used, manufactured, or constructed to permit its use as a conveyance upon the public streets and highways and designed to permit its use as a place of human habitation by one or more persons. The vehicle may be up to 8 feet, 6 inches in width and its overall length shall not exceed 45 feet. The vehicle shall be customarily or ordinarily used for vacation or recreational purposes and not used as a place of permanent habitation. If the vehicle is used in this state as a place of human habitation for more than 180 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.

ITEM 5. Amend subrule 58.2(2) as follows:

58.2(2) Voucher system. The IIAGP will be implemented through a reimbursement or voucher system. Reimbursement may include checks or gift cards provided to the applicant for replacement food or personal property only. The applicant must sign a promise to purchase replacement food or personal property.

ITEM 6. Amend rule 441—58.3(29C) as follows:

441—58.3(29C) Application for assistance. To request assistance for disaster-related expenses, the household shall complete Form 470-4448, ~~Individual Disaster Assistance Application~~, and submit it within 45 days of the disaster declaration to the contracted administrative entity ~~along with: (1) receipts for the claimed expenses or (2) a request to participate in a voucher system.~~

58.3(1) No change.

58.3(2) The application shall include:

a. A declaration of the household's annual income, accompanied by:

(1) ~~A~~ a current pay stub, W-2 form, or income tax return, ~~or~~

(2) ~~Documentation of current enrollment in an assistance program administered by the department, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), or other subsidy program.~~

b. to e. No change.

f. A short, handwritten narrative of how the disaster event caused the claimed loss, including an itemized list of items damaged by the disaster.

g. A copy of a picture identification document for ~~each~~ the adult applicant.

h. No change.

58.3(3) The application period may be extended beyond 45 days through an extension of the governor's disaster proclamation. If the forty-fifth day falls on a Saturday, Sunday, or holiday, the deadline is moved to the following business day.

ITEM 7. Amend subrules 58.4(4) to 58.4(6) as follows:

58.4(4) The household has unmet disaster-related expenses or serious needs that are not covered by insurance ~~or that are less than the deductible amount. This program will not reimburse the amount of the insurance deductible when the claim exceeds the deductible amount. The applicant must provide claim documentation from the insurance company.~~

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58.4(5) The household has not previously received assistance from this program or another program for the same loss in the same disaster.

58.4(6) Household eligibility for home repair assistance for a dwelling or dwelling unit damaged due to a proclaimed disaster is only available for a household that owns and occupies the dwelling or dwelling unit being repaired.

a. Assistance will be denied if preexisting conditions are the cause of the damage.

b. Repairs to rental dwellings, dwelling units, or landlord-owned equipment are excluded under this program.

ITEM 8. Amend rule 441—58.5(29C) as follows:

441—58.5(29C) Eligible categories of assistance. ~~The maximum assistance available~~ Expenses eligible for grant funding shall be limited to a household in a single disaster is personal property, food assistance, home repair and temporary housing and shall not exceed a total of \$5,000. Assistance is available under the program for the following disaster-related expenses:

58.5(1) Personal property and food assistance may be issued for damage to personal property or loss of food, ~~including replacement.~~ Eligible items for personal property assistance may include but are not limited to the following items, based on the item's condition:

a. ~~Kitchen items, excluding large appliances up to a maximum of \$560, including~~ Appliances or equipment, including:

(1) ~~Small household appliances, e.g., toaster, blender, microwave, and including,~~ but not limited to:

1. Toasters,
2. Blenders,
3. Microwaves,
4. Vacuums,
5. Dehumidifiers, and
6. Window air conditioners.

(2) ~~Furnishings (e.g., tables, chairs)~~ Large household appliances, if the appliance is owned by the household and not a landlord.

(3) Outdoor equipment, including:

1. Lawn mowers, and
2. Snow blowers.

~~*b.* Large kitchen appliances or laundry appliances, up to a maximum of \$700 per appliance and a maximum per household not to exceed \$2,800, if the appliances are owned by the household and not a landlord.~~

~~*e. b.* Food, up to a maximum of \$50 for one person plus \$25 for each additional person in the household.~~

~~*d. c.* Personal hygiene items, up to a maximum of \$30 per person and \$150 per household.~~

~~*e. d.* Bedroom furnishings, up to \$500 per person.~~ Basic household items, including but not limited to:

- (1) Furnishings (e.g., tables, chairs, dressers, couches, end tables),
- (2) Beds (e.g., mattresses, bedding),
- (3) Curtains or window treatments,
- (4) Car or booster seats,
- (5) Strollers,
- (6) Storage totes,
- (7) Televisions,
- (8) Laptop or desktop computers, and
- (9) Area rugs.

~~*f. e.* Clothing, up to a maximum of \$145 per person.~~

~~*g. f.* Living area furnishings, such as: couch, chair, end tables, and television, up to a maximum of \$1,000.~~ Short-term transportation, such as bus passes.

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~~h. g.~~ Other items, including: Debris removal.

~~(1) Dehumidifier, up to a maximum of \$250.~~

~~(2) One window air conditioner, up to a maximum of \$250.~~

~~i. h.~~ Vehicle repair, up to a maximum of \$500 or replacement, if a total loss has occurred.

i. Other personal property items, as determined by the department, in order to assist the household in making the dwelling or dwelling unit safe, sanitary, and secure.

58.5(2) Home repair assistance may be issued for home repair for an owner-occupied dwelling or dwelling unit as needed to make the dwelling or dwelling unit safe, sanitary, and secure, up to a maximum of \$5,000.

a. No change.

b. ~~Assistance may be authorized for:~~ Repairs to rental dwellings or dwelling units or landlord-owned equipment are excluded under this program.

~~(1) The repair of structural components, such as the foundation and roof.~~

~~(2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.~~

~~(3) Debris removal, including trees, up to a maximum of \$1,000.~~

c. ~~Repairs to rental dwellings or dwelling units or landlord-owned equipment are excluded under this program.~~ Assistance may be authorized for:

(1) The repair of structural components, such as the foundation and roof.

(2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.

(3) Mitigation measures.

(4) Debris removal, including trees.

~~d. (5) Bathroom, up to a maximum of \$1,500, including toilet, sink, and tub/shower.~~

~~e. (6) Sump pump installation (in a flood event only), up to a maximum of \$200 installed.~~

~~f. (7) Electrical or mechanical repairs, up to a maximum of \$2,000.~~

~~g. (8) Water heater, up to a maximum of \$1,500 installed.~~

~~h. (9) Heating systems, up to a maximum of \$2,100 installed.~~

~~i. (10) Air-conditioning systems, up to a maximum of \$2,100 installed.~~

~~j. (11) Water well repair for dwellings or dwelling units with no other source of water available, up to a maximum of \$2,000.~~

~~k. (12) Water softener repair, up to a maximum of \$500.~~

58.5(3) Temporary housing assistance may be issued to a household, ~~up to a limit of \$65 per day,~~ for lodging at a licensed establishment, such as a hotel or motel. The household's home must be considered to be destroyed, uninhabitable, inaccessible, or unavailable to the household. ~~Temporary housing assistance may also be granted for deposits for a new dwelling.~~ Total temporary housing assistance may not exceed \$2,500 \$5,000 and is included as part of disaster assistance.

Temporary housing assistance may also be granted for rental unit application fees, deposits, and first month's rent for a new dwelling.

58.5(4) No change.

ITEM 9. Amend paragraph **58.6(3)“b”** as follows:

b. Notify the applicant household of the eligibility decision in accordance with notice requirements in 441—Chapter 16.

ITEM 10. Amend paragraphs **58.7(1)“b”** and **“c”** as follows:

b. To request reconsideration, the household shall submit a written request to the DHS Division of Field Operations—Emergency Assistance, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~15~~ 30 days of the date of the letter notifying the household of the department's decision.

c. The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within ~~15~~ 30 days of receipt of the request.

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ITEM 11. Amend paragraph **58.7(2)“a”** as follows:

a. Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), ~~Appeal and Request for Hearing~~, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the reconsideration decision.

ITEM 12. Amend subrule 58.8(1) as follows:

58.8(1) *Deferral to federal assistance.* Upon declaration of a disaster by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sections 5121 to ~~5206~~ 5207, the Iowa individual assistance grant program administered under this chapter shall be discontinued in the geographic area ~~included in the presidential declaration~~ designated by the federal individual assistance program. Upon issuance of the presidential declaration:

a. to c. No change.

ITEM 13. Amend paragraphs **58.23(1)“a”** to **“e”** as follows:

a. The program shall be in effect only in those counties named in the proclamation. ~~Assistance for a state-only proclamation shall be provided for a period of up to 180 days from the date of proclamation.~~

b. ~~A request for an additional 90-day extension to the period of performance will be considered when adequate justification is presented to the department. The program shall commence on the day following the governor’s disaster proclamation and shall be provided for a period of up to 180 days from the date of proclamation.~~

c. ~~The program shall commence on the day following proclamation of a disaster by the governor and remain may be extended in effect through 180 intervals up to 90 days even if the disaster becomes a presidentially proclaimed disaster that authorizes individual assistance when adequate justification is presented to the department, but not to exceed 730 days from the date of the proclamation.~~

d. ~~The period of performance for~~ If the disaster transforms to become a presidentially proclaimed declared disaster is and a Federal Emergency Management Agency (FEMA) disaster care management (DCM) grant is approved, then assistance may be provided for a period of up to 24 months from the date of the presidential proclamation.

e. The reporting of the numbers of contacts, cases opened, cases pending, cases closed, and other required reports requested by the department shall be submitted ~~weekly on~~ with a day frequency determined by the department.

ITEM 14. Amend paragraphs **58.31(1)“b”** and **“c”** as follows:

b. To request reconsideration, the household shall submit a written request to the DHS Division of Field Operations—Emergency Assistance, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the letter notifying the household of the contracted entity’s decision.

c. The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within ~~45~~ 30 days of receipt of the request.

ITEM 15. Amend paragraph **58.31(2)“a”** as follows:

a. Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), ~~Appeal and Request for Hearing~~, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the reconsideration decision.

[Filed 1/12/23, effective 4/1/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6851C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to five-year rules review**

The Human Services Department hereby amends Chapter 80, “Procedure and Method of Payment,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

Chapter 80 was reviewed as part of the Department’s five-year rules review. Chapter 80 provides information on submitting claims to receive payment for providers of medical care participating in Medicaid.

The rules review resulted in the following technical changes. Form names and numbers are updated. Cross-references to other chapters are revised for accuracy. “Enterprise” is removed from the Iowa Medicaid name to be consistent across all chapters related to Medicaid. References to federal regulations are also updated to provide accurate listings. Rules that are outdated are removed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6641C**. 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 January 12, 2023.

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).

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

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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 April 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—80.2(249A) as follows:

441—80.2(249A) Submission of claims. Providers of medical and remedial care participating in the program shall submit claims for services rendered to the Iowa Medicaid enterprise on at least a monthly basis. All nursing facilities and providers of home- and community-based services shall submit claims for services after the end of the calendar month in which the services are provided. Following audit of the claim, the Iowa Medicaid enterprise will make payment to the provider of care.

80.2(1) Electronic submission. Providers are ~~encouraged~~ required to submit claims electronically whenever possible.

~~a. Ambulance service providers may bill electronically only when the procedures performed are identified by codes based on the ones that Medicare recognizes as emergency and support medical necessity without a review by the Iowa Medicaid enterprise.~~

~~b. a.~~ When filing electronic claims, pharmacies shall use the format prescribed by the National Council for Prescription Drug Programs.

~~c. b.~~ Claims submitted electronically ~~after implementation of the Health Insurance Portability and Accountability Act of 1996~~ shall be filed on the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12N 837 transaction, Health Care Claim. ~~The department shall send all providers written notice when the Act is implemented.~~

(1) Providers listed as filing claims on Form CMS-1500 or on the Claim for Targeted Medical Care shall file claims on the professional version of the 837 Health Care Claim.

(2) Providers listed as filing claims on Form CMS-1450 ~~or on the Iowa Medicaid Long Term Care Claim or UB04~~ shall file the institutional version of the 837 Health Care Claim.

(3) Dentists shall file the dental version of the 837 Health Care Claim.

(4) Pharmacists providing drugs and injections shall use the format prescribed by the National Council for Prescription Drug Programs.

~~d. c.~~ If a claim submitted electronically requires attachments or supporting clinical documentation and a national electronic attachment has not been adopted, the provider shall:

(1) ~~Use Form 470-3969, Claim Attachment Control, as the cover sheet for the paper attachments or supporting clinical documentation~~ the Iowa Medicaid portal access (IMPA) system to submit supporting documents when billing Medicaid fee for service claims; and

(2) ~~Reference on Form 470-3969~~ the attachment control number submitted on the ASC X12N 837 electronic transaction.

80.2(2) Claim forms. Claims for payment for services provided recipients shall be submitted on Form CMS-1500, Health Insurance Claim Form, except as noted below.

a. The following providers shall submit claims on Form UB-04, CMS-1450:

(1) Home health agencies providing services other than home- and community-based services.

(2) Hospitals providing inpatient care or outpatient services, including inpatient psychiatric hospitals.

(3) Psychiatric medical institutions for children.

(4) Rehabilitation agencies.

(5) Hospice providers.

(6) Medicare-certified nursing facilities.

(7) Nursing facilities for the mentally ill.

(8) Special population nursing facilities as defined in ~~rule 441—81.6(249A)~~ 441—Chapter 81.

(9) Out-of-state nursing facilities.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(10) Health insurance premium payment (HIPP) providers.

b. All other nursing facilities and intermediate care facilities for persons with an intellectual disability shall file claims using an electronic version of Form UB-04 CMS-1450.

c. Pharmacies shall submit claims on the Universal Pharmacy Claim Form when filing paper claims.

d. Dentists shall submit claims on the dental claim form approved by the American Dental Association.

~~*e.* Rescinded IAB 8/1/07, effective 9/5/07.~~

~~*f. e.* Providers of home- and community-based waiver services, including home health agencies, shall submit claims on Form 470-2486, Claim for Targeted Medical Care. In the event of the death of the member, the case manager or service worker shall sign and date the claim form if the services were delivered.~~

~~*g. f.* Case management providers billing services provided pursuant to 441—Chapter 90 to fee-for-service members shall submit claims using a HIPAA-compliant electronic claim.~~

~~*h. g.* For fee-for-service members, providers billing claims for Medicare beneficiaries that do not cross over electronically to the Iowa Medicaid enterprise must submit the following electronically, in accordance with the All Providers, IV. Billing Iowa Medicaid manual, located at dhs.iowa.gov/sites/default/files/All-IV.pdf:~~

~~(1) Form UB-04.~~

~~(2) Form CMS-1500. The Explanation of Medicare Benefits (EOMB) is only required when requested by the Iowa Medicaid enterprise.~~

~~*i. h.* For managed care members, providers billing claims for Medicare beneficiaries that do not cross over electronically must submit the following electronically:~~

~~(1) Form UB-04 and the Explanation of Medicare Benefits (EOMB); and~~

~~(2) Form CMS-1500 and the Explanation of Medicare Benefits (EOMB).~~

~~*j. i.* Health insurance premium payment (HIPP) providers shall submit Form 470-5475, Health Insurance Premium Payment (HIPP) Provider Invoice, along with an explanation of benefits (EOB).~~

80.2(3) No change.

~~This rule is intended to implement Iowa Code section 249A.4.~~

ITEM 2. Amend rule 441—80.3(249A) as follows:

441—80.3(249A) Payment from other sources. This rule applies to claims for the department, managed care organizations, and the Public Health Associate Program (PHAP).

80.3(1) No change.

80.3(2) *Third-party liability.*

a. When a third-party liability for medical expenses exists, this resource shall be utilized for payment of a claim before the Medicaid program makes payment unless:

~~*a. (1)* The department pays the total amount allowed under the Medicaid payment schedule and then seeks reimbursement from the liable third party. This “pay and chase” provision applies to claims for:~~

~~(1) 1. Preventive pediatric services, and~~

~~(2) 2. All services provided to a person for whom there is court-ordered medical support.~~

~~*b. (2)* Otherwise authorized by the department.~~

b. All claims must be clean claims. A clean claim is defined as a claim that has no defect or impropriety (including any lack of required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment of the claim.

80.3(3) *Recovery from third parties legally responsible to pay for health care.* Parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service shall:

~~*a. Respond to* No later than 60 days after receiving any inquiry by the state regarding a claim for payment for any health care item or service that is submitted no later than three years after the date of the~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

provision of the item or service, respond to such inquiry, pursuant to 42 U.S.C. Section 1396a(25)(I)(iii), effective March 13, 2022.

b. Agree not to deny any claim submitted by the state solely because of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point of sale that is the basis of the claim, or, in the case of a responsible third party (other than the original Medicare fee-for-service program under Parts A and B of 42 U.S.C. Chapter 7, Subchapter XVIII, a Medicare Advantage plan offered by a Medicare Advantage organization under Part C of 42 U.S.C. Chapter 7, Subchapter XVIII, a reasonable cost of reimbursement plan under 42 U.S.C. Section 1395mm, a health care prepayment plan under 42 U.S.C. Section 1395l, or a prescription drug plan (PDP) offered by a PDP sponsor under Part D of 42 U.S.C. Chapter 7, Subchapter XVIII), a failure to obtain a prior authorization for the item or service for which the claim is being submitted, if both of the following conditions are met:

(1) The claim is submitted to the entity by the state within the three-year period beginning on the date on which the item or service was furnished.

(2) Any action by the state to enforce its rights with respect to the claim is commenced within six years of the date that the claim was submitted by the state.

c. Reimburse the Medicaid program within 90 days of the request for repayment.

d. Agree not to deny any claim submitted by the state solely because of lack of prior authorization. This rule is intended to implement Iowa Code chapter 249A.

ITEM 3. Amend rule 441—80.4(249A) as follows:

441—80.4(249A) Time limit for submission of claims and claim adjustments.

80.4(1) *Submission of claims.* Payment will not be made on any claim when the amount of time that has elapsed between the date the service was rendered and the date the initial claim is received by the Iowa Medicaid enterprise exceeds 365 days. The department shall consider claims submitted beyond the 365-day limit for payment only if retroactive eligibility on newly approved cases is made that exceeds 365 days or if attempts to collect from a third-party payer delay the submission of a claim. In the case of retroactive eligibility, the claim must be received within 365 days of the first notice of eligibility by the department.

80.4(2) *Claim adjustments and resubmissions.* A provider's request for an adjustment to a paid claim or resubmission of a denied claim must be received by the Iowa Medicaid enterprise within 365 days from the date the claim was last adjudicated in order to have the adjustment or resubmission considered. In no case will a claim be paid if the claim is received beyond two years from the date of service.

80.4(3) No change.

~~This rule is intended to implement Iowa Code sections 249A.3, 249A.4 and 249A.12.~~

ITEM 4. Amend subrule 80.5(1) as follows:

80.5(1) *Identification cards.* The department shall issue ~~Form 470-1911~~, a Medical Assistance Eligibility Card, to members for use in securing medical and health services available under the program except as provided in ~~441—76.6(249A)~~ 441—Chapter 76.

a. The department shall issue the Medical Assistance Eligibility Card:

(1) When the member's eligibility is initially determined.

~~(2) Annually thereafter.~~

~~(3)~~ (2) Upon the member's request for replacement of a lost, stolen, or damaged card.

b. The Medical Assistance Eligibility Card is valid only for months in which the member has established eligibility, as indicated on the department's eligibility verification system (ELVS). Payment will be made for services provided to an ineligible person when ELVS indicates that the person was eligible for the period in which the service was provided.

ITEM 5. Amend subrule 80.6(1) as follows:

80.6(1) *Medical assistance corrective payments.* Payment may be made to the client or county relief agency in accordance with ~~rule 441—75.8(249A)~~ 441—Chapter 75.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 6. Amend rule 441—80.7(249A) as follows:

441—80.7(249A) Health care data match program. As a condition of doing business in Iowa, health insurers shall provide, upon the request of the state, information with respect to individuals who are eligible for or are provided medical assistance under the state's medical assistance state plan to determine (1) during what period the member or the member's spouse or dependents may be or may have been covered by a health insurer and (2) the nature of the coverage that is or was provided by the health insurer. This requirement applies to self-insured plans, group health plans as defined in the federal Employee Retirement Income Security Act of 1974 (Public Law 93-406), service benefit plans, managed care organizations, pharmacy benefits managers, and other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service.

80.7(1) Agreement required. The parties shall sign a data use agreement for the purposes of this rule. ~~The A data use agreement shall prescribe the specific detail elements required, in addition to any privacy protections, in the manner in which information shall be provided to the department of human services, or its designee, and the acceptable uses of the information provided.~~

a. The initial provision of data shall include the data necessary to enable the department or its designee to match covered persons and identify third-party payers for the two-year period before the initial provision of the data. The data shall include the name, address, and identifying number of the plan.

b. No change.

~~**80.7(2) Agreement form.**~~

~~*a.* An agreement with the department shall be in substantially the same form as Form 470-4415, Agreement for Use of Data.~~

~~*b.* An agreement with the department's designee shall be in a form approved by the designee, which shall include privacy protections equivalent to those provided in Form 470-4415, Agreement for Use of Data.~~

80.7(3) 80.7(2) Confidentiality of data. The exchange of information carried out under this rule shall be consistent with all laws, regulations, and rules relating to the confidentiality or privacy of personal information or medical records, including but not limited to:

a. The federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191; and

b. Regulations promulgated in accordance with that Act and published in 45 CFR Parts 160 through 164 as amended to April 11, 2022.

ITEM 7. Amend **441—Chapter 80**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section 249A.4~~ chapter 249A.

[Filed 1/12/23, effective 4/1/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6852C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to reimbursement rates

The Human Services Department hereby amends Chapter 82, "Intermediate Care Facilities for Persons with an Intellectual Disability," Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 249A.12 and 249A.16.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 249A.12 and 249A.16.

Purpose and Summary

During the 2022 Legislative Session, House File 2578, section 31, appropriated funds to increase reimbursement rates for intermediate care facilities for persons with an intellectual disability (ICFs/ID) over the rates in effect on June 30, 2022. The entire rate increase is to be used for the wages and associated costs specific to wages, benefits and required withholding for direct support professionals and frontline management.

These amendments adopt a new wage add-on factor for community-based ICFs/ID to be included in the rates effective July 1, 2022, and after. The wage add-on factor is added to the maximum allowable base rate.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6691C**. 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 January 12, 2023.

Fiscal Impact

For the fiscal year beginning July 1, 2022, reimbursement rates for ICFs/ID shall be increased over the rates in effect on June 30, 2022, within the \$1,339,971 appropriated for this purpose. This rule making implements the reimbursement rate increases. The entire rate increase is required to be used for the wages and associated costs specific to wages, benefits and required withholding for direct support professionals and frontline management.

Jobs Impact

There is a potential to impact wages since providers will be able to increase wages for direct support staff in ICF/ID settings statewide. This may not increase the number of new jobs but instead increase wages for current positions.

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).

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).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Effective Date

This rule making will become effective on April 1, 2023.

The following rule-making action is adopted:

Adopt the following **new** subrule 82.5(17):

82.5(17) Wage add-on factor. A wage add-on factor of \$8.86 per day for community-based ICFs/ID shall be included in rates effective July 1, 2022, and after, not subject to the maximum allowable cost ceiling in paragraph 82.5(14)“e,” until rates are established using the cost reports for the period ending June 30, 2023.

a. In accordance with 2022 Iowa Acts, House File 2578, section 31, the entire wage add-on factor shall be used for wages and associated costs specific to wages, benefits, and required withholding of direct support professionals and frontline management.

b. The wage add-on factor of \$8.86 per day shall be added to the maximum allowable base rate in subparagraph 82.5(14)“d”(1) until the next rebase using cost reports for the period ending June 30, 2024.

c. The wage add-on factor of \$8.86 per day shall be added to the maximum allowable cost ceiling, eightieth percentile of costs of all participating facilities in paragraph 82.5(14)“e,” until the eightieth percentile maximum is established using the December 31, 2023, compilation for rates effective beginning July 1, 2024.

[Filed 1/12/23, effective 4/1/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6853C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five-year rules review

The Human Services Department hereby amends Chapter 87, “Family Planning Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.41B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.41B.

Purpose and Summary

Chapter 87 was reviewed as part of the Department’s five-year rules review. Chapter 87 defines the state family planning program, which is a state-funded program within the Medical Assistance program. This rule making adds language to allow eligibility for Afghan parolees and members of three Pacific Island nations’ populations included in the Compacts of Free Association (COFA) to clarify their eligibility for this program. Minor updates and clarifications to eligibility criteria are made as part of the review.

The rules review also resulted in the following technical changes. Definitions are updated to provide clarity and correct references to other chapters. “Enterprise” is removed from the Iowa Medicaid name to be consistent across all chapters related to Medicaid. References to federal regulations are also updated

HUMAN SERVICES DEPARTMENT[441](cont'd)

to provide accurate listings. References to Iowa Code section 232.2(20B) refer to that section as enacted by 2022 Iowa Acts, House File 2507.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6642C**. 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 January 12, 2023.

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).

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 April 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend **441—Chapter 87**, preamble, as follows:

PREAMBLE

This chapter defines and structures the family planning program administered by the department pursuant to ~~2017 Iowa Acts, House File 653, section 90~~ Iowa Code section 217.41B. The purpose of this program is to provide family planning services to individuals who are not enrolled in medical assistance under 441—Chapter 74 or 441—Chapter 75. The department is not receiving federal financial participation for expenditures under the family planning program. Therefore, this chapter shall remain in effect only as long as state funding is available.

The family planning program shall replicate the eligibility requirements and other provisions included in the Medicaid family planning network waiver, as approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services in effect on June 30, 2017, but shall provide for distribution of the family planning services program funds in accordance with this chapter.

Distribution of family planning program funds under this chapter shall be made in a manner that continues access to family planning services.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend rule 441—87.1(217) as follows:

441—87.1(217) Definitions.

“Applicant” means a person who applies for assistance under the family planning program described in this chapter.

“Authorized Title X agency” means an agency or entity with an executed memorandum of understanding (MOU) with the Iowa department of human services authorizing the agency to perform point-of-service eligibility determinations for the family planning program.

“Citizen” or *“citizenship”* includes both citizens of the United States and nationals of the United States as defined in 8 U.S.C. Section 1101(a)(22).

“Creditable qualifying quarters” means ~~all of the qualifying quarters of coverage as defined under Title II of the Social Security Act worked by a parent of an alien while the alien was under the age of 18, and qualifying quarters worked by a spouse of an alien during their marriage if the alien remains married to the spouse or was married to the spouse at the spouse’s death, except for quarters beginning after December 31, 1996, if the parent or spouse of the alien received any federal means-tested public benefit during the period for which the qualifying quarter is credited.~~

“Department” means the Iowa department of human services.

“Family planning services” means pregnancy prevention and related reproductive health services.

“Federal poverty level” means the levels published and updated periodically in the Federal Register by the United States Department of Health and Human Services (DHHS) under the authority of 42 U.S.C. Section 9902(2) and revised annually on April 1.

“Member” means a person who has been determined eligible and is a current or former recipient of the family planning program services.

“Noncitizen” means the same as the term “alien” as defined at 8 U.S.C. Section 1101(a)(3).

“Qualified noncitizen” means the same as the term “qualified alien” as defined at 8 U.S.C. Section 1641(b) and (c) and refers to a person who is:

1. Lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act (INA);
2. Granted asylum in the United States under Section 208 of the INA;
3. A refugee admitted to the United States under Section 207 of the INA;
4. Paroled into the United States under Section 212(d)(5) of the INA for a period of at least one year;
5. A person whose deportation from the United States is withheld under Section 243(h) of the INA as in effect before April 1, 1997, or under Section 241(b)(3) of the INA;
6. Granted conditional entry to the United States pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980;
7. An Amerasian admitted to the United States as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V);
8. A Cuban/Haitian entrant to the United States as described in 8 U.S.C. Section 1641(b)(7);
9. A battered noncitizen as described in 8 U.S.C. Section 1641(c);
10. Certified as a victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386;
11. An American Indian born in Canada to whom Section 289 of the INA applies or a member of a federally recognized Indian tribe as defined in 25 U.S.C. Section 450b(e);
12. Under the age of 21 and lawfully residing in the United States as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii); or
13. Lawfully residing in the United States in accordance with a Compact of Free Association with the government of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau as described in 8 U.S.C. Section 1612(b)(2)(G) as amended by Section 208 of Division CC of Public Law 116-260.

“Qualifying quarters” means all of the qualifying quarters of coverage as defined under Title II of the Social Security Act worked by a parent of a noncitizen while the noncitizen was under the age of 18 and all of the qualifying quarters worked by a spouse of the noncitizen during their marriage if the

HUMAN SERVICES DEPARTMENT[441](cont'd)

noncitizen remains married to the spouse or the spouse is deceased. No qualifying quarters of coverage that are creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to a noncitizen if the parent or spouse of the noncitizen received any federal means-tested public benefit during the period for which the qualifying quarter is credited.

ITEM 3. Amend subrule 87.2(2) as follows:

87.2(2) *Furnishing of social security number.* As a condition of eligibility, except as provided by paragraph 87.2(2)“a,” an applicant or member must provide to the department or authorized Title X agency, as applicable, all social security numbers issued to each individual (including children) for whom family planning services are sought ~~must be furnished to the department.~~

a. The requirement of furnishing a social security number does not apply to an individual who:

- (1) Is not eligible to receive a social security number;
- (2) Does not have a social security number and may only be issued a social security number for a valid nonwork reason in accordance with 20 CFR ~~§422.104~~ §422.104 as amended to March 15, 2022; or
- (3) Refuses to obtain a social security number because of a well-established religious objection. For this purpose, a well-established religious objection means that the individual:

1. Is a member of a recognized religious sect or division of a sect; and
2. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

b. If a required social security number has not been issued or is not known, the individual seeking coverage under the family planning program must apply cooperate with the department or authorized Title X agency, as applicable, in applying for a social security number with the Social Security Administration or request in requesting the Social Security Administration to furnish the number.

ITEM 4. Amend paragraph **87.2(4)“a”** as follows:

a. To be eligible for the family planning program, a person must be one of the following:

- (1) A citizen or national of the United States.
- (2) A qualified ~~alien residing~~ noncitizen continuously present (as described in Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility, under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) at 62 CFR §61415 dated November 11, 1997) in the United States before since August 22, 1996.

- (3) A qualified ~~alien~~ noncitizen under the age of 21.

- (4) A refugee admitted to the United States under Section 207 of the Immigration and Nationality Act (INA).

- (5) ~~An alien~~ A noncitizen who has been granted asylum under Section 208 of the INA.

- (6) ~~An alien~~ A noncitizen whose deportation is withheld under Section 243(h) or 241(b)(3) of the INA.

- (7) A qualified ~~alien~~ noncitizen veteran who has an honorable discharge that is not due to alienage.

- (8) A qualified ~~alien~~ noncitizen who is on active duty in the armed forces of the United States other than active duty for training.

- (9) A qualified ~~alien~~ noncitizen who is the spouse or unmarried dependent child of a qualified ~~alien~~ noncitizen described in subparagraph 87.2(4)“a”(7) or 87.2(4)“a”(8), including a surviving spouse who has not remarried.

- (10) A qualified ~~alien~~ noncitizen who has resided in the United States for a period of at least five years beginning on the date of the qualified noncitizen’s entry into the United States with a status within the meaning of subparagraph 87.2(4)“a”(1), 87.2(4)“a”(4), or 87.2(4)“a”(9) under the definition of “qualified noncitizen” in rule 441—87.1(217).

- (11) An Amerasian admitted as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V).

- (12) A Cuban/Haitian entrant as described in 8 U.S.C. Section 1641(b)(7).

- (13) A certified victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as ~~amended to December 20, 2010.~~

- (14) An American Indian born in Canada to whom Section 289 of the INA applies or who is a member of a federally recognized Indian tribe as defined in 25 U.S.C. Section 450b(e).

HUMAN SERVICES DEPARTMENT[441](cont'd)

(15) An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of Public Law 110-181 ~~as amended to December 20, 2010~~, or to Section 602(b)(8) of Public Law 111-8 ~~as amended to December 20, 2010~~.

(16) An Afghan paroled into the United States treated as a refugee pursuant to Section 2502 of public law 117-43.

(17) A qualified noncitizen lawfully residing in the United States in accordance with a Compact of Free Association with the government of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau as described in 8 U.S.C. Section 1612(b)(2)(G) as amended by Section 208 of Division CC of Public Law 116-260.

(18) A conditional entrant pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980.

ITEM 5. Amend paragraph **87.2(4)“b”** as follows:

b. As a condition of eligibility, all applicants for or members of the family planning program shall attest to their citizenship or ~~alien~~ qualified noncitizen status by signing the application or review form.

ITEM 6. Amend paragraph **87.2(4)“c”** as follows:

c. Except as provided in paragraph 87.2(4)“f,” ~~87.2(4)“h,”~~ applicants or members for whom an attestation of United States citizenship has been made pursuant to paragraph 87.2(4)“b” shall present satisfactory documentation of citizenship ~~or nationality~~ as ~~defined~~ described in paragraph 87.2(4)“d,”“e,” ~~or “i.”~~ 87.2(4)“d” or “e.” A reference to a form in paragraph 87.2(4)“d” or “e” includes any successor form. An applicant or member who attests to citizenship must also verify the applicant’s identity. An applicant or member shall have a reasonable period to obtain and provide required documentation of citizenship or nationality.

(1) For the purposes of this requirement, the “reasonable period” begins on the date a written request for documentation ~~or a notice pursuant to subparagraph 87.2(4)“i”(2)~~ is issued to an applicant or member, ~~whichever is later~~, and continues for 90 days.

(2) Family planning services shall be approved for new applicants and continue for members not previously required to provide documentation of citizenship or nationality until the end of the reasonable period to obtain and provide required documentation of citizenship or nationality. ~~However, the receipt of family planning services pending documentation of citizenship or nationality is limited to one reasonable period of up to 90 days for each individual. An applicant or member who has already received benefits during any portion of a reasonable period shall not be granted coverage for a second reasonable period.~~

ITEM 7. Amend paragraph **87.2(4)“d”** as follows:

d. Any one of the following documents shall must be accepted as satisfactory documentation of citizenship ~~or nationality~~ and identity:

(1) A United States passport, including a U.S. passport card issued by the U.S. Department of State, without regard to any expiration date as long as such passport or card was issued without limitation.

(2) ~~Form N-550 or N-570 (Certificate of Naturalization) issued by the U.S. Citizenship and Immigration Services~~ A Certificate of Naturalization.

(3) ~~Form N-560 or N-561 (Certificate of United States Citizenship) issued by the U.S. Citizenship and Immigration Services~~ A Certificate of United States Citizenship.

(4) A valid U.S. state-issued driver’s license ~~or other identity document described in Section 274A(b)(1)(D) of the INA~~, but only if the state issuing the license ~~or document~~ does either of the following prior to issuance of the license:

1. Requires proof of United States citizenship before issuance of the license or document; or

2. Obtains a social security number from the applicant and verifies before certification that the number is valid and is assigned to the applicant who is a citizen.

(5) Documentation issued by a federally recognized Indian tribe showing membership or enrollment in or affiliation with that tribe, as described at 42 CFR §435.407 as amended to March 15, 2022, including but not limited to a tribal enrollment card, a Certificate of Degree of Indian Blood, a tribal census document, or a document on tribal letterhead issued under the signature of the appropriate tribal official. Acceptable documentation:

1. Identifies the federally recognized Indian tribe that issued the document;

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2. Identifies the individual by name; and
3. Confirms the individual's membership, enrollment, or affiliation with the tribe.

(6) ~~Another document that provides proof of United States citizenship or nationality and provides a reliable means of documentation of personal identity, as the Secretary of the U.S. Department of Health and Human Services may specify by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(B)(v).~~

ITEM 8. Amend paragraph **87.2(4)“e”** as follows:

e. ~~Satisfactory documentation of citizenship or nationality and identity may also be demonstrated by the combination of any identity document described in paragraph 87.2(4)“f” and any one of the following:~~

~~(1) Any identity document described in Section 274A(b)(1)(D) of the INA or any other documentation of personal identity that provides a reliable means of identification, as the Secretary of the U.S. Department of Health and Human Services finds by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(D)(ii); and~~

~~(2) Any one of the following:~~

- ~~1. A certificate of birth in the United States.~~
- ~~2. Form FS-545 or Form DS-1350 (Certification of Birth Abroad) issued by the U.S. Citizenship and Immigration Services.~~
- ~~3. Form I-97 (United States Citizen Identification Card) issued by the U.S. Citizenship and Immigration Services.~~
- ~~4. Form FS-240 (Report of Birth Abroad of a Citizen of the United States) issued by the U.S. Citizenship and Immigration Services.~~
- ~~5. Another document that provides proof of United States citizenship or nationality, as the Secretary of the U.S. Department of Health and Human Services may specify pursuant to 42 U.S.C. Section 1396b(x)(3)(C)(v).~~

~~(1) A U.S. public birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam, the U.S. Virgin Islands, American Samoa, Swain's Island, or the Commonwealth of the Northern Mariana Islands (CNMI) (if born after November 4, 1986 (CNMI local time)). The birth record document may be issued by a state, commonwealth, territory, or local jurisdiction. If the document shows that the individual was born in Puerto Rico or the Northern Mariana Islands before the applicable date referenced in this paragraph, the individual may be a collectively naturalized citizen. The following establishes U.S. citizenship for collectively naturalized individuals:~~

~~1. Puerto Rico: Evidence of birth in Puerto Rico and the applicant's statement that the applicant was residing in the U.S., a U.S. possession, or Puerto Rico on or after January 13, 1941.~~

~~2. CNMI (formerly part of the Trust Territory of the Pacific Islands (TTPI)):~~

~~• Evidence of birth in the CNMI; evidence of TTPI citizenship and residence in the CNMI, the U.S., or a U.S. territory or possession on or after November 3, 1986 (CNMI local time); and the applicant's statement that the applicant did not owe allegiance to a foreign state on November 4, 1986 (CNMI local time);~~

~~• Evidence of TTPI citizenship, continuous residence in the CNMI since before November 3, 1981 (CNMI local time); voter registration before January 1, 1975; and the applicant's statement that the applicant did not owe allegiance to a foreign state on November 4, 1986 (CNMI local time);~~

~~• Evidence of continuous domicile in the CNMI since before January 1, 1974, and the applicant's statement that the applicant did not owe allegiance to a foreign state on November 4, 1986 (NMI local time).~~

~~Note: If a person entered the CNMI as a nonimmigrant and lived in the CNMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.~~

~~(2) A Certification of Report of Birth, issued to U.S. citizens who were born outside the U.S.~~

~~(3) A Report of Birth Abroad of a U.S. citizen.~~

~~(4) A certificate of birth in the U.S.~~

~~(5) A U.S. Citizen I.D. card.~~

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(6) A Northern Marianas Identification Card issued by the U.S. Department of Homeland Security (or predecessor agency).

(7) A final adoption decree showing the child's name and U.S. place of birth or, if an adoption is not final, a statement from a state-approved adoption agency that shows the child's name and U.S. place of birth.

(8) Evidence of U.S. Civil Service employment before June 1, 1976.

(9) A U.S. military record showing a U.S. place of birth.

(10) Documentation that a child meets the requirements of Section 101 of the Child Citizenship Act of 2000 as amended (8 U.S.C. Section 1431).

(11) Medical records, including but not limited to hospital, clinic, or doctor records or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth.

(12) A life, health, or other insurance record that indicates a U.S. place of birth.

(13) An official religious record recorded in the U.S. showing that the birth occurred in the U.S.

(14) School records, including preschool, Head Start, and day care, showing the child's name and U.S. place of birth.

(15) Federal or state census records showing U.S. citizenship or a U.S. place of birth.

If the applicant does not have one of the documents listed in paragraph 87.2(4) "d" or subparagraphs 87.2(4) "e"(1) through (15), the applicant may submit an affidavit using Form 470-4373 or 470-4373(S), signed under penalty of perjury by another individual who can reasonably attest to the applicant's citizenship. Such affidavit must contain the applicant's name, date of birth, and place of U.S. birth. The affidavit is not required to be notarized.

ITEM 9. Rescind paragraph **87.2(4)"f"** and adopt the following **new** paragraph in lieu thereof:

f. Any of the following documents must be accepted as satisfactory documentation of identity, provided the document has a photograph or other identifying information sufficient to establish identity, including but not limited to name, age, sex, race, height, weight, eye color, or address:

(1) Identity documents listed at 8 CFR §274a.2(b)(1)(v)(B)(1) as amended to March 15, 2022, except a driver's license issued by a Canadian government authority.

(2) A driver's license issued by a state or territory.

(3) A school identification card.

(4) A U.S. military card or draft record.

(5) An identification card issued by the federal, state, or local government.

(6) A military dependent's identification card.

(7) A U.S. Coast Guard Merchant Mariner card.

(8) For children under age 19, a clinic, doctor, hospital, or school record, including preschool or day care records.

(9) Two other documents containing consistent information that corroborates an applicant's identity. Such documents include, but are not limited to, employer identification cards; high school, high school equivalency, and college diplomas; marriage certificates; divorce decrees; and property deeds or titles.

(10) A finding of identity from a federal agency or another state agency, including but not limited to a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity of the individual.

If the applicant does not have any document specified in subparagraphs 87.2(4) "f"(1) through (10), the applicant may submit an affidavit using Form 470-4386 or 470-4386(S), signed under penalty of perjury by another individual who can reasonably attest to the applicant's identity. Such affidavit must contain the applicant's name and other identifying information establishing identity, as described in paragraph 87.2(4) "f." The affidavit is not required to be notarized.

ITEM 10. Rescind paragraph **87.2(4)"g"** and adopt the following **new** paragraph in lieu thereof:

g. The department or authorized Title X agency, as applicable, must accept a photocopy, facsimile, scanned, or other copy of a document listed in paragraph 87.2(4) "d," "e," or "f" to the same extent as an original document, unless information on the submitted copy is inconsistent with other information

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available or there is reason to question the validity of, or information in, the document. The department must provide assistance in a timely manner to persons who need assistance in securing satisfactory documentation of citizenship or identity.

ITEM 11. Rescind paragraph **87.2(4)“h”** and adopt the following **new** paragraph in lieu thereof:

h. A person for whom an attestation of United States citizenship has been made pursuant to paragraph 87.2(4)“*b*” is not required to present documentation of citizenship and identity for the family planning program if any of the following circumstances apply:

(1) The person is entitled to or enrolled for benefits under any part of Title XVIII of the federal Social Security Act (Medicare).

(2) The person is receiving federal social security disability insurance (SSDI) benefits under Title II of the federal Social Security Act, Section 223 or 202, based on disability (as defined in Section 223(d) of the Act).

(3) The person is receiving supplemental security income (SSI) benefits under Title XVI of the federal Social Security Act.

(4) The person is or was exempted while assisted by child welfare services funded under Part B of Title IV of the federal Social Security Act on the basis of being a child in foster care as defined in Iowa Code section 232.2(20B). This exemption does not apply, and the person is subject to the citizenship and identity documentation requirements described in paragraph 87.2(4)“*c*,” when services under Part B of Title IV were terminated due to failure to meet citizenship requirements.

(5) The person is or was exempted while assisted by foster care as defined in Iowa Code section 232.2(20B) or adoption assistance funded under Part E of Title IV of the federal Social Security Act. This exemption does not apply, and the person is subject to the citizenship and identity documentation requirements described in paragraph 87.2(4)“*c*,” when services under Part E of Title IV were terminated due to failure to meet citizenship requirements.

(6) The person has previously presented satisfactory documentation of citizenship and identity, as specified by the United States Secretary of Health and Human Services.

(7) The person was deemed eligible for medical assistance pursuant to 42 U.S.C. Section 1396a(e)(4) on or after July 1, 2006, as the newborn of a Medicaid-eligible mother.

(8) The person was eligible for medical assistance pursuant to 42 U.S.C. Section 1397ll(e) as the newborn of a mother eligible for assistance under a State Children’s Health Insurance Program (SCHIP) pursuant to Title XXI of the Social Security Act.

ITEM 12. Rescind paragraph **87.2(4)“i”** and adopt the following **new** paragraph in lieu thereof:

i. Except as provided in paragraph 87.2(4)“*h*,” applicants or members for whom an attestation of qualified noncitizen status has been made pursuant to paragraph 87.2(4)“*b*” shall present satisfactory documentation of qualified noncitizen status. Satisfactory documentation of qualified noncitizen status is documentation issued by the U.S. Citizenship and Immigration Services (USCIS) (formerly Immigration and Naturalization Service (INS)) of the Department of Homeland Security that identifies the person’s qualified noncitizen status.

ITEM 13. Amend subrule 87.2(5) as follows:

87.2(5) Deeming of ~~alien~~ sponsor’s income.

a. When ~~an alien~~ a qualified noncitizen admitted for lawful permanent residence is sponsored by a person who executed an affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the ~~alien~~ qualified noncitizen, ~~the income of the alien shall be deemed to include the income of the sponsor (and of the sponsor’s spouse if living with the sponsor)~~ shall be deemed to determine eligibility for the sponsored qualified noncitizen. The amount deemed to the sponsored ~~alien~~ qualified noncitizen shall be the total countable income of the sponsor ~~and the sponsor’s spouse~~, determined pursuant to paragraphs 87.2(3)“*b*” through “*d*.”

b. An indigent ~~alien~~ qualified noncitizen is exempt from the deeming of a sponsor’s income for 12 months after indigence is determined. ~~An alien~~ A qualified noncitizen shall be considered indigent if:

(1) The ~~alien~~ qualified noncitizen does not live with the sponsor; and

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(2) The ~~alien's~~ qualified noncitizen's gross income, including any income actually received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored ~~alien's~~ qualified noncitizen's household size.

c. A battered ~~alien~~ qualified noncitizen as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's income for 12 months.

d. Deeming of the sponsor's income does not apply when:

(1) The sponsored ~~alien~~ qualified noncitizen attains citizenship through naturalization pursuant to Chapter 2 of Title II of the INA.

(2) The sponsored ~~alien~~ qualified noncitizen has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 creditable qualifying quarters as defined in rule 441—87.1(217).

(3) The sponsored ~~alien~~ qualified noncitizen or the sponsor dies.

(4) The sponsored ~~alien~~ qualified noncitizen is a child under the age of 21 as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii).

ITEM 14. Amend subrule 87.2(6) as follows:

87.2(6) Residency requirements. Residency in Iowa is a condition of eligibility for the family planning ~~services~~ program.

a. *Definition of resident.* A resident of Iowa is one:

(1) Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A ~~child~~ person is a resident of Iowa when living there on other than a temporary basis. Residence ~~may~~ shall not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. ~~Under this definition, the child is a resident of the state in which the parent or caretaker is a resident.~~

b. *Retention of residence.* Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished does not interrupt continuity of residence.

ITEM 15. Amend subrule 87.2(7) as follows:

87.2(7) Investigation by quality control or the department of inspections and appeals. As a condition of eligibility, an applicant or member shall cooperate with the department when the applicant's or member's case is selected by quality control or the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income ~~and resources do~~ does not affect family planning program eligibility. (See More information can be found in department of inspections and appeals rules in 481—Chapter 72.) Failure to cooperate shall serve as a basis for denial of an application or cancellation of family planning program eligibility. Once a person's eligibility is denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

ITEM 16. Amend subrule 87.3(1) as follows:

87.3(1) Application. An individual who requests assistance for family planning services shall file an application Form 470-5485, ~~Family Planning Program Application~~. A woman eligible under paragraph 87.2(1) "a" is not required to file an application for assistance under this program. The department will automatically redetermine eligibility upon loss of other Medicaid eligibility within 12 months after the month when the 60-day postpartum period ends.

ITEM 17. Amend subrule 87.3(3) as follows:

87.3(3) Information or verification needed to determine eligibility. The department or authorized Title X agency, as applicable, shall notify the applicant or member, authorized representative, or responsible person in writing of the information or verification required to establish eligibility. This

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notice shall be provided to the applicant or member, authorized representative, or responsible person personally or by mail or fax.

a. The department or authorized Title X agency, as applicable, shall allow the applicant or member, authorized representative, or responsible person ten calendar days to supply the information or verification requested.

b. The department or authorized Title X agency, as applicable, may extend the deadline for a reasonable period of time when the applicant or member, authorized representative, or responsible person is making reasonable efforts but is unable to secure the required information or verification.

c. If benefits are denied for failure to provide information or verification and the information or verification is provided within 14 calendar days of the effective date of the denial, the department or authorized Title X agency, as applicable, shall complete the eligibility determination as though the information or verification were received timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant or member, authorized representative, or responsible person shall have until the next business day to provide the information.

ITEM 18. Amend subrule 87.3(4) as follows:

87.3(4) Annual review. An individual who requests that assistance continue for family planning services shall complete Form 470-4071, ~~Family Planning Program Review~~. The member must submit the completed review form before the end of the eligibility period to any location specified in subrule 87.3(2).

ITEM 19. Amend subrule 87.3(5) as follows:

87.3(5) Time limit for decision. An application or review form shall be processed by the ~~family planning agency~~ department or authorized Title X agency with which the ~~application form~~ was filed. A determination of eligibility shall be made within 45 days of receipt of the application or review form.

ITEM 20. Amend subrule 87.6(1) as follows:

87.6(1) Required changes to report. An individual applying for or receiving family planning services under this program shall report the following changes within ten days from the date the change is known:

- a.* Change in mailing address;
- b.* No longer a resident of Iowa;
- c.* A woman becomes pregnant;
- d.* No longer capable of bearing or fathering children;
- e.* Becomes Medicaid or Iowa health and wellness plan eligible, except women meeting criteria in paragraph 87.2(1) "a"; or
- f.* Turns 55 years of age.

ITEM 21. Amend subrule 87.8(1) as follows:

87.8(1) Sterilization is a covered service subject to the limitations in 441—~~paragraphs 78.1(16) "a" through "i."~~ 441—Chapter 78.

ITEM 22. Amend subrule 87.10(1) as follows:

87.10(1) Family planning providers that participate in the program shall submit claims to the Iowa Medicaid ~~enterprise~~ for services rendered no later than 45 days from the last day of the month in which services were provided.

ITEM 23. Amend rule 441—87.11(217) as follows:

441—87.11(217) Providers eligible to participate.

87.11(1) Providers must be enrolled with the Iowa Medicaid program, subject to ~~rule 441—79.14(249A)~~ 441—Chapter 79, and otherwise qualified to provide family planning services under Medicaid, subject to the limitations related to abortions, as specified above under subrule 87.7(1). Effective July 1, 2018, as a condition of eligibility as a provider under the family planning services program, each distinct location of a nonprofit health care delivery system shall enroll in the program as a separate provider, be assigned a distinct provider identification number, and complete an attestation

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that abortions are not performed at the distinct location. For the purposes of this subrule, “nonprofit health care delivery system” shall have the same meaning as provided under subrule 87.7(1).

87.11(2) Process for enrollment. Providers wishing to enroll under the state family planning program must complete the following steps:

- a. Must complete enrollment with Iowa Medicaid ~~enterprise~~.
- b. Must complete Form 470-5484, ~~Family Planning Program Provider Attestation~~, regarding nonprovision of abortions, pursuant to requirements referenced above under subrule 87.7(1).
- c. Forms referenced in this subrule must be sent to Iowa Medicaid ~~Enterprise~~, Provider Enrollment Unit, P.O. Box 36450, Des Moines, Iowa 50315.

ITEM 24. Amend **441—Chapter 87**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 217.41B ~~as amended by 2018 Iowa Acts, Senate File 2418, section 83.~~

[Filed 1/12/23, effective 4/1/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6854C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five-year rules review

The Human Services Department hereby amends Chapter 90, “Case Management Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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

Chapter 90 was reviewed as part of the Department’s five-year rules review. Chapter 90 provides information on case management services and when those services are available to members.

This rules review resulted in the following technical amendments. Definitions are updated to provide correct references to other chapters. “Enterprise” is removed from the phrase “Iowa Medicaid enterprise” to be consistent across all chapters related to Medicaid. References to federal regulations are also updated to provide accurate listings.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6643C**. 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 January 12, 2023.

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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).

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 April 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—90.1(249A)**, definitions of “Care coordination,” “Chronic mental illness,” “Integrated health home,” “Intellectual disability,” “Major incident,” “Managed care organization” and “Medical institution,” as follows:

“*Care coordination*” means the case management services provided by an integrated health home to members who are also receiving home- and community-based habilitation services pursuant to ~~rule 441—78.27(249A)~~ 441—Chapter 78 or HCBS children’s mental health waiver services pursuant to ~~rules 441—83.121(249A) through 441—83.129(249A)~~ 441—Chapter 83.

“*Chronic mental illness*” means a condition present in adults who have a persistent mental or emotional disorder that seriously impairs their functioning relative to such primary aspects of daily living as personal relations, living arrangements, or employment. The definition of chronic mental illness and qualifying criteria are found at ~~rule 441—24.1(225C)~~ in 441—Chapter 24. For purposes of this chapter, people with mental disorders resulting from Alzheimer’s disease or substance abuse shall not be considered chronically mentally ill.

“*Integrated health home*” or “*IHH*” means a provider of health home services that is a Medicaid-enrolled provider and that is determined through the provider enrollment process to have the qualifications, systems and infrastructure in place to provide IHH services pursuant to ~~rule 441—77.47(249A)~~ 441—Chapter 77. IHH covered services and member eligibility for IHH enrollment are also governed by ~~rule 441—78.53(249A)~~ 441—Chapter 78 and the health home state plan amendment. The IHH provides care coordination services for enrolled habilitation and children’s mental health waiver members.

“*Intellectual disability*” means a diagnosis of intellectual disability (intellectual developmental disorder), global developmental delay, or unspecified intellectual disability (intellectual developmental disorder). Diagnosis criteria are outlined in ~~rule 441—83.61(249A)~~ 441—Chapter 83.

“*Major incident*” means an occurrence that involves a member who is enrolled in an HCBS waiver, targeted case management, or habilitation services and that:

1. to 5. No change.

6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3”; or

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~~6.~~ 7. Involves a member's location being unknown by provider staff who are responsible for protective oversight.

"*Managed care organization*" or "*MCO*" means the same as defined in ~~rule 441—73.1(249A)~~ 441—Chapter 73.

"*Medical institution*" means an institution that is organized, staffed, and authorized to provide medical care as set forth in the most recent amendment to 42 Code of Federal Regulations Section 435.1009 as amended to October 20, 2022. A residential care facility is not a medical institution.

ITEM 2. Amend subrule 90.2(1) as follows:

90.2(1) *Eligibility for targeted case management.* A person who meets all of the following criteria shall be eligible for targeted case management:

a. The person is eligible for Medicaid or is conditionally eligible under ~~441—subrule 75.1(35)~~ 441—Chapter 75;

b. to f. No change.

ITEM 3. Amend paragraph **90.2(3)“b”** as follows:

b. *Application decision for targeted case management.* The case manager shall inform the applicant, or the applicant's guardian or representative, of any decision to approve, deny, or delay the service in accordance with the notification requirements at ~~rule 441—16.3(17A)~~ 441—Chapter 16.

ITEM 4. Amend subrule 90.3(2) as follows:

90.3(2) The provider shall notify the member or the member's guardian or representative in writing of the termination of targeted case management, in accordance with ~~rule 441—16.3(17A)~~ 441—Chapter 16.

ITEM 5. Amend subrule 90.6(1) as follows:

90.6(1) *Documentation of contacts.* Subrule 90.6(1) applies to all categories of case management and all populations covered by case management.

a. Documentation of case management services contacts shall include:

(1) The name of the individual case manager;

(2) The need for, and occurrences of, coordination with other case managers within the same agency or referral or transition to another case management agency; and

(3) Other requirements as outlined in ~~rule 441—79.3(249A)~~ 441—Chapter 79 to support payment of services.

b. Targeted case management providers serving FFS members must also adhere to ~~441—subrule 24.4(4)~~ 441—Chapter 24.

ITEM 6. Amend subrule 90.7(3), introductory paragraph, as follows:

90.7(3) *Quality assurance.* Case management services providers shall cooperate with quality assurance activities conducted by ~~the Iowa Medicaid enterprise~~ or a Medicaid managed care organization, as well as any other state or federal entity with oversight authority to ensure the health, safety, and welfare of Medicaid members. These activities may include, but are not limited to:

[Filed 1/12/23, effective 4/1/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6855C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to five-year rules review**

The Human Services Department hereby amends Chapter 98, “Support Enforcement Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 252B.9.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 252B.9.

Purpose and Summary

Chapter 98 was reviewed as part of the Department’s five-year rules review. Chapter 98 outlines the enforcement services provided by the Child Support Recovery Unit. These amendments update legal references for the Iowa Rules of Civil Procedure. Form names and numbers are also updated. References to the Iowa Code and to federal regulations are also updated to provide accurate listings. The name of the food assistance program is updated to replace it with the federal name of the Supplemental Nutrition and Assistance Program to be consistent across all programs.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6644C**. 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 January 12, 2023.

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).

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).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Effective Date

This rule making will become effective on April 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—98.5(252E) as follows:

441—98.5(252E) Health benefit plan information. The unit shall gather information concerning a health benefit plan.

98.5(1) Information from an employer. The unit shall gather information concerning a health benefit plan an employer may offer an obligor as follows:

a. The unit may send Form 470-0177M, ~~Employment and Health Insurance Questionnaire~~, whenever a potential employer is identified.

b. The unit shall secure information about health care coverage from a known employer on Form 470-2743, ~~Employer Medical Support Information~~, when Form 470-3818, ~~National Medical Support Notice~~, or an order has been forwarded to the employer pursuant to Iowa Code section 252E.4.

98.5(2) Information from an obligor. The unit may secure medical support information from an obligor on Form 470-0413, ~~Obligor Insurance Questionnaire~~.

98.5(3) Disposition of information. The unit shall provide the information:

a. To the Medicaid agency and to the obligee, when requested, when the dependent is a recipient of Medicaid.

b. To the obligee, when requested, when the dependent is not a recipient of Medicaid.

ITEM 2. Amend paragraph **98.7(2)“a”** as follows:

a. If an obligor was ordered to provide health care coverage under an order but did not comply with the order, the child support recovery unit may implement the order by forwarding to the employer a copy of the order, an ex parte order as provided in Iowa Code section 252E.4, or Form 470-3818, ~~National Medical Support Notice~~.

ITEM 3. Amend subrule 98.7(3) as follows:

98.7(3) Termination of employment. When the child support recovery unit receives information indicating the obligor’s employment has terminated, the unit shall secure the status of the health benefit plan by sending Form 470-3218, ~~Employer Insurance Notification~~, to the employer.

If no response is received within 30 days of sending Form 470-3218, the unit shall send a second request on Form 470-3219, ~~Employer Insurance Second Notification~~, to the employer.

ITEM 4. Amend paragraph **98.8(2)“a”** as follows:

a. The obligor shall be entitled to only one informal conference for each new employer to which the unit has forwarded Form 470-3818, ~~National Medical Support Notice~~, or an order under Iowa Code section 252E.4 to enforce medical support.

ITEM 5. Amend subrule 98.42(1) as follows:

98.42(1) Notice to employer. The unit may send notice to the employer or other income provider by regular mail or by electronic means in accordance with Iowa Code chapter 252D. If the unit is sending notice by regular mail, it shall send Form 470-3272, ~~Income Withholding for Support~~, or a notice in the standard format prescribed by 42 U.S.C. §666(b)(6)(A). If the unit is sending the notice by electronic means, it may include notice of more than one obligor’s order and need only state once provisions which are applicable to all obligors, such as the information in paragraphs 98.42(1) “d,” “f,” “g,” and “i.” The statement of provisions applicable to all obligors may be sent by regular mail or electronic means. The notice of income withholding shall contain information such as the following:

a. to j. No change.

ITEM 6. Amend subrule 98.42(2) as follows:

98.42(2) Notice to obligor. Form 470-2624, ~~Initiation of Income Withholding/Medical Support Enforcement~~, shall be sent to the last-known address of the obligor by regular mail. The notice shall contain the following information:

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a. to f. No change.

ITEM 7. Amend subrule 98.42(3) as follows:

98.42(3) Standard format. As provided in Iowa Code section 252D.17, an order or notice of an order for income withholding shall be in a standard format prescribed by the child support recovery unit. Form 470-3272, ~~Income Withholding for Support~~, is the standard format prescribed by the child support recovery unit, and the unit shall make a copy of the form available to the state court administrator and the Iowa state bar association.

ITEM 8. Amend ~~441—~~**Chapter 98**, Division II, Part C, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ chapters 252D and 252E.

ITEM 9. Amend subrule 98.61(5) as follows:

98.61(5) Good cause. The name of the obligor shall not be included when there has been a finding of good cause for noncooperation with the child support recovery unit in a public assistance case pursuant to ~~441—subrule 41.2(8) or 441—subrule 75.14(1)~~ 441—Chapter 41 or 441—Chapter 75 and a determination has been made that enforcement may not proceed without risk of harm to the child or caretaker.

ITEM 10. Amend subrule 98.62(2) as follows:

98.62(2) Availability of list. Once released, the list shall be provided to other persons upon payment of an amount to cover the cost of producing a copy as specified in ~~441—subrule 9.3(7)~~ 441—Chapter 9. Requests shall be directed to the Bureau of Collections, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114.

ITEM 11. Amend rule ~~441—~~98.73(252B) as follows:

441—98.73(252B) Method and requirements of reporting. The obligor shall complete Form 470-3155, ~~Report of Seek Employment Activity~~, which shall be submitted to the unit on a weekly basis throughout the duration of the order unless the obligor has a valid reason for not complying with the order. The obligor shall document at least five new attempts to find employment on the form each week. The same employer may not be reported more than once per week.

The obligor shall include the names, addresses, and the telephone numbers of each of the five employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom the inquiry was directed.

ITEM 12. Amend subrule 98.74(2) as follows:

98.74(2) Temporary illness or disability. Temporary illness or disability of the obligor or other household member is considered a valid reason upon receipt of completed Form 470-3158, ~~Physician's Statement~~, verifying the obligor's inability to seek or accept employment.

ITEM 13. Amend subrule 98.74(6) as follows:

98.74(6) Job training. Participation in a job training or job seeking program through the department of employment services as a result of receiving ~~food stamps~~ benefits from the Supplemental Nutrition Assistance Program (SNAP) is considered a valid reason upon receipt of verification from the department of employment services.

ITEM 14. Amend rule ~~441—~~98.75(252B) as follows:

441—98.75(252B) Method of service. The seek employment order shall be served on the obligor by regular mail. Proof of service shall be completed ~~in accordance with Iowa Rules~~ according to Rule of Civil Procedure, Number 82 1.442.

ITEM 15. Amend rule ~~441—~~**98.81(252B)**, definition of "Delinquent support," as follows:

"*Delinquent support*" means a payment, or portion of a payment, including interest, not received by the clerk of the district court or other designated agency at the time it was due. In addition, delinquent

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support shall also include payments for parental liabilities not received as specified pursuant to ~~rule 441—156.2(234)~~ 441—Chapter 156.

ITEM 16. Amend subrule 98.84(8) as follows:

98.84(8) *Offset notice, appeal, and refund.* The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted. When the unit receives information from the federal Office of Child Support Enforcement regarding the offset, or when the individual whose name was submitted for federal offset notifies the department that the individual has received an offset notice, the department shall issue to that individual Form 470-3684, ~~Appeal Rights for Federal Offsets~~.

a. to c. No change.

ITEM 17. Amend rule 441—98.94(252I) as follows:

441—98.94(252I) Notice to financial institution. The unit may send a notice to the financial institution with which the account is placed, directing that the financial institution forward to the collection services center all or a portion of the moneys in the obligor's account or accounts on the date the notice is received. The notice shall be sent by first-class mail, with proof of service completed according to ~~rule of civil procedure 82~~ Rule of Civil Procedure 1.442. The notice to the financial institution shall contain all of the information specified in Iowa Code chapter 252I.

ITEM 18. Amend rule 441—98.95(252I) as follows:

441—98.95(252I) Notice to support obligor. The unit shall notify an obligor, and any other party known to have an interest in the account, of the action. The notice shall contain all of the information specified in Iowa Code chapter 252I. The unit shall forward the notice by first-class mail within two working days of sending the notice to the financial institution. Proof of service shall be completed according to ~~Iowa Rules~~ Rule of Civil Procedure 82 1.442.

ITEM 19. Amend subrule 98.101(2) as follows:

98.101(2) *Subpoena or warrant.* An individual must have failed to comply with a subpoena or warrant, as defined in Iowa Code chapter 252J, relating to a paternity or support proceeding. If a subpoena was issued, the individual must have failed to comply with either Form 470-3413, ~~Child Support Recovery Unit Subpoena~~, or an Interstate Subpoena as provided in ~~paragraph 96.2(1) "a"~~ subrule 96.2(1) within 15 days of the issuance of the subpoena, and proof of service of the subpoena was completed according to Rule of Civil Procedure 82 1.442.

ITEM 20. Amend subrule 98.102(2) as follows:

98.102(2) *Temporary illness or disability.* Temporary illness or disability of the individual or illness or disability of another household member which requires the presence of the individual in the home as caretaker is considered a valid reason for exemption upon receipt of a completed Form 470-3158, ~~Physician's Statement~~, verifying the individual's or household member's inability to work.

ITEM 21. Amend subrule 98.102(4) as follows:

98.102(4) *Job training.* Participation in a job-training or job-seeking program through the department of employment services as a result of receiving ~~food stamps~~ benefits from the Supplemental Nutrition Assistance Program is considered a valid reason for exemption upon receipt of verification from the department of employment services or verification through online information available to CSRU or upon receipt of a written statement from an income maintenance worker.

ITEM 22. Amend subrule 98.103(3) as follows:

98.103(3) *Certificate of noncompliance.* If an individual fails to respond in writing to the notice within 20 days, or if the individual requests a conference and fails to appear, the unit shall issue a Certificate of Noncompliance, ~~Form 470-3274~~, to applicable licensing authorities in accordance with Iowa Code section 252J.3.

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ITEM 23. Amend rule 441—98.104(252J) as follows:

441—98.104(252J) Conference.

98.104(1) *Scheduling of conference.* Upon receipt from an individual of a written request for a conference, CSRU shall schedule a conference not more than 30 days in the future. At the request of either CSRU or the individual, the conference may be rescheduled one time. When setting the date and time of the conference, if notice was sent to an obligor under subrule 98.103(1), CSRU shall request the completion of Form 470-0204, ~~Financial Statement~~, and other financial information from both the obligor and the obligee as may be necessary to determine the obligor's ability to comply with the support obligation.

98.104(2) *Payment calculation.* If notice was sent to an obligor under subrule 98.103(1) during the conference held in compliance with the provisions of Iowa Code section 252J.4, CSRU shall determine if the obligor's ability to pay varies from the current support order by applying the mandatory supreme court guidelines as contained in 441—Chapter 99, Division I, with the exception of subrules 99.4(3) and 99.5(5). If further information from the obligor is necessary for the calculation, CSRU may schedule an additional conference no less than ten days in the future in order to allow the obligor to present additional information as may be necessary to calculate the amount of the payment. If, at that time, the obligor fails to provide the required information, CSRU shall issue a Certificate of Noncompliance, ~~Form 470-3274~~, to applicable licensing authorities. If the obligee fails to provide the necessary information to complete the calculation, CSRU shall use whatever information is available. If no income information is available for the obligee, CSRU shall determine the obligee's income in accordance with 441—subrules 99.1(2) and 99.1(4). This calculation is for determining the amount of payment for the license sanction process only, and does not modify the amount of support obligation contained in the underlying court order.

98.104(3) *Referral for review and adjustment.* If the amount calculated in subrule 98.104(2) meets the criteria for review and adjustment as specified in rule 441—99.62(252B,252H), or administrative modification as specified in rule 441—99.82(252H) and subrules 441—99.83(1), 99.83(2) and 99.83(6) at the time CSRU provides the payment agreement to the obligor, CSRU shall also provide the obligor with any necessary forms to request a review and adjustment or administrative modification of the support obligation. The payment agreement remains in effect during the review and adjustment or administrative modification process.

ITEM 24. Amend rule 441—98.105(252J) as follows:

441—98.105(252J) Payment agreement. The License Sanction Payment Agreement, ~~Form 470-3273~~, shall require the obligor to pay the lower of the amount calculated in subrule 98.104(2) or the maximum amount payable under an income withholding order as specified in rule 441—98.24(252D).

98.105(1) *Duration of payment agreement.* The License Sanction Payment Agreement signed under this division shall remain in effect for at least one year from the date of issuance unless CSRU determines the obligor has a valid reason for exemption as specified in rule ~~98.102(252J)~~ 441—98.102(252J). Except in those cases in which review and adjustment are in process, CSRU may, at the end of the year, begin the process of reviewing the case to ensure that the payment amount continues to accurately reflect the obligor's ability to pay as calculated in subrule 98.104(1).

98.105(2) *Failure to comply.* If at any time following the signing of a payment agreement the obligor fails to comply with all the terms of the agreement, CSRU shall issue a ~~Certificate of Noncompliance~~, Form 470-3274, to applicable licensing authorities in accordance with the provisions of Iowa Code chapter 252J.

ITEM 25. Amend rule 441—98.106(252J) as follows:

441—98.106(252J) Staying the process due to full payment of support. If the obligor, at any time, pays the total support owed, both current and past due, or an individual complies with the subpoena or warrant, CSRU shall stay the process, and any ~~Certificate of Noncompliance~~, Form 470-3274, ~~which~~ that has been issued shall be withdrawn by CSRU.

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ITEM 26. Amend rule 441—98.107(252J) as follows:

441—98.107(252J) Duration of license sanction. ~~The Certificate of Noncompliance, Form 470-3274,~~ shall remain in effect until the obligor pays all support owed, both arrears and current; or the obligor enters into a payment agreement with CSRU; or the obligor meets one of the criteria for exemption specified at subrules 98.102(1), 98.102(2), and 98.102(4); or the individual complies with the subpoena or warrant.

ITEM 27. Amend **441—Chapter 98**, Division VIII, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 252J ~~as amended by 1997 Iowa Acts, House File 612, Division X.~~

ITEM 28. Amend **441—Chapter 98**, Division X, preamble, as follows:

This division implements provisions of ~~1997 Iowa Acts, House File 612, sections 35 and 244 Iowa Code chapter 252B,~~ which ~~provide~~ provides for enforcement of child support arrearages by external sources. These sources are entities under contract to collect difficult-to-collect arrearages and private attorneys acting independently of the unit but with the unit's consent. The rules provide criteria and procedures for referral of delinquent support to collection contractors, assessment of the statutory surcharge, and opportunity for the delinquent parent to contest. The rules also provide a procedure to allow state payment to private attorneys enforcing child support recovery unit (CSRU) cases and provide criteria to exempt cases from the procedure.

ITEM 29. Amend rule 441—98.121(252B) as follows:

441—98.121(252B) Difficult-to-collect arrearages. The child support recovery unit may refer difficult-to-collect arrearages to a collection entity under contract with the unit or with another state entity. Upon referral, a surcharge, in addition to the support, shall be due and payable by the obligor as provided in ~~1997 Iowa Acts, House File 612, section 244 Iowa Code chapter 252B.~~

98.121(1) Difficult-to-collect arrearage. A difficult-to-collect arrearage is one based upon a court or administrative order which meets all the following criteria:

- a. There is no order for current support and only an arrearage is owing.
- b. There has been no payment, except for federal or state tax refund offset payments, in the past three months.
- c. There is no valid reason for exemption from the referral and surcharge process. Valid reasons for exemption and acceptable verification are those listed in subrules 98.102(1), 98.102(3), and 98.102(6). Upon verification of those conditions, the child support recovery unit shall bypass or exempt the obligor's arrearages from the referral and surcharge process. When the information to verify the exemption is not available to the child support recovery unit through online sources, the child support recovery unit shall request, and the obligor shall provide, verification of the reason for exemption.

98.121(2) Notice of the possibility of referral and surcharge. The child support recovery unit shall provide notice of the possibility of a referral and surcharge to the obligor as required by ~~1997 Iowa Acts, House File 612, section 244 Iowa Code chapter 252B.~~ The notice shall be provided at least 15 days before the unit sends the notice of referral and surcharge to the obligor, subject to the following:

- a. *Notification contained in order.* When the support order under which the arrearage has accrued contains language advising of statutory provisions for referral and surcharge, no other preliminary notice shall be required.
- b. *Notification issued by the child support recovery unit.* When the support order under which the arrearage has accrued does not contain language regarding the statutory provisions for referral and surcharge, or was entered under a foreign jurisdiction and notification was not included in the support order or provided as a separate written notice, the child support recovery unit shall issue a notice to the obligor. The notice shall be sent by regular mail to the obligor's last-known address.

98.121(3) Notice of referral and surcharge. The child support recovery unit shall send notice of a referral and surcharge to the obligor by regular mail to the obligor's last-known address, with proof of service completed according to Rule of Civil Procedure ~~82~~ 1.442. The notice shall contain all the

HUMAN SERVICES DEPARTMENT[441](cont'd)

information required by ~~1997 Iowa Acts, House File 612, section 244~~ Iowa Code chapter 252B. The notice shall be sent at least 30 days before the unit refers the arrearage to the collection entity.

98.121(4) *Contesting the referral and surcharge.* An obligor may contest the referral and surcharge. The right to contest is limited to a mistake of fact including but not limited to a mistake in the identity of the obligor, a mistake as to whether there was a payment in the three months before the date of the notice specified in subrule 98.121(3), a mistake as to whether an exemption in paragraph 98.121(1) “c” applies, or a mistake in the amount of arrearages.

a. An obligor may contest the referral and surcharge by submitting a written request for a review to the unit within 20 days of the date on the notice of referral and surcharge specified in subrule 98.121(3). Upon receipt of a written request for review, the unit shall follow the criteria and procedures specified in ~~1997 Iowa Acts, House File 612, section 244,~~ Iowa Code chapter 252B for resolving the request.

(1) and (2) No change.

b. No change.

c. Following the issuance of a notice of determination of a review under paragraph 98.121(4) “a,” or issuance of a notice of determination of an additional review under paragraph 98.121(4) “b,” the obligor may request a district court hearing. The obligor shall make a request by sending a written request for a hearing to the unit within ten days of the date of the unit’s written determination of the review, or within ten days of the date of the bureau chief’s written determination of an additional review, whichever is later. Procedures for a district court hearing are specified in ~~1997 Iowa Acts, House File 612, section 244~~ Iowa Code chapter 252B.

d. The unit shall not refer arrearages and assess a surcharge until after completion of any review, additional review or judicial hearing process.

98.121(5) No change.

This rule is intended to implement ~~1997 Iowa Acts, House File 612, section 244~~ Iowa Code chapter 252B.

ITEM 30. Amend rule 441—98.122(252B), introductory paragraph, as follows:

441—98.122(252B) Enforcement services by private attorney entitled to state compensation. An attorney licensed to practice law in Iowa may utilize judicial proceedings to collect support, at least a portion of which is assigned support, and be entitled to compensation by the state as provided in ~~1997 Iowa Acts, House File 612, section 35~~ Iowa Code chapter 252B.

ITEM 31. Amend subrule 98.122(1) as follows:

98.122(1) *Eligible cases.* To be eligible for attorney services with compensation under this rule, a case must meet all of the following:

a. The child support recovery unit is providing services under Iowa Code chapter 252B.

b. The current support obligation is terminated and only arrearages are due under the administrative or court order.

c. There has been no payment under any order in the case for at least a 12-month period prior to the provision of the notice from the attorney to the unit under paragraph 98.122(1) “f.”

d. At least a portion of the arrearages due under any order in the case is assigned to the state because cash assistance was paid under ~~1997 Iowa Acts, Senate File 516, sections 2 through 24 and 35~~ Iowa Code chapter 252B.

e. The case does not have any of the following characteristics:

(1) There has been a finding of good cause or other exception pursuant to Iowa Code section 252B.3 as amended by ~~1997 Iowa Acts, House File 612, section 26~~.

(2) A portion of the arrears is assigned to another state because of public assistance provided by that state.

(3) Another attorney has already notified the unit of the intent to initiate a judicial proceeding to collect support due under any order in the same case under this rule, and either the time to receive the collection has not expired or the unit has not received a notice from the other attorney that the judicial proceeding has concluded prior to the expiration of the time period.

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(4) If the notice from the attorney under paragraph 98.122(1) "f" specifies contempt of court as the judicial proceeding, and the unit has generated a seek employment order to the obligor under Iowa Code section 252B.21 less than nine months prior to the date on the notice from the attorney.

(5) The case or arrearages have been referred by the child support recovery unit to a collection entity under Iowa Code section 252B.5, subsection 3, as amended by 1997 Iowa Acts, House File 612, section 30, or 1997 Iowa Acts, House File 612, section 244, 252B.5(3) less than nine months prior to the date on the notice from the attorney.

(6) The obligor has filed for bankruptcy and collection activities are stayed.

(7) The notice from the attorney under paragraph 98.122(1) "f" lists a specific judicial proceeding and the unit has already initiated the same type of proceeding in court.

(8) The case has been referred to the U.S. Attorney's office and is still pending at that office.

f. The attorney has provided written notice to the central office of the child support recovery unit in Des Moines, as specified in subrule 98.122(2), and to the last-known address of the obligee of the intent to initiate a specified judicial proceeding to collect support on any identified court or administrative order involving the obligor and obligee in the case.

g. The attorney has provided documentation of insurance to the unit as required by 1997 Iowa Acts, House File 612, section 35 Iowa Code chapter 252B.

h. The collection must be received by the collection services center within 90 days of the notice from the attorney in paragraph 98.122(1) "f," or within a subsequent 90-day extension period.

ITEM 32. Amend paragraph **98.122(2) "c"** as follows:

c. If the case is eligible under this rule, the attorney may initiate judicial proceedings after 30 days after providing the notice to the child support recovery unit in paragraph 98.122(2) "a." ~~Section 35 of 1997 Iowa Acts, House File 612, Iowa Code chapter 252B~~ defines "judicial proceedings."

ITEM 33. Amend subrule 98.122(3) as follows:

98.122(3) Collection and payment to attorney.

a. Upon compliance with the requirements of 1997 Iowa Acts, House File 612, section 35, Iowa Code chapter 252B and this rule, the attorney shall be entitled to compensation from the state as provided for in this rule.

b. Upon receipt of a file-stamped copy of a court order which identifies the amount of support collected as a result of the judicial proceeding and which does not order the payment of attorney fees by the obligor, and the receipt of the collection by the collection services center, all the following apply:

(1) ~~Section 35 of 1997 Iowa Acts, House File 612, Iowa Code chapter 252B~~ specifies the formula to calculate the compensation due the attorney from the state. The child support recovery unit shall calculate the compensation due the attorney based upon the amount of support which is credited to arrearages due the state at the time the collection is received by the collection services center. After calculating the amount due the attorney, the unit shall reduce the amount due the attorney by the amount of any penalty or sanction imposed upon the state as a result of any other judicial proceeding initiated by that attorney under 1997 Iowa Acts, House File 612, section 35 Iowa Code chapter 252B. The child support recovery unit shall send the attorney a notice of the amount of the compensation due from the state.

(2) The collection services center shall disburse any support due an obligee prior to payment of compensation to the attorney.

(3) The child support recovery unit shall not authorize disbursement of compensation to the attorney until the later of 30 days after receipt of the collection and the file-stamped copy of the order, or resolution of any timely appeal by the obligor or obligee.

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(4) The amount of compensation due the attorney is subject to judicial review upon application to the court by the attorney.

ITEM 34. Amend rule **441—98.122(252B)**, implementation sentence, as follows:

This rule is intended to implement ~~1997 Iowa Acts, House File 612, section 35~~ Iowa Code chapter 252B.

[Filed 1/12/23, effective 4/1/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6856C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five-year rules review

The Human Services Department hereby amends Chapter 99, "Support Establishment and Adjustment Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 252B, 252C and 252F.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 252B, 252C and 252F.

Purpose and Summary

Chapter 99 was reviewed as part of the Department's five-year rules review. Chapter 99 outlines the rules governing the provision of services provided by the child support recovery unit regarding the establishment of paternity, the establishment of support obligations, the review and adjustment of support obligations, the modification of support obligations, and the suspension and reinstatement of support obligations.

These amendments align the rules with the current procedures for paternity establishment in the Iowa Code. References to the Iowa Code and federal regulations are updated to provide accurate listings. Outdated guidance on establishment of support obligations and guidelines for setting support awards are rescinded.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6692C**. 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 January 12, 2023.

Fiscal Impact

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

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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).

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 April 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—99.22(252F) as follows:

441—99.22(252F) Mother's certified statement. Before initiating an action under Iowa Code chapter 252F, the unit may obtain a signed ~~Child Support Information~~, Form 470-3877; or ~~Establishment Questionnaire~~, Form 470-3929; or a similar document from the child's caretaker. The unit shall obtain ~~the Mother's Written Statement Alleging Paternity~~, Form 470-3293; from the child's mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child's biological father. Government records, including but not limited to an application for public assistance, ~~which~~ that substantially meet the requirements of Iowa Code section 622.1 may also be used. In signing Form 470-3293, the mother acknowledges that the unit may initiate a paternity action against the alleged father, ~~and she agrees to accept service of all notices and other documents related to that action by first class mail.~~ The mother shall sign and return Form 470-3293 to the unit within ten days of the date of the unit's request.

ITEM 2. Amend rule 441—99.23(252F) as follows:

441—99.23(252F) Notice of alleged paternity and support debt. Following receipt of ~~the Mother's Written Statement Alleging Paternity~~, Form 470-3293; or government records, including but not limited to an application for public assistance, ~~which~~ that substantially meet the requirements of Iowa Code section 622.1, the unit shall serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

ITEM 3. Amend rule 441—99.24(252F) as follows:

441—99.24(252F) Conference to discuss paternity and support issues. ~~The alleged father~~ A party may request a conference as provided in Iowa Code section ~~252F.3, subsection (1),~~ 252F.3(1) with the office that issued the notice to discuss paternity establishment and the amount of support he may be required to pay.

ITEM 4. Amend rule 441—99.29(252F) as follows:

441—99.29(252F) Agreement to entry of paternity and support order. If the alleged father admits paternity and reaches agreement with the unit on the entry of an order for support, the father may acknowledge his consent on ~~the Child Support Declaration~~, Form 470-4084. If the mother does not

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contest paternity within the allowed time period or if the mother waives the time period for contesting paternity, the unit may file the ~~Child Support Declaration form~~, if applicable, and Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

ITEM 5. Amend rule 441—99.30(252F) as follows:

441—99.30(252F) Entry of order establishing paternity only. If ~~the alleged father~~ a party requests a court hearing on support issues and paternity is not contested, or if paternity was contested but neither party filed a timely challenge of the paternity test results, the unit shall prepare an order establishing paternity and reserving the support issues for determination by the court. The unit shall present the order and other documents supporting the entry of the ex parte paternity-only order to the court for review and approval prior to the hearing on the support issues.

ITEM 6. Amend rule **441—99.36(598,600B)**, definition of “Disestablishment,” as follows:

“*Disestablishment*” means paternity which is legally overcome under the conditions specified in Iowa Code section 600B.41A or ~~section 598.21, subsection 4A~~ 598.21E.

ITEM 7. Amend subparagraph **99.39(1)“a”(2)** as follows:

(2) For actions under Iowa Code section ~~598.21~~ 598.21E, the written statement was filed and a guardian ad litem was appointed for the child.

ITEM 8. Amend subrule 99.41(1) as follows:

99.41(1) When order may be established. The bureau chief may establish a child or medical support obligation against a responsible person through the administrative process. This does not preclude the child support recovery unit from pursuing the establishment of an ongoing support obligation through other available legal proceedings. When gathering information to establish a support order, the unit may obtain a signed ~~Child Support Information, Form 470-3877; or Establishment Questionnaire, Form 470-3929;~~ or a similar document from the child’s caretaker.

ITEM 9. Amend subrule 99.41(2) as follows:

99.41(2) Support debt. When public assistance is paid to or Medicaid is received by a child of the responsible person, or the dependent child’s caretaker, a support debt is created and ~~owed~~ assigned to the department. When no public assistance is paid or Medicaid is received, the debt is owed to the individual caretaker.

ITEM 10. Amend subrule 99.62(2) as follows:

99.62(2) Review by request. A review shall be conducted upon the request of the child support recovery agency of another state or upon the written request of either parent subject to the order submitted on Form 470-2749, ~~Request to Modify a Child Support Order~~. One review may be conducted every two years when the review is being conducted at the request of either parent. The request for review may be no earlier than two years from the filing date of the support order or most recent modification or the last completed review, whichever is later.

ITEM 11. Amend subrule 99.63(1) as follows:

99.63(1) Notice of right to request review. The child support recovery unit shall notify each parent of the right to request review of the order and the appropriate place and manner in which the request should be made. Notification shall be provided on Form 470-0188, ~~Application For Nonassistance Support Services;~~ or Form 470-1981, ~~Notice of Continued Support Services;~~ or through another printed or electronic format.

ITEM 12. Amend rule 441—99.83(252H), introductory paragraph, as follows:

441—99.83(252H) Modification of child support obligations. Permanent child support obligations meeting the criteria set forth in rule 441—99.82(252H) may be modified at the initiative of the unit, or upon written request of either parent subject to the order submitted on Form 470-2749, ~~Request to Modify a Child Support Order~~. Any action shall be limited to adjustment, modification, or alteration of the child support or medical provisions of the support order. The duration of the underlying order shall

HUMAN SERVICES DEPARTMENT[441](cont'd)

not be modified. The procedures used by the child support recovery unit to determine if a modification is appropriate are as follows:

ITEM 13. Amend subrule 99.85(3) as follows:

99.85(3) Guidelines calculations. The unit shall determine:

~~a. The unit shall determine:~~

(1) a. The appropriate amount of the child support obligation (excluding cost-of-living alteration amounts) as described in rules 441—99.1(234,252B) through 441—99.5(234,252B), and

(2) b. Medical support provisions as described in Iowa Code chapter 252E and rules 441—98.1(252E) through 441—98.7(252E).

~~b. If the modification action is due to noncompliance by a minor obligor, as defined in Iowa Code section 598.21B(2)“c” or 598.21G, the unit will impute an income to the obligor equal to a 40-hour workweek at the state minimum wage unless the parent’s education, experience, or actual earnings justify a higher income.~~

ITEM 14. Amend paragraph **99.104(1)“a”** as follows:

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-3033, ~~Request to Suspend Support~~, and Form 470-3032, ~~Affidavit Regarding Suspension of Support~~.

ITEM 15. Amend paragraph **99.110(1)“a”** as follows:

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-5348, ~~Request from the Payor to Suspend Support~~.

ITEM 16. Amend subrule 99.110(2) as follows:

99.110(2) Submitting an affidavit. After receiving a valid request for suspension, the local unit shall provide the requestor with Form 470-5349, ~~Affidavit Requesting Suspension of Support Based on Payor’s Request~~.

a. to c. No change.

ITEM 17. Amend paragraph **99.111(2)“a”** as follows:

a. The unit shall serve Form 470-5351, ~~Notice of Intent to Payee to Suspend a Child Support Obligation Based on Payor’s Request~~, and Form 470-5352, ~~Payee’s Affidavit Objecting to Suspension of Support~~, and supporting documents on the obligee by any means provided in Iowa Code section 252B.26. The notice to the obligee shall include all of the following:

(1) to (4) No change.

[Filed 1/12/23, effective 4/1/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6857C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to five-year rules review

The Human Services Department hereby amends Chapter 152, “Foster Care Contracting,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.6.

HUMAN SERVICES DEPARTMENT[441](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

Chapter 152 was reviewed as part of the Department's five-year rules review. Chapter 152 outlines the contracting process used for providers of foster group care, child welfare emergency services shelter, and supervised apartment living. The chapter provides the rules for rate-setting, payments, and provider monitoring.

These amendments update definitions, form names and numbers, and legal references.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6693C**. 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 January 12, 2023.

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,218).

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 April 1, 2023.

The following rule-making actions are adopted:

- ITEM 1. Rescind the definition of "Level of care" in rule **441—152.1(234)**.
- ITEM 2. Amend rule **441—152.1(234)**, definition of "Child," as follows:
"Child" means a person under 18 years of age or a person 18, ~~or~~ 19, or 20 years of age who meets the criteria in Iowa Code section 234.1.
- ITEM 3. Amend subparagraph **152.2(4)"a"(2)** as follows:
(2) Form 470-3055, ~~Referral and Authorization for Child Welfare Services.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend subrule 152.2(6) as follows:

152.2(6) Cost report. Providers shall complete Form 470-5421, ~~Combined Cost Report~~, as required by contract. The instructions for the cost report are found in Comm. 502 (~~7/16~~), ~~Instructions for the Combined Cost Report~~.

a. Due date. The cost report shall be submitted to the department no later than three months after the close of the provider's established fiscal year. The provider may request a one-month extension from the ~~chief of the~~ bureau of service contract support.

b. and c. No change.

ITEM 5. Amend paragraph **152.4(1)“h”** as follows:

h. Failing to submit the cost report on time or failing to submit complete responses to follow-up questions from the department or its fiscal consultant within 14 days of request without written approval from the ~~chief of the~~ bureau of service contract support.

ITEM 6. Amend rule 441—152.5(234) as follows:

441—152.5(234) Adverse actions. Notice of adverse actions ~~and the~~ shall be given in accordance with 441—Chapter 16. The right to appeal the licensing decision shall be given to applicants and licensees in accordance with 441—Chapter 7.

[Filed 1/12/23, effective 4/1/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6862C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to five-year review of rules

The Inspections and Appeals Department hereby amends Chapter 1, “Administration,” Chapter 2, “Petitions for Rule Making,” Chapter 3, “Declaratory Orders,” Chapter 4, “Agency Procedure for Rule Making,” and Chapter 5, “Public Records and Fair Information Practices”; rescinds Chapter 7, “Consent for the Sale of Goods and Services”; and amends Chapter 8, “Licensing Action for Nonpayment of Child Support and Prohibition of Licensing Action for Student Loan Default/Noncompliance with Agreement for Payment of Obligation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 22.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 22.11.

Purpose and Summary

The Department completed a comprehensive review of Chapters 1 through 8 in accordance with Iowa Code section 17A.7(2). This rule making updates descriptions of the Department's administration and eliminates rules that are outdated and redundant, inconsistent, or incompatible with statute, the Department's own rules, or the rules of other agencies.

INSPECTIONS AND APPEALS DEPARTMENT[481](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 14, 2022, as **ARC 6741C**. 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 January 18, 2023.

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.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend **481—Chapter 1**, preamble, as follows:

MISSION STATEMENT

The department's mission is to ~~assure state and federal program integrity by adjudicating, examining, and enforcing compliance to protect the health, safety and welfare of Iowans~~ achieve compliance through education, regulation, and due process for a safe and healthy Iowa.

ITEM 2. Amend subrule 1.1(1) as follows:

1.1(1) Overview of the department. The Iowa department of inspections and appeals ~~was~~ is established by Iowa Code sections ~~10A.101 to 10A.801~~ 10A.101 to 10A.802. The chief executive officer of the department is the director of the department of inspections and appeals, who shall be appointed by the governor to serve at the pleasure of the governor subject to confirmation by the senate no less frequently than every four years.

ITEM 3. Amend rule 481—1.2(10A) as follows:

481—1.2(10A) Definitions. ~~For rules of the department of inspections and appeals[481], the following definitions apply:~~ The definitions set forth in Iowa Code section 10A.101 are incorporated herein.

~~“Department” means the department of inspections and appeals.~~

~~“Director” means the director of the department.~~

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

ITEM 4. Amend rule 481—1.3(10A) as follows:

481—1.3(10A) Administration division. This division provides administrative support to the department, including fiscal, policy and planning, information technology, and public information. This division negotiates and provides oversight for compacts entered into between the state of Iowa and Indian tribes located in the state. The division also inspects and licenses the following entities:

1. Social and charitable gambling pursuant to Iowa Code chapter 99B;
2. Food establishments, including but not limited to restaurants, vending establishments machines, and mobile food units, food processing plants, and home food processing plants;
3. Hotels and home bakeries;
4. ~~Inspections for sanitation in any locality of the state upon written petition of five or more residents of the locality.~~

ITEM 5. Amend subrule 1.4(1) as follows:

1.4(1) Units of the division. The division is comprised of the following units.

~~a. Abuse coordinating unit.~~ The abuse coordinating unit assists with the detection, investigation and prosecution of civil, administrative dependent adult abuse allegations in health care facilities.

~~b. a. Audit unit.~~ The audit unit audits health and human services health care facilities to review and verify facility resident billing and personal allowance accounts and to determine whether state billings accurately reflect the health care facility census. The unit audits local department of human services offices to review and verify whether administrative expense claims and official receipts are in accordance with the criteria set forth in 2 CFR Part 200 and state law.

~~e. b. Economic fraud control bureau (EFCB).~~ The economic fraud control bureau is comprised of two units.

~~(1) Program integrity/electronic benefit transfer (EBT) unit.~~ This unit investigates recipient public assistance fraud and food assistance supplemental nutrition assistance program (SNAP) trafficking. Division staff investigate suspected fraud and assist the department of human services to determine eligibility for public assistance. Division staff may conduct investigations relative to the administration of any other state or federal benefit assistance program. Division staff may also conduct investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.

~~(2) Divestiture unit.~~ This unit investigates the transfer or assignment of a legal or equitable interest in property from a Medicaid recipient transferor to a transferee for less than fair consideration. The department may establish a debt against the transferee, due and owing to the department of human services, in an amount equal to the medical assistance provided, but not in excess of the fair consideration value of the assets transferred.

~~d. c. Medicaid fraud control unit (MFCU).~~ The Medicaid fraud control unit investigates allegations of fraud committed by providers against the Medicaid program as well as fraud in the administration of the Medicaid program. MFCU also investigates abuse, neglect or other crimes committed upon residents in care facilities or related programs that receive funding from the Medicaid program.

~~e. Professional standards unit.~~ The professional standards unit investigates licensed professionals for the professional licensure division of the department of public health. Licensing boards may refer professional practice inquiries to the unit for investigation. This unit does not conduct investigations on behalf of the board of medicine, the board of pharmacy, the dental board, or the board of nursing.

~~f. d. Public assistance debt recovery unit (PADRU).~~ The public assistance debt recovery unit investigates and initiates collections of overpayment debts owed to the department of human services.

ITEM 6. Amend subrule 1.6(1) as follows:

1.6(1) All hearings are governed by Iowa Code chapter 17A, other applicable statutes, including the transmitting agency's enabling statute and the statute authorizing the action taken, applicable agency rules, and the department's administrative rules found at 481—Chapter 10 481—Chapters 9 to 11.

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

ITEM 7. Amend rule 481—1.8(10A) as follows:

481—1.8(10A) Employment appeal board. The employment appeal board consists of three members appointed by the governor, subject to confirmation by the senate, to staggered six-year terms. One member shall be qualified by experience and affiliation to represent employers, one member shall be qualified by experience and affiliation to represent employees, and one member shall represent the general public. This board hears and decides contested cases under Iowa Code chapters 8A, subchapter IV, 80, 88, 91C, 96, and 97B in accordance with administrative rules promulgated by the employment appeal board.

ITEM 8. Amend rule 481—1.11(10A,99D,99F) as follows:

481—1.11(10A,99D,99F) Racing and gaming commission. The Iowa racing and gaming commission regulates pari-mutuel ~~dog and~~ horse racing, simulcasting, gambling structures, ~~and~~ excursion gambling boats, racetrack enclosures, sports wagering, and fantasy sports contests in Iowa. The commission, whose five members are appointed by the governor, ~~seeks to preserve the integrity of~~ administers the laws and rules associated with these industries and to maintain confidence in the industries by protecting the public and to ensure the integrity of licensed participants and operations for the state and the wagering public. In performing its duties, the commission investigates the eligibility of applicants for licensure ~~and selects those that can best serve the citizens of Iowa.~~ The commission adopts standards for the licensing of racing industry occupations, as well as standards for the operation of all race meetings and facilities. The commission also adopts standards for the operation and licensing of pari-mutuel and simulcast wagering, gambling structures, and excursion gambling boats, racetrack enclosures, sports wagering, and fantasy sports contests.

ITEM 9. Adopt the following **new** rule 481—1.12(10A,68B):

481—1.12(10A,68B) Consent for the sale of goods and services. An official or employee of the department shall not directly or indirectly sell or lease any goods, real estate, or services to individuals, associations, or corporations subject to the regulatory authority of the official's or employee's agency except as provided by Iowa Code section 68B.4 and rule 351—6.11(68B).

ITEM 10. Amend **481—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 10A, 13B, 68B, 99D, 99F, and 237.

ITEM 11. Amend rule 481—2.1(17A) as follows:

481—2.1(17A) Petition for rule making. Any person or agency may file a petition for rule making with the agency at the Lucas State Office Building, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The agency must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS	
Petition by (Name of Original Petitioner) for (the adoption, amendment, or repeal) of rules relating to (state subject matter).	}
PETITION FOR RULE MAKING	

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the agency's authority to take the action urged or to the desirability of that action.

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

3. A brief summary of petitioner's arguments in support of the action urged in the petition.
 4. A brief summary of any data supporting the action urged in the petition.
 5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
 6. Any request by petitioner for a meeting provided for by rule 481—2.4(17A).
- 2.1(1) and 2.1(2)** No change.

ITEM 12. Amend **481—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 17A.7 as ~~amended by 1998 Iowa Acts, chapter 1202, section 11.~~

ITEM 13. Amend **481—Chapter 3**, preamble, as follows:

The department of inspections and appeals adopts, with the following amendments, the declaratory orders segment of the Uniform Rules on Agency Procedure ~~printed in the first volume of the Iowa Administrative Code with the following amendments~~, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

ITEM 14. Amend **481—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A as ~~amended by 1998 Iowa Acts, chapter 1202, section 13.~~

ITEM 15. Amend 481—Chapter 4, preamble, as follows:

The department of inspections and appeals adopts, with the following amendments, the agency procedure for rule making segment of the Uniform Administrative Rules ~~printed in the first Volume of the Iowa Administrative Code with the following amendments~~, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

ITEM 16. Amend subrule 4.5(5) as follows:

4.5(5) Accessibility. In lieu of the words “(designate office and telephone number)”, insert “~~the administrative services bureau~~ department at (515)281-6407 (515)281-7102”.

ITEM 17. Rescind and reserve rule **481—4.10(17A)**.

ITEM 18. Amend **481—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A as ~~amended by 1998 Iowa Acts, chapter 1202, and Iowa Code section 25B.6.~~

ITEM 19. Amend paragraph **5.9(2)“a”** as follows:

a. For a routine use as defined in rule 481—5.10(17A,22) or in the notice for a particular record system.

ITEM 20. Amend rule 481—5.11(17A,22) as follows:

481—5.11(17A,22) Consensual disclosure of confidential records.

5.11(1) Consent to disclosure by a subject individual. To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 481—5.7(17A,22).

5.11(2) No change.

5.11(3) Obtaining information from a third party. The department of inspections and appeals occasionally requests personally identifiable information from third parties during the course of its authorized audits, investigations, hearings or inspections. Requests to third parties for this information involve the release of confidential identifying information. ~~These requests and shall be made according to the following rules:~~ in accordance with the department's pertinent statutory authority.

~~481—21.3(10A) indicates when the department may review trust account records.~~

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

~~481—72.3(10A) describes investigation procedures including forms used by food stamp investigators.~~

~~481—73.6(10A) explains audit investigative procedures used in Medicaid provider audits or investigations.~~

~~481—74.3(10A) describes procedures used to investigate possible public assistance fraud.~~

~~5.11(4) Child support recovery unit. Under the provision of Iowa Code Supplement section 252J.2(4), the department may share information Information shared by or with the child support recovery unit of the department of human services through manual or automated means for the sole purpose of identifying licensees or license applicants subject to enforcement under Iowa Code Supplement chapter pursuant to Iowa Code chapter 252J or 598 shall only be used as set forth in Iowa Code section 252J.2(4).~~

ITEM 21. Amend subrule 5.12(1), introductory paragraph, as follows:

5.12(1) A written request to review confidential records may be filed by the subject of the record as provided in rule ~~481—5.6(17A,22)~~. The department need not release the following records to the subject:

ITEM 22. Amend subrule 5.13(1) as follows:

5.13(1) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to *c.* No change.

d. Minutes of closed meetings of a government body. (Iowa Code section ~~21.5(4)~~ 21.5(5))

e. and *f.* No change.

g. Confidential records are also described in the rules of each division as follows:

~~(1) Inspection records—Chapters 50 to 69.~~

~~(2) Investigation records—Chapters 70 to 74.~~

~~(3) Audit records—Chapters 21 and 22.~~

~~(4) Hearing records—Chapters 10 and 11.~~

h. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. ~~122(e)~~ Rule of Civil Procedure 1.503(3), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

i. No change.

ITEM 23. Amend rule ~~481—5.14(17A,22)~~ as follows:

~~481—5.14(17A,22) Authority to release confidential records.~~ The department may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule ~~481—5.4(17A,22)~~. If the department initially determines that it will release these records, the department may notify interested parties and withhold the records from inspection as provided in subrule ~~5.4(3)~~.

ITEM 24. Amend rule ~~481—5.16(17A,22)~~ as follows:

~~481—5.16(17A,22) Personally identifiable information.~~ The department maintains systems of records which contain personally identifiable information.

5.16(1) Rule making. Rule-making records may contain information about people who make written or oral comments about proposed rules. Iowa Code section 17A.4 requires collection and retention of this information. ~~It cannot be retrieved by an individual identifier. It is not stored in a computer system.~~

~~During the rule-writing process, committees are occasionally used to gather basic information. Minutes of committee meetings are available for public inspection. The minutes are retained. Minutes of meetings are not retrievable by personal identifier. Minutes collected and stored in the health facilities~~

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

~~division are available from the Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, in compliance with Iowa Code section 135C.14.~~

~~5.16(2) Appeals and fair Administrative hearings division.~~ Contested case records are maintained in ~~paper and computer~~ electronic files and contain names and identifying numbers of people involved. Evidence and documents submitted as a result of a hearing are contained in the contested case ~~records~~ file.

Records are collected by authority of Iowa Code ~~section 10A.202~~ chapter 10A. None of the information stored in a data processing system is compared with information in any other data processing system.

Records of hearings are recorded ~~on magnetic cassette tapes~~ digitally or in written transcripts.

~~5.16(3) Appellate defender.~~ By authority of Iowa Code chapter 13B, the appellate defender maintains information and records relating to criminal and postconviction relief cases that are being appealed. Records contain names and identifying numbers of persons involved in these cases, and are maintained in paper and electronic files. Case information is not stored in a data processing system and cannot be compared with information in any data processing system. By authority of Iowa Code section ~~910A.13~~ 915.36, the appellate defender shall not disclose the names of child victims. Presentence investigation reports in the possession of the appellate defender are confidential records pursuant to Iowa Code section 901.4.

Litigation files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain material which is confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain them from the clerk of the appropriate court which maintains the official copy.

~~5.16(4) Audits division.~~ ~~Paper files stored according to a person's or company's name are collected for purposes of auditing gaming, beer, wine, liquor, or real estate licenses. In each case the name of the licensee is part of the record. The list below shows Iowa Code authority for collection of information about those who hold:~~

~~Gaming licenses, 99B.2(2)~~

~~Beer permits, 123.138~~

~~Liquor control licenses, 123.33~~

~~Wine permits, 123.185~~

~~Real estate broker licenses, 543B.46~~

~~The audits division can also access computer records about real estate brokers or sales people by name. The data processing system is owned by the department of commerce. Historical information regarding licensure, audits, and disciplinary action is stored in this system.~~

~~All of these records are used to conduct audits according to Iowa Code section 10A.302.~~

~~5.16(5) 5.16(4) Investigations division.~~ ~~Paper and data processing files are stored and~~ Files are stored electronically using encrypted cloud storage and state-administered servers. Electronic records are retrievable using a name, social security number, or state identification number, or other program identifier, as applicable. Computer records are also kept on microfiche. Personal computer floppy disks are used to monitor referral information and civil or small claims actions.

All records are collected and stored by the investigations division pursuant to Iowa Code section 10A.402. All records are collected ~~to decrease mispayments in human services programs or to help collect funds paid in error.~~

Comparisons between record systems are explained in rule ~~481—71.8(10A)~~ 481—90.8(10A).

~~5.16(6) 5.16(5) Inspections Health facilities division.~~ Records of the health facilities division are collected pursuant to Iowa Code sections 10A.702, 235E.2, and other entity- and program-specific authority. Records are maintained in paper and electronic files and may contain personally identifiable information. Records may be compared with information on data processing systems, including the

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

direct care worker registry, and may be retrievable by personal identifier. A general list of records considered confidential is available in rule 481—50.8(10A).

~~a. By authority of Iowa Code chapters 232 and 217, child protective investigation records are collected in paper files and may contain names and social security numbers of people involved in child protective investigations. The division does not compare these records with information on a data processing system.~~

~~b. Names or social security numbers collected during license processing are stored in paper and computer files pursuant to Iowa Code section 10A.501(2).~~

~~c. The records in health facilities are not retrievable by personal identifier. A list of records considered confidential is available in rule 481—50.8(10A).~~

ITEM 25. Rescind and reserve **481—Chapter 7**.

ITEM 26. Amend subrule 8.1(1) as follows:

8.1(1) The notice required by Iowa Code section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with R.C.P. 56.4 Iowa Rule of Civil Procedure 1.305. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

[Filed 1/18/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6861C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to contested cases

The Inspections and Appeals Department hereby amends Chapter 11, "Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104, 10A.801 and 724.21A(6).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 10A.801, 17A.7(2) and 724.21A(6).

Purpose and Summary

The Department completed a review of Chapter 11 in accordance with the requirements of Iowa Code section 17A.7(2). This rule making adds references to filing appeals through the Administrative Electronic Document Management System (AEDMS) pursuant to Chapter 16, eliminates redundancy by reference to Iowa Code chapter 17A and Chapter 10, and eliminates outdated citations.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6745C**. No public comments were received. No changes from the Notice have been made.

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

Adoption of Rule Making

This rule making was adopted by the Department on January 18, 2023.

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.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrules 11.2(1) and 11.2(2) as follows:

11.2(1) *Written appeal.* The appeal shall be in writing or filed electronically pursuant to 481—Chapter 16 and should state the reasons for rebutting the denial, suspension, or revocation.

11.2(2) *Filing of appeal.* Within 30 days of the applicant's or permittee's receipt of the agency's decision, the applicant or permittee shall file the appeal, a copy of the agency's written decision, and a fee of \$10 with the Iowa Department of Inspections and Appeals, Division of Administrative Hearings, 502 East 9th Street, Des Moines, Iowa 50319, or electronically pursuant to 481—Chapter 16.

ITEM 2. Amend subrule 11.3(1) as follows:

11.3(1) The In addition to the information set forth in Iowa Code section 17A.12(2), the notice of hearing shall contain the following information:

- ~~a.~~ ~~A statement of the time, place, and nature of the hearing;~~
- ~~b.~~ ~~A statement of the legal authority and jurisdiction under which the hearing is to be held;~~
- ~~c.~~ ~~A reference to the agency decision on appeal;~~
- ~~d.~~ a. Identification of the parties;
- ~~e.~~ b. Reference to the procedural rules governing the contested case proceeding;
- ~~f.~~ c. Identification of the administrative law judge, including the judge's contact information;
- ~~d.~~ Requirements for the filing and service of a witness list and a copy of any exhibit(s) the party intends to introduce into evidence during the contested case proceeding;
- ~~g.~~ e. Notification that failure to appear and participate in the contested case proceeding may result in the entry of a default judgment;
- ~~h.~~ f. Notification that the applicant or permittee shall be required to pay the agency's reasonable attorney fees and court costs if the agency's decision is affirmed in the contested case proceeding or in subsequent judicial review of the proceeding, or if the applicant or permittee withdraws or dismisses the contested case proceeding or subsequent judicial review action; and

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

i. g. Notification that the agency shall be required to pay the applicant's or permittee's reasonable attorney fees and court costs if it is determined in the contested case proceeding or in subsequent judicial review of the proceeding that the applicant or permittee is eligible to be issued or to possess the permit that was denied, suspended, or revoked.

ITEM 3. Amend rule 481—11.6(17A) as follows:

481—11.6(17A,724) Service and filing of documents. Service and filing of documents shall be in accordance with rule 481—10.12(17A).

~~11.6(1) *When service is required.* Every pleading, motion, or other document filed in the contested case proceeding shall be served on each of the parties to the proceeding, including the agency. Except for an application for rehearing as provided in rule 481—11.14(17A) and Iowa Code subsection 17A.16(2), the party filing a document is responsible for service on all parties.~~

~~11.6(2) *Methods of performing service.* Service upon a party represented in the contested case proceeding by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivering, mailing, or transmitting by facsimile (fax) or by electronic mail (e-mail) a copy to the party or attorney at the party's or attorney's last known mailing address, fax number, or e-mail address. Service by first-class mail is complete upon mailing. Service by fax or electronic mail is complete upon transmission unless the party making service learns that the attempted service did not reach the person to be served.~~

~~11.6(3) *Filing with the division.* Every pleading, motion, or other document in the contested case proceeding shall be filed with the division. All documents that are required to be served upon a party shall be filed simultaneously with the division.~~

~~a. Except where otherwise provided by law, a document is deemed filed with the division at the time it is:~~

~~(1) Delivered to the division at the Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa, and date-stamped received;~~

~~(2) Delivered to an established courier service for immediate delivery to the division;~~

~~(3) Mailed to the division by first-class mail or by state interoffice mail so long as there is adequate proof of mailing; or~~

~~(4) Transmitted by facsimile (fax) to (515)281-4477, by electronic mail (e-mail) to adminhearings@dia.iowa.gov, or by other electronic means approved by the division, as provided in subrule 11.6(3), paragraph "b."~~

~~b. All documents filed with the division pursuant to these rules, except a person's written appeal pursuant to rule 481—11.2(724), may be filed by facsimile (fax), electronic mail (e-mail), or other electronic means approved by the division. A document filed by fax, e-mail, or other approved electronic means is presumed to be an accurate reproduction of the original. If a document filed by fax, e-mail, or other approved electronic means is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax, e-mail, or other approved electronic means shall be the date the document is received by the division. The division will not provide a mailed file-stamped copy of documents filed by fax, e-mail, or other approved electronic means.~~

~~11.6(4) *Proof of mailing.* Adequate proof of mailing includes the following:~~

~~a. A legible United States postal service postmark on the envelope;~~

~~b. A certificate of service;~~

~~c. A notarized affidavit; or~~

~~d. A certification in substantially the following form:~~

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

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Inspections and Appeals, Administrative Hearings Division, Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in a United States post office mailbox with correct postage properly affixed.

(date)

(signature)

This rule is intended to implement Iowa Code section 724.21A.

ITEM 4. Amend rule 481—11.7(17A) as follows:

481—11.7(17A) Witness lists and exhibits. ~~No later than five days before the hearing, a party shall serve on all parties and shall file with the division a witness list and a copy of any exhibit(s) the party intends to introduce into evidence during the contested case proceeding. If a party fails to serve on all parties and file with the division a witness list or any exhibit five days before the hearing as set forth in the notice of hearing, the party may be precluded from calling the witness at hearing or introducing the exhibit(s) into the record at hearing.~~

ITEM 5. Amend rule 481—11.8(17A) as follows:

481—11.8(17A) Evidence. ~~The administrative law judge shall rule on the admissibility of evidence and may take official notice of facts in accordance with applicable requirements of law. Evidence in the proceeding shall be confined to the issues for which the parties received notice prior to the hearing. Evidence shall be governed by rule 481—10.21(17A).~~

ITEM 6. Amend rule 481—11.11(10A), parenthetical implementation statute, as follows:

481—11.11(10A,724) Attorney fees, court costs, and contested case costs.

ITEM 7. Amend rule **481—11.11(10A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 10A.801 as amended by 2017 Iowa Acts, House File 640, and section 724.21A as amended by 2017 Iowa Acts, House File 517.

ITEM 8. Amend rule 481—11.14(17A) as follows:

481—11.14(17A) Rehearing. ~~An applicant, permittee, or agency aggrieved by an administrative law judge's final decision rescinding or sustaining the agency's denial, suspension, or revocation may request rehearing. A request for rehearing shall be made by filing an application for rehearing with the division within 20 days of the date of the administrative law judge's final decision and must state the specific grounds for the rehearing and the relief sought. If the only relief sought relates to the award of attorney fees, the application must include any argument and relevant evidence to be considered on rehearing. An application for rehearing shall be deemed to have been denied unless the administrative law judge grants the application within 20 days after its filing. A request for rehearing is not necessary to exhaust administrative remedies. A request for rehearing may be filed in accordance with Iowa Code section 17A.16(2).~~

This rule is intended to implement Iowa Code ~~section~~ sections 724.21A as amended by 2017 Iowa Acts, House File 517, and section 17A.16.

[Filed 1/18/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6859C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to hotels and motels

The Inspections and Appeals Department hereby amends Chapter 30, “Food and Consumer Safety,” and Chapter 37, “Hotel and Motel Inspections,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 137C.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 137C.7.

Purpose and Summary

The Department completed a review of Chapter 37 in accordance with the requirements of Iowa Code section 17A.7(2). This rule making eliminates redundancy within Chapter 37 by adding references to Iowa Code chapter 137C and removing outdated rules and citations. It also makes conforming changes within Chapter 30.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6744C**. 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 January 18, 2023.

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.

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 March 15, 2023.

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

The following rule-making actions are adopted:

ITEM 1. Amend rule ~~481—30.2(10A,137C,137F)~~, definitions of “Bed and breakfast inn” and “Hotel,” as follows:

~~“Bed and breakfast inn” means a hotel which has nine or fewer guest rooms the same as defined in Iowa Code section 137C.2.~~

~~“Hotel” means any building equipped, used or advertised to the public as a place where sleeping accommodations are rented to temporary or transient guests the same as defined in Iowa Code section 137C.2.~~

ITEM 2. Amend subrule 30.4(4) as follows:

~~30.4(4) Hotels. License fees for hotels are based on the number of rooms provided to transient guests (Iowa Code section 137C.9) as follows: shall be as set forth in Iowa Code section 137C.9.~~

~~a. For 1 to 30 guest rooms—\$50.~~

~~b. For 31 to 100 guest rooms—\$100.~~

~~c. For 101 or more guest rooms—\$150.~~

ITEM 3. Amend subrule 30.8(4) as follows:

~~30.8(4) Hotels. Hotels shall be inspected at least once biennially in accordance with Iowa Code chapter 137C.~~

ITEM 4. Amend rule 481—37.2(137C) as follows:

~~481—37.2(137C) Guest rooms. Hotels built or extensively remodeled, as determined by the department, after January 1, 1979, shall provide ventilation in guest rooms with windows or mechanical devices. The furniture, drapes and accessories shall be kept clean and in good repair.~~

ITEM 5. Amend rule 481—37.4(137C), introductory paragraph, as follows:

~~481—37.4(137C) Lavatory facilities. Hotels built or remodeled after January 1, 1979, shall have lavatory facilities in each guest room, except for bed and breakfast inns.~~

ITEM 6. Rescind and reserve rule ~~481—37.6(137C)~~.

ITEM 7. Amend rule 481—37.7(137C) as follows:

~~481—37.7(137C) Room rates. A list visible to the public posted near the office shall indicate room numbers and floor and the cost per day per person. The cost per day per person shall also be posted in each room. Room rates shall be posted in accordance with Iowa Code chapter 137C.~~

ITEM 8. Amend rule 481—37.8(137C) as follows:

~~481—37.8(137C) Inspections. Hotels shall be inspected at least once biennially. An inspector may enter a hotel at any reasonable hour and shall be given free access to every part of the premises for each inspection. The inspector shall receive any help needed to make a thorough and complete inspection in accordance with Iowa Code chapter 137C.~~

ITEM 9. Amend rule 481—37.9(137C) as follows:

~~481—37.9(137C) Enforcement. Violation of these rules or any provision of Iowa Code chapter 137C is a simple misdemeanor. The department may employ various remedies if violations are discovered, including suspension or revocation of licenses (Iowa Code section 137C.10), injunction (Iowa Code section 137C.29), or referral for criminal prosecution (Iowa Code chapter 137C).~~

~~A license may be revoked.~~

~~An injunction may be sought.~~

~~A case may be referred to a county attorney for criminal prosecution.~~

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

ITEM 10. Amend rule 481—37.10(137C) as follows:

481—37.10(137C) Criminal offense—conviction of license holder.

37.10(1) The department may suspend or revoke the license of a license holder who: conducts an activity constituting a criminal offense as set forth in Iowa Code section 137C.10(3).

~~a.—Conducts an activity constituting a criminal offense in the licensed hotel or motel establishment;~~
and

~~b.—Is convicted of a felony as a result.~~

37.10(2) The department may suspend or revoke the license of a license holder who:

~~a.—Conducts an activity constituting a criminal offense in the licensed hotel or motel establishment;~~
and

~~b.—Is convicted of a serious misdemeanor or aggravated misdemeanor as a result.~~

37.10(3) 37.10(2) A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the license holder.

~~37.10(4) The department's decision to revoke or suspend a license may be contested by the adversely affected party pursuant to the provisions of 481—30.13(10A).~~

This rule is intended to implement Iowa Code section 137C.10(3).

[Filed 1/18/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6863C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to contractor requirements

The Inspections and Appeals Department hereby amends Chapter 35, "Contractor Requirements," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104 and 17A.7(2).

Purpose and Summary

The Department completed a comprehensive review of Chapter 35 in accordance with the requirements in Iowa Code section 17A.7(2). This rule making updates outdated citations and aligns reporting requirements with current practices.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6743C**. 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 January 18, 2023.

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

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.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 481—35.1(137C,137D,137F) as follows:

481—35.1(137C,137D,137F) Definitions. The definitions in 481—30.2(10A,137C,137F) and Iowa Code sections 137C.2, and 137D.1 and ~~Iowa Code Supplement section 137F.1~~ are hereby incorporated by reference as part of this chapter.

ITEM 2. Amend rule 481—35.6(137C,137D,137F) as follows:

481—35.6(137C,137D,137F) Inspection standards. Inspections shall be completed using forms prescribed by the department for those inspections. The contractor shall follow applicable standards for inspections found in Iowa Code chapters 137C, 137D and 137F ~~as amended by 2007 Iowa Acts, chapter 215~~. Inspections shall be conducted pursuant to 481—Chapters 30, 31, 34, 35, and 37.

Copies of inspection standards are available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083.

ITEM 3. Rescind rule **481—35.10(137C,137D,137F)**.

ITEM 4. Renumber rule **481—35.11(137C,137D,137F)** as **481—35.10(137C,137D,137F)**.

ITEM 5. Amend renumbered rule 481—35.10(137C,137D,137F) as follows:

481—35.10(137C,137D,137F) Contract rescinded. If the department determines that Iowa Code chapters 137C, 137D and 137F ~~as amended by 2007 Iowa Acts, chapter 215~~, are not being enforced by the contractor, the department may rescind the agreement. Notification of the department's action will be provided to the contractor at least 30 days in advance of the action. The contractor has the right to request a hearing with the department to contest the action.

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

ITEM 6. Amend **481—Chapter 35**, implementation sentence, as follows:
These rules are intended to implement Iowa Code chapters 137C, 137D and 137F ~~as amended by 2007 Iowa Acts, chapter 215.~~

[Filed 1/18/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6860C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to governor's award for quality care

The Inspections and Appeals Department hereby amends Chapter 54, "Governor's Award for Quality Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 135C.20B(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.20B(2).

Purpose and Summary

The Department completed a review of Chapter 54 in accordance with the requirements of Iowa Code section 17A.7(2). This rule making amends rule 481—54.8(135C) to provide flexibility in the presentation of the Governor's Award for Quality Care.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6742C**. 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 January 18, 2023.

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.

INSPECTIONS AND APPEALS DEPARTMENT[481](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).

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making action is adopted:

Amend rule 481—54.8(135C) as follows:

481—54.8(135C) Certificate of recognition. Prior to the final selection of facilities, representatives from the department will tour all facilities still in contention to determine the winners. Each winning facility will receive a certificate in recognition of its designation as a quality health care provider. The winning facilities shall be announced and recognized annually ~~at the governor's conference on aging.~~

[Filed 1/18/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6890C**INSURANCE DIVISION[191]****Adopted and Filed****Rule making related to pharmacy benefits managers**

The Insurance Division hereby amends Chapter 59, "Pharmacy Benefits Managers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 510, 510B and 510C and 2022 Iowa Acts, House File 2384, section 22.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2384.

Purpose and Summary

These amendments update Chapter 59 to implement changes made in 2022 Iowa Acts, House File 2384, regarding pharmacy benefits managers (PBMs). This rule making corrects statutory citations, deletes certain language and incorporates terms as authorized by House File 2384.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6740C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 6739C** on the same date. A public hearing was held on January 5, 2023, at 1 p.m. at 1963 Bell Avenue, Suite 100, Des Moines, Iowa. The emergency rule making was effective on January 1, 2023.

INSURANCE DIVISION[191](cont'd)

The Division received oral and written comments from the Iowa Pharmacy Association (IPA) and the Pharmaceutical Care Management Association (PCMA). The Division also received written comments from the American Pharmacists Association (APhA) and the National Association of Chain Drug Stores (NACDS). Comments from the IPA, APhA and NACDS support the efforts of the Division to regulate the relationship between PBMs and pharmacies. PCMA generally commented that this rule making was inconsistent with 2022 Iowa Acts, House File 2384, and United States Supreme Court holdings.

The Division did not make any changes in response to the comments since the inclusion or striking of several provisions stands in direct contrast with the legislative decision to regulate the conduct of all PBMs and may impact the goal of protecting consumers. The Division will continue to evaluate its authority and the regulations to ensure appropriateness, effectiveness and efficiency.

Adoption of Rule Making

This rule making was adopted by Douglas Ommen, Iowa Insurance Commissioner, on January 20, 2023.

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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

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 March 15, 2023, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making actions are adopted:

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

191—59.1(510B,510C) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code chapters 510, 510B and 510C (~~2019 Iowa Acts, Senate File 563~~) relating to the regulation of pharmacy benefits managers.

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

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

INSURANCE DIVISION[191](cont'd)

“*Complaint*” means a written communication from a pharmacy or the commissioner to a pharmacy benefits manager that makes an inquiry or expresses a grievance and includes, but is not limited to, the following:

1. A comment on, contest or appeal by a pharmacy, ~~as permitted by Iowa Code section 510B.8(3) and rule 191—59.5(510B)~~, of a pharmacy benefits manager’s maximum reimbursement amount rate or allowable cost, maximum reimbursement amount allowable cost list or other pricing methodology used to pay a pharmacy.

2. Any pharmacy’s appeal or request for an independent third-party review of an audit report pursuant to subrules 59.4(4) and 59.4(5).

3. Any request by a pharmacy for an independent third-party review of a termination or suspension decision pursuant to paragraph 59.6(3) “d.”

4. Any inquiries from the commissioner pursuant to subrule 59.8(3).

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

~~“Maximum reimbursement amount,” as defined in Iowa Code section 510B.1(6), includes but is not limited to any prices used by a pharmacy benefits manager for therapeutically, pharmaceutically equivalent multiple source prescription drugs such as maximum allowable cost, federal upper limit pricing, generic effective rate pricing, or any other pricing strategies used by the pharmacy benefits manager.~~

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

~~“Pharmacy,” except as used in paragraph 59.4(1) “b,” means “pharmacy” as defined in Iowa Code section 155A.3 and includes “pharmacist,” as defined in Iowa Code section 155A.3, and a pharmacy services administrative organization while acting in its role as a representative of a pharmacist or pharmacy. For purposes of this definition, “pharmacy services administrative organization” means an entity that provides contracting services on behalf of pharmacies with payers and with pharmacy benefits managers, consolidated reimbursement services for pharmacies, and other business support for pharmacies.~~

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

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

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

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

59.3(3) Pharmacy A pharmacy benefits managers manager may demonstrate the date a claim is paid by a mail record or a bank statement.

59.3(4) For purposes of this rule, “clean claim” means a claim which is received by any pharmacy benefits manager for adjudication and which requires no further information, adjustment or alteration by the pharmacy or the covered individual in order to be processed and paid by the pharmacy benefits manager. A claim is a clean claim if it has no defect or impropriety, including any lack of substantiating documentation, or no particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this chapter. A clean claim includes a resubmitted claim with previously identified deficiencies corrected. Pursuant to Iowa Code section 510B.4 and paragraph 59.4(1) “j,” a pharmacy benefits manager shall not retroactively reduce or increase reimbursement, through adjustment or reconciliation or any other means, of a clean claim paid to pharmacies.

INSURANCE DIVISION[191](cont'd)

ITEM 4. Amend rule 191—59.4(510B) as follows:

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

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

a. The pharmacy benefits manager conducting the initial on-site audit must provide the pharmacy written notice at least ~~one week~~ ten business days prior to conducting any audit;

b. Any audit which involves clinical or professional judgment must be conducted by or in consultation with a pharmacist ~~as defined in Iowa Code section 155A.3;~~

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

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

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

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

g. Unless otherwise consented to by the pharmacy, an audit may not be initiated or scheduled during the first seven calendar days of any month due to the high volume of prescriptions filled during that time;

h. The preliminary audit report must be delivered to the pharmacy within 120 days after conclusion of the audit. A final written audit report shall be received by the pharmacy within six months of the preliminary audit report or final appeal, whichever is later;

i. A pharmacy shall be allowed at least 30 days following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit; and

j. If it is determined by the pharmacy benefits manager that an error in reimbursement to a pharmacy occurred, the following criteria apply:

(1) For each contract between the pharmacy benefits manager and the pharmacy existing on or after January 1, 2015, a pharmacy's usual and customary price for compounded medications is considered the reimbursable cost, unless the contract between the pharmacy benefits manager and the pharmacy specifically provides details for a pricing methodology for compounded medications.

(2) A finding of error in reimbursement must be based on the actual error in reimbursement and not be based on a projection of the number of patients served having a similar diagnosis or on a projection of the number of similar orders or refills for similar prescription drugs.

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

(4) Any clerical or record-keeping error of the pharmacy, including but not limited to a typographical error, scrivener's error, or computer error, regarding a required document or record shall not be considered fraud by the pharmacy under paragraph 59.6(3) "a" or under a pharmacy's contract with the pharmacy benefits manager.

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

(6) If a pharmacy has entered into a corrective action plan with a pharmacy benefits manager, and if the pharmacy fails to comply with the corrective action plan in a manner that results in overpayments being made by the pharmacy benefits manager to the pharmacy, the pharmacy benefits manager may recover the overpaid amounts. For purposes of this paragraph, "corrective action plan" means an

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agreement entered into by a pharmacy benefits manager and a pharmacy which is intended to promote accurate submission and payment of pharmacy claims.

(7) During the audit period, interest on any outstanding balance shall not accrue for the pharmacy benefits manager or the pharmacy. For purposes of this rule, the audit period begins with the notice of the audit and ends with a final determination of the audit report.

59.4(2) Notwithstanding Iowa Code section 510B.7 and any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the recoupment or contractual ~~penalties for audits~~ penalty for an audit unless required by state or federal laws or regulations. The entity may not use the accounting practice of extrapolation in a manner more stringent than that required by state or federal laws or regulations.

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

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

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

59.4(6) Rescinded IAB 4/27/16, effective 6/1/16.

59.4(7) Each pharmacy benefits manager conducting an audit shall, after completion of any review process, provide a copy of the final audit report to the ~~covered entity~~ third-party payor within ten business days of completing the report.

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

ITEM 5. Rescind and reserve rule **191—59.5(510B)**.

ITEM 6. Amend rule 191—59.6(510B) as follows:

191—59.6(510B) Termination or suspension of contracts with pharmacies by pharmacy benefits managers.

59.6(1) A contract between a pharmacy benefits manager and a pharmacy shall include a provision describing notification procedures for contract termination. The contract shall require no less than 60 days' prior written notice by either party that wishes to terminate the contract.

59.6(2) Termination of a contract between a pharmacy benefits manager and a pharmacy or termination of a pharmacy from the network of the pharmacy benefits manager shall not release the pharmacy benefits manager from the obligation to make payments due to the pharmacy for contract-covered services rendered before the contract of the pharmacy was terminated.

59.6(3) The following apply to ~~terminations or suspensions of contracts with pharmacies by a~~ termination or suspension of a contract with a pharmacy by a pharmacy benefits manager:

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a. If the pharmacy benefits manager has evidence that the pharmacy has engaged in fraudulent conduct or poses a significant risk to patient care or safety, the pharmacy benefits manager may ~~immediately~~ suspend the pharmacy from further performance under the contract only if written notice of the suspension and reasoning therefor is provided to the pharmacy, the ~~covered entity~~ third-party payor and the commissioner.

b. A pharmacy benefits manager shall neither take action, nor imply or state that it may or will take action, to decrease reimbursement or to terminate, suspend, cancel or limit a pharmacy's participation in a pharmacy benefits manager's provider network solely or mainly because the pharmacy files a complaint, ~~as defined in rule 191—59.2(510B)~~, with any entity.

c. A pharmacy shall not be terminated ~~from the network~~ or suspended by from a network of a pharmacy benefits manager due to any disagreement with a decision of the pharmacy benefits manager to deny or limit benefits to a covered ~~individuals~~ person or due to any assistance provided to a covered ~~individuals~~ person by the pharmacy in obtaining reconsideration of a decision of the pharmacy benefits manager.

d. The pharmacy may request an independent third-party review of the final decision to terminate or suspend the contract between the pharmacy benefits manager and the pharmacy by filing with the pharmacy benefits manager a written request for an independent third-party review of the decision. This written request must be filed with the pharmacy benefits manager within 30 days of receipt of the final termination or suspension decision.

e. If a pharmacy requests an independent third-party review of a termination or suspension decision and the termination is found to be substantiated, the cost of the third-party review shall be paid by the pharmacy. If a pharmacy requests an independent third-party review of a termination or suspension decision and the termination is found to be unsubstantiated, the cost of the third-party review shall be paid by the pharmacy benefits manager.

ITEM 7. Rescind and reserve rule **191—59.7(510B)**.

ITEM 8. Amend rule 191—59.8(510B) as follows:

191—59.8(510B) Complaints.

59.8(1) System to record complaints. Each pharmacy benefits manager shall develop an internal system to record and report complaints. This system shall include but not be limited to the following information regarding each complaint:

a. The reason for the complaint and any factual documentation submitted by the complainant to support the complaint;

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

c. Prescription number;

d. Prescription reimbursement amount for any disputed claim;

e. Any disputed prescription claim payment date of fill;

f. ~~Covered entity~~ Third-party payor benefits certificate;

g. The justification for final determination and outcome of the complaint, including but not limited to the section and language of the contract or provider manual that was used in making the determination;

h. The name of any pharmacy services administrative organization, if known by the pharmacy benefits manager, with which the pharmacy or the pharmacy benefits manager has a contract and that is involved in the matter ~~of the complaint~~; and

i. For complaints related to a the maximum reimbursement amount allowable cost or other pricing methodology used to pay a pharmacy, documentation demonstrating compliance with subrule 59.5(1) and rule 191—59.7(510B) Iowa Code section 510B.8A as appropriate based on the nature of the complaint.

59.8(2) Quarterly complaint summary. A summary of all complaints received by the pharmacy benefits manager each calendar quarter shall be submitted to the commissioner, in a form and manner prescribed by the commissioner, within 30 days after the calendar quarter has ended. The summary shall include the following:

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- a. Name, address, telephone number and ~~e-mail~~ email address for a contact person for the pharmacy benefits manager;
- b. Information related to any pharmacy's appeal or request for an independent third-party review of an audit report pursuant to subrules 59.4(4) and 59.4(5);
- c. Information related to any pharmacy's comment on or contest or appeal of a maximum ~~reimbursement rate or allowable cost~~, maximum ~~reimbursement amount~~ allowable cost list pursuant to ~~subrule 59.5(2)~~ or other pricing methodology used to pay a pharmacy;
- d. Information related to any request by a pharmacy for and the outcome of an independent third-party review of a termination or suspension decision pursuant to paragraph 59.6(3) "d";
- e. A summary of the information listed in paragraph 59.8(1) "a," excluding documentation; and
- f. The information listed in paragraphs 59.8(1) "b," "c," "d," "e," and "g."

59.8(3) Confidentiality. The quarterly complaint summary shall be confidential pursuant to subrule 59.10(5).

59.8(4) Inquiries and complaints from the commissioner.

a. ~~Pharmacy~~ A pharmacy benefits ~~managers~~ manager shall comply with Iowa Code section 507B.4A(1) in responding promptly to ~~inquiries~~ an inquiry from the commissioner, including ~~complaints~~ a complaint.

b. When responding to ~~inquiries and complaints~~ an inquiry or complaint from the commissioner, a pharmacy benefits ~~managers~~ manager shall include the Food and Drug Administration National Drug Code number, the names of the manufacturers of the prescription drugs that are related to the inquiry, and the names of any pharmaceutical wholesalers, if:

- (1) The pharmacy benefits managers can determine that information from their records and other knowledge of the subject matter of the inquiry or complaint; or
- (2) The commissioner has provided enough information in the inquiry or complaint for the pharmacy benefits manager to identify such facts.

ITEM 9. Amend rule 191—59.9(510,510B) as follows:

191—59.9(510,510B) Duty to notify commissioner of fraud. A ~~covered entity~~ third-party payor that contracts with a pharmacy benefits manager to perform the ~~covered entity's~~ third-party payor's services shall require the pharmacy benefits manager to follow Iowa Code section 507E.6 in notifying the commissioner of any detection of fraud, including but not limited to prescription drug diversion activity. "Prescription drug diversion activity," for purposes of this rule, means the diversion of prescription drugs from legal and medically necessary uses to uses that are illegal and not medically authorized or necessary. A pharmacy benefits manager shall follow the fraud detection protocol developed by the ~~covered entity~~ third-party payor or shall allow the ~~covered entity~~ third-party payor to review and agree to the pharmacy benefits manager's protocol.

ITEM 10. Amend rule 191—59.10(507,510,510B) as follows:

191—59.10(507,510,510B) Commissioner examinations of pharmacy benefits managers.

59.10(1) Cooperation of pharmacy benefits managers with the commissioner. ~~Pharmacy~~ A pharmacy benefits ~~managers~~ manager shall cooperate with the commissioner and comply with the commissioner's requests to aid with the commissioner's administration of Iowa Code chapters 507, 507B, 510, and 510B and this chapter, including cooperation and compliance with the commissioner in conducting ~~examinations~~ an examination of a pharmacy benefits ~~managers~~ manager pursuant to Iowa Code chapter 507, and cooperation with the commissioner in conducting ~~investigations~~ an investigation pursuant to Iowa Code chapter 507B.

59.10(2) Maintenance of records. ~~Pharmacy~~ A pharmacy benefits ~~managers~~ manager shall maintain ~~for five years~~ the records necessary to demonstrate to the commissioner compliance with this chapter ~~for the duration of any written agreement plus five years~~. ~~Pharmacy~~ A pharmacy benefits ~~managers~~ manager shall provide the commissioner easy accessibility to records for examination, audit and inspection to

INSURANCE DIVISION[191](cont'd)

verify compliance with this chapter, including but not limited to all contracts and provider manuals governing pharmacies and pharmacy networks.

59.10(3) Disclosure of payments received by the pharmacy benefits manager.

a. The commissioner may request, and a pharmacy benefits manager shall disclose to the commissioner, the amount of all payments received by the pharmacy benefits manager, and the nature, type, and amounts of all other revenues that the pharmacy benefits manager receives.

b. For purposes of this subrule, “payments received by the pharmacy benefits manager” means includes but is not limited to the aggregate amount of the following types of payments:

(1) A remuneration collected by the pharmacy benefits manager which that is allocated to a covered entity third-party payor;

(2) An administrative fee collected from the manufacturer in consideration of an administrative service provided by the pharmacy benefits manager to the manufacturer; and

~~(3) A pharmacy network fee; and~~

(4) ~~(3)~~ Any other fee or amount collected by the pharmacy benefits manager from a manufacturer or labeler other entity for a drug switch program, a formulary management program, a mail service pharmacy, educational support, data sales related to a covered individual person, or any other administrative function.

59.10(4) Disclosure of pricing methodology for maximum reimbursement amount used to pay a pharmacy.

~~a.~~ The commissioner may require, and a pharmacy benefits manager shall submit to the commissioner, pursuant to Iowa Code section ~~510B.8~~ 510B.8A, information related to the pharmacy benefits manager’s pricing methodology for maximum reimbursement amounts allowable cost or other pricing methodology used to pay a pharmacy.

~~b.~~ “Disclosure,” as used in Iowa Code section ~~510B.8(2)~~, ~~means the disclosure to the commissioner of the information the commissioner requires the pharmacy benefits manager to submit pursuant to Iowa Code section 510B.8(1).~~

~~c.~~ Iowa Code section ~~510B.8(2)~~ “a” permits pharmacy benefits managers to establish maximum reimbursement amounts, as defined in Iowa Code section 510B.1(6), for all multiple-source prescription drugs prescribed after the expiration of any generic exclusivity period. Any pricing methodology used by a pharmacy benefits manager for determining the maximum reimbursement amounts for multiple-source prescription drugs including but not limited to those prescribed after the expiration of any generic exclusivity period shall be disclosed to the commissioner, if the commissioner requires pursuant to Iowa Code sections ~~510B.8(1) and 510B.8(2).~~

~~d.~~ Iowa Code section ~~510B.8(2)~~ “b” permits pharmacy benefits managers to establish maximum reimbursement amounts, as defined in Iowa Code section 510B.1(6), for prescription drugs including, but not limited to, those with at least two or more A-rated therapeutically equivalent, multiple-source prescription drugs with a significant cost difference. Any pricing methodology used by a pharmacy benefits manager for determining the maximum reimbursement amounts for prescription drugs, including but not limited to those with at least two or more A-rated therapeutically equivalent, multiple-source prescription drugs with a significant cost difference, shall be disclosed to the commissioner, if the commissioner requires pursuant to Iowa Code sections ~~510B.8(1) and 510B.8(2).~~

~~e.~~ A pharmacy benefits manager using data sources for determining maximum reimbursement amounts must comply with this paragraph “e.”

~~(1)~~ The pricing methodology for maximum reimbursement amounts that pharmacy benefits managers shall disclose to the commissioner, if the commissioner requires pursuant to Iowa Code sections ~~510B.8(1) and 510B.8(2)~~, shall, pursuant to Iowa Code section ~~510B.8(2)~~ “a” and “b,” determine maximum reimbursement amounts by using comparable prescription drug prices that are:

1. Obtained from multiple nationally recognized comprehensive data sources including, for example, the U.S. Center for Medicare and Medicaid Services’ national average drug acquisition cost, pharmaceutical wholesalers, prescription drug vendors, and pharmaceutical manufacturers for prescription drugs;

2. Nationally available; and

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3. — Available for purchase by multiple pharmacies in the state of Iowa.

(2) — The sources listed in this paragraph and in Iowa Code section 510B.8(2) “e” as sources included among nationally recognized comprehensive data sources are examples of data sources that may be used by pharmacy benefits managers but are not the exclusive data sources that may be used and, if used, that must be disclosed when required by the commissioner.

59.10(5) Confidentiality. Information provided by a pharmacy benefits manager to the commissioner under this rule or under rule 191—59.8(510B) shall be deemed confidential under Iowa Code sections 22.7(2), 22.7(3), 22.7(6), 505.8(8), 505.8(9), 507.14, and ~~510B.3~~ 510B.10, as applicable.

ITEM 11. Amend rule 191—59.11(510B,510C) as follows:

191—59.11(510B,510C) Pharmacy benefits manager annual report.

59.11(1) Definitions. In addition to the definitions set forth in rule 191—59.2(510B), the definitions of Iowa Code section 510C.1 (2019 Iowa Acts, Senate File 563, section 1) shall apply to this rule.

59.11(2) 59.11(1) Filing of annual report. In addition to submitting the third-party administrator annual report required under rule 191—58.11(510), each pharmacy benefits manager shall submit to the commissioner on or before February 15 of each year the annual report required by Iowa Code section 510C.2 (2019 Iowa Acts, Senate File 563, section 2) (PBM annual report). The pharmacy benefits manager shall follow the instructions and use the online submission form provided on the Iowa insurance division’s website (iid.iowa.gov) to file the PBM annual report.

59.11(3) 59.11(2) Verification. At least two officers of the pharmacy benefits manager shall certify in writing that they verified the accuracy of the PBM annual report.

59.11(4) 59.11(3) Electronic filing. Each pharmacy benefits manager shall submit the PBM annual report electronically as set forth in the instructions, unless otherwise specifically authorized by the commissioner.

59.11(5) 59.11(4) Public access. The commissioner shall publish on the Iowa insurance division’s website (iid.iowa.gov) the nonconfidential information received in the PBM annual report.

59.11(6) 59.11(5) Completeness of PBM annual report. All information required by the commissioner must be submitted before the PBM annual report shall be considered complete.

59.11(7) 59.11(6) Penalties. A pharmacy benefits manager that fails to timely submit to the commissioner a complete PBM annual report shall pay a late fee of \$100. If a pharmacy benefits manager fails to submit a complete PBM annual report by May 15, the pharmacy benefits manager shall be subject to penalties as set forth in rule 191—59.12(505,507,507B,510,510B,510C,514L).

ITEM 12. Amend rule 191—59.12(505,507,507B,510,510B,510C,514L) as follows:

191—59.12(505,507,507B,510,510B,510C,514L) Failure to comply. Failure to comply with the provisions of this chapter or with Iowa Code chapters 510, 510B and 510C (~~2019 Iowa Acts, Senate File 563~~), or failure to comply with 191—Chapters 58 and 78 or Iowa Code chapters 507 and 514L as they are relevant to the administration of this chapter ~~or of Iowa Code chapters 510, 510B and 510C (2019 Iowa Acts, Senate File 563)~~, shall subject the pharmacy benefits manager to the penalties of Iowa Code chapter 507B. No provision of these rules or the Iowa Code chapters mentioned herein may be waived or modified by contract.

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

These rules are intended to implement Iowa Code chapters 17A, 505, 507, 507B, 510, 510B, 510C (~~2019 Iowa Acts, Senate File 563~~) and 514L.

[Filed 1/20/23, effective 3/15/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6843C**PHARMACY BOARD[657]****Adopted and Filed****Rule making related to 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

This rule making temporarily places one substance (a hallucinogen) into Schedule I of the Iowa Controlled Substances Act in response to similar action taken by the federal Drug Enforcement Administration.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6532C**. 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 January 10, 2023.

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 March 15, 2023.

PHARMACY BOARD[657](cont'd)

The following rule-making action is adopted:

Rescind subrule 10.39(6) and adopt the following **new** subrule in lieu thereof:

10.39(6) Amend Iowa Code section 124.204(4) by adding the following new paragraph:

cl. 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one. Other names: methoxetamine, MXE.

[Filed 1/11/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6844C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to the 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 124.551 and 2022 Iowa Acts, House File 2201, section 13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.551 and 2022 Iowa Acts, House File 2201.

Purpose and Summary

This rule making establishes council membership information for the Prescription Monitoring Program (PMP) Advisory Council. This rule making also clarifies that only overdose-reversal opioid antagonists are required to be reported to the PMP.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6533C**. A public hearing was held on October 12, 2022, at 10 a.m. in the Health Professions Board Room, 400 S.W. 8th Street, Suite H, Des Moines, Iowa. 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 Board on January 10, 2023.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **657—37.2(124)**, definition of “Opioid antagonist,” as follows:

“*Opioid antagonist*” means a drug that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors with the intention to reverse overdose, including but not limited to naloxone hydrochloride or any other similarly acting drug approved by the United States Food and Drug Administration.

ITEM 2. Adopt the following **new** rule 657—37.4(124):

657—37.4(124) Prescription monitoring program advisory council.

37.4(1) Membership. The membership of the PMP advisory council may include, but need not be limited to:

- a. One pharmacist licensed under Iowa Code chapter 155A;
- b. One physician licensed under Iowa Code chapter 148;
- c. One advanced registered nurse practitioner licensed under Iowa Code chapter 152;
- d. One physician assistant licensed under Iowa Code chapter 148C;
- e. One dentist licensed under Iowa Code chapter 153;
- f. One veterinarian licensed under Iowa Code chapter 169;
- g. One individual who is registered with the PMP as a practitioner's delegate;
- h. One individual who is eligible to utilize the PMP in an investigative capacity, such as a law enforcement official, licensing authority representative, or medical examiner; and
- i. One member of the public who is not eligible to register with the PMP.

37.4(2) Term of appointment. Council members shall be appointed by the board for a three-year term and may be reappointed by the board for two additional terms, for a maximum of three terms. Each term shall expire on June 30 of the third year of the term.

37.4(3) Quorum. Three members of the council constitutes a quorum.

37.4(4) Termination of appointment. A council member who is no longer eligible or able to serve on the council shall submit a written resignation to the board. A council member who does not attend three consecutive regular meetings of the council shall be deemed to have submitted a resignation.

[Filed 1/11/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6847C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed****Rule making related to physician assistants**

The Public Health Department hereby amends Chapter 9, “Outpatient Diabetes Education Programs,” Chapter 11, “Human Immunodeficiency Virus (HIV) Infection and Acquired Immune Deficiency Syndrome (AIDS),” Chapter 91, “Iowa Domestic Abuse Death Review Team,” Chapter 109, “Prescription Drug Donation Repository Program,” and Chapter 142, “Out-of-Hospital Do-Not-Resuscitate Orders,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 139A and sections 135.11, 135M.4, 141A.2 and 144A.7A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 135M and 139A and chapters 135, 141A and 144A as amended by 2022 Iowa Acts, House File 803.

Purpose and Summary

This rule making makes changes required by 2022 Iowa Acts, House File 803, by adding a definition for “physician assistant” in Chapters 9, 11, 109, and 142 and adding provisions regarding physician assistants in specific rules in Chapters 9, 11, 91, 109 and 142.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6645C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 11, 2023.

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 the Department’s waiver provisions contained in 641—Chapter 178.

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **641—9.2(135)**, definition of “Diabetes mellitus,” as follows:

“*Diabetes mellitus*” includes the following:

1. “Type I diabetes” means insulin-dependent diabetes (IDDM) requiring lifelong treatment with insulin.
2. “Type II diabetes” means noninsulin-dependent diabetes often managed by food plan, exercise, weight control, and in some instances, oral medications or insulin.
3. “Gestational diabetes” means diabetes diagnosed during pregnancy.
4. “Impaired glucose tolerance” means a condition in which blood glucose levels are higher than normal, diagnosed by a physician or physician assistant, and treated with food plan, exercise or weight control.
5. “Secondary diabetes” means diabetes induced by drugs or chemicals as well as by pancreatic or endocrine disease and treated appropriately.

ITEM 2. Adopt the following **new** definition of “Physician assistant” in rule **641—9.2(135)**:

“*Physician assistant*” means a person currently licensed under Iowa Code chapter 148C.

ITEM 3. Amend subrule 9.8(3) as follows:

9.8(3) The primary instructors shall be one or more of the following health care professionals: physicians, physician assistants, registered nurses, licensed dietitians, and pharmacists who are knowledgeable about the disease process of diabetes and the treatment of diabetes. If there is only one primary instructor, there shall be at least one supporting instructor. The supporting instructor shall be from one of the four professions listed as possible primary instructors, but a different profession from the single primary instructor.

ITEM 4. Adopt the following **new** definition of “Physician assistant” in rule **641—11.1(139A,141A)**:

“*Physician assistant*” means a person currently licensed under Iowa Code chapter 148C.

ITEM 5. Amend subrules 11.6(4) and 11.6(5) as follows:

11.6(4) Within seven days of diagnosing a person as having AIDS or an AIDS-related condition, the diagnosing physician or physician assistant shall make a report to the department on a form provided by the department.

11.6(5) Within seven days of the death of a person with HIV infection, the attending physician or physician assistant shall make a report to the department on a form provided by the department.

ITEM 6. Amend rule 641—11.15(139A,141A) as follows:

641—11.15(139A,141A) Purpose. The purpose of rules 641—11.15(139A,141A) to 641—11.18(141A) is to establish a voluntary partner notification program, including a procedure to allow a physician, physician assistant or the department to notify an identifiable third party of an HIV-infected person directly that the party has been exposed to HIV when the HIV-infected person will not participate in the voluntary partner notification program.

ITEM 7. Amend rule 641—11.18(141A) as follows:

641—11.18(141A) Direct notification of an identifiable third party by a physician, physician assistant or the department.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

11.18(1) Direct notification shall be used when an HIV-infected person is having continuing contact with a sexual or needle-sharing partner who is unaware of the person's infection and when both of the following situations exist:

a. A physician or physician assistant for the HIV-infected person is of the good-faith opinion that the nature of the continuing contact through sexual intercourse or the sharing of drug injecting equipment poses an imminent danger of HIV transmission to the third party.

b. When the physician or physician assistant believes in good faith that the HIV-infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program.

11.18(2) The department or a physician or a physician assistant may reveal the identity of an HIV-infected person pursuant to this rule only to the extent necessary to protect a third party from the direct threat of transmission. Notification of a person pursuant to this rule shall be made confidentially. Nothing in this rule shall be interpreted to create a duty to warn third parties of the danger of exposure to HIV through contact with an HIV-infected person.

11.18(3) When the physician or physician assistant is of the good-faith opinion and belief that third-party notification should be performed, notification of a person pursuant to this rule shall be made:

a. Directly by the physician or physician assistant in accordance with subrules 11.18(4), 11.18(5) and 11.18(7), or

b. By the department at the request of the physician or physician assistant in accordance with subrules 11.18(6) and 11.18(7).

11.18(4) Notification by the physician or physician assistant. Prior to notification of a third party by an HIV-infected person's physician or physician assistant, the physician or physician assistant shall make reasonable efforts to inform, in writing, the HIV-infected person. The written information shall state that, due to the nature of the person's continuing contact through sexual intercourse or the sharing of drug injecting equipment with the third party and the physician's or physician assistant's belief that the HIV-infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program, the physician or physician assistant is forced to take action to provide notification to the third party. The physician or physician assistant, when reasonably possible, shall provide the following information to the HIV-infected person:

a. The nature of the disclosure and the reason for the disclosure.

b. The anticipated date of disclosure.

c. The name of the party or parties to whom disclosure is to be made.

NOTE: Reasonable efforts to inform, in writing, the HIV-infected person shall be deemed satisfied when the physician or physician assistant delivers the written notice in person or directs a written notice to the HIV-infected person's last-known address by restricted certified mail, return receipt requested, at least five days prior to the anticipated date of disclosure to the third party.

11.18(5) When performed by the HIV-infected person's physician or physician assistant, notification of the third party and any disclosure concerning the purpose of that notification shall be made in person. However, initial contact with the third party may be made by telephone, mail, or other electronic means to arrange the meeting with the physician or physician assistant at the earliest opportunity to discuss an important health matter. The nature of the health matter to be discussed shall not be revealed in the telephone call, letter, or other electronic message.

11.18(6) Notification by the department.

a. The physician or physician assistant attending the HIV-infected person shall provide by telephone to the department any relevant information provided by the HIV-infected person regarding any party with whom the HIV-infected person has had sexual relations or has shared drug injecting equipment. The information may include the third party's name, address, telephone number, and any other locating information known to the physician or physician assistant. The department shall use the information in accordance with procedures established for the voluntary partner notification program.

b. No change.

11.18(7) Confidentiality. The HIV-infected person's physician or physician assistant and the department shall protect the confidentiality of the third party and the HIV-infected person. The identity

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of the HIV-infected person shall remain confidential unless it is necessary to reveal it to the third party so that the third party may avoid exposure to HIV. If the identity of the HIV-infected person is revealed, the third party shall be presented with a statement in writing at the time of disclosure which includes the following or substantially similar language: “Confidential information revealing the identity of a person infected with HIV has been disclosed to you. The confidentiality of this information is protected by state law. State law prohibits you from making any further disclosure of the information without the specific written consent of the person to whom it pertains. Any breach of the required confidential treatment of this information subjects you to legal action and civil liability for monetary damages. A general authorization for the release of medical or other information is not sufficient for this purpose.”

11.18(8) No change.

ITEM 8. Amend paragraph **91.4(1)“b”** as follows:

b. A licensed physician, physician assistant or nurse who is knowledgeable concerning domestic abuse injuries and deaths, including suicides.

ITEM 9. Adopt the following **new** definition of “Physician assistant” in rule **641—109.1(135M)**:
“*Physician assistant*” means an individual licensed under Iowa Code chapter 148C.

ITEM 10. Amend subrule 109.3(3) as follows:

109.3(3) A pharmacy or medical facility may elect to participate in the prescription drug donation repository program by providing, on a form prescribed by the department and available on the program’s web page, written notification to the centralized repository of all of the following:

a. The name, street address, and telephone number of the pharmacy or medical facility, and any state-issued license or registration number issued to the pharmacy or medical facility, including the name of the issuing agency.

b. The name and telephone number of the responsible pharmacist, physician, physician assistant or nurse practitioner who is employed by or under contract with the pharmacy or medical facility.

c. A statement, signed and dated by the responsible pharmacist, physician, physician assistant or nurse practitioner, indicating that the pharmacy or medical facility meets the eligibility requirements under this rule and shall comply with the requirements of this chapter.

ITEM 11. Amend subrule 109.6(1) as follows:

109.6(1) Donated drugs and supplies may be dispensed only if the drugs or supplies are prescribed by a health care practitioner for use by an eligible individual and are dispensed by a licensed pharmacist, physician, physician assistant or nurse practitioner.

ITEM 12. Adopt the following **new** definition of “Attending physician assistant” in rule **641—142.1(144A)**:

“*Attending physician assistant*” means the physician assistant selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

ITEM 13. Amend subrule 142.3(1) as follows:

142.3(1) *OOH DNR physician or physician assistant order.* The department designates the OOH DNR order form contained in Appendix A as the uniform OOH DNR order form to be used statewide. If an attending physician or attending physician assistant issues an OOH DNR order for a qualified patient, the physician or physician assistant shall use the form contained in Appendix A.

ITEM 14. Amend subrule 142.5(1) as follows:

142.5(1) *Attending physicians or attending physician assistants who issue OOH DNR orders.* The attending physician or attending physician assistant should ensure that the following are accomplished:

a. Establish that the patient is qualified because the patient:

(1) Is an adult; and

(2) Has a terminal condition.

b. Explain to the patient or the individual legally authorized to act on the patient’s behalf the implications of an OOH DNR order.

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c. If the qualified patient or individual legally authorized to act on the patient's behalf decides that the patient should not be resuscitated, the attending physician or attending physician assistant may issue the OOH DNR order on the prescribed uniform order form. The order will direct health care providers to withhold or withdraw resuscitation.

d. Explain to the qualified patient or the individual legally authorized to act on the patient's behalf how the OOH DNR order is revoked.

e. Include a copy of the order in the qualified patient's medical record.

f. Provide a copy of the order to the qualified patient or the individual legally authorized to act on the patient's behalf.

ITEM 15. Amend subrule 142.8(1) as follows:

142.8(1) An attending physician or attending physician assistant who is unwilling to comply with an OOH DNR order or who is unwilling to comply with the provisions of Iowa Code section 144A.7A shall take all reasonable steps to effect the transfer of the patient to another physician or physician assistant.

ITEM 16. Amend 641—Chapter 142, Appendix A and Appendix B, as follows:

APPENDIX A

Iowa Department of Public Health
OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDER
(Please type or print)

Date of Order: ___/___/___
Patient Information:
Name: (Last)_____(First)_____(Middle)_____
Address:_____(City)_____(Zip)_____
Date of Birth: ___/___/___ Gender (Circle): M or F
Name of Hospice or Care Facility (if applicable): _____

Attending Physician or Physician Assistant Order

As the attending physician or attending physician assistant for the above-named patient, I certify that this individual is over 18 years of age and has a terminal diagnosis. After consultation with this patient (or the patient's legal representative), I hereby direct any and all health care providers, including qualified emergency medical services (EMS) personnel, to withhold or withdraw the following life-sustaining procedures in accordance with Iowa law (Iowa Code chapter 142A):

- Cardiopulmonary Resuscitation/Cardiac Compression (Chest Compressions).
• Endotracheal Intubation/Artificial or Mechanical Ventilation (Advance Airway Management).
• Defibrillation and Related Procedures.
• Use of Resuscitation Drugs.

This directive does NOT apply to other medical interventions for comfort care.

Signature of Attending Physician (MD, DO) or
Attending Physician Assistant

_____/_____/_____
Date

Printed Name of Attending Physician or Attending
Physician Assistant

(____)____-_____
Physician's or Physician Assistant's
Telephone (Emergency)

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To the extent that it is possible, a person designated by the patient may revoke this order on the patient's behalf. If the patient wishes to authorize any other person(s) to revoke this order, the patient MUST list those persons' names below:

Name: _____
Name: _____
Name: _____
Name: _____

Patients, please note: Directions for obtaining a uniform identifier are listed on the back of this form. The uniform identifier is the key way the health care provider and/or EMS personnel can quickly recognize that you have an Out-of-Hospital Do-Not-Resuscitate order. If you are not wearing an identifier, the health care provider and/or EMS personnel may not realize that you do not want to be resuscitated.

Physicians or physician assistants, please note: Information regarding the completion of an Out-of-Hospital Do-Not-Resuscitate order is on the back of this form.

APPENDIX A

Directions for obtaining a uniform identifier:

The uniform identifier may be obtained through MedicAlert®¹, which requires:

1. A completed MedicAlert® application, which is available in physician or physician assistant offices or through MedicAlert® by phoning (800)432-5378 or the ~~Web site~~ website www.medicalert.org, and fee.
2. A copy of this completed OOH DNR order, which must accompany the MedicAlert® application or be sent to MedicAlert® prior to the identifier's being mailed.

¹*MedicAlert® is a nonprofit 501C membership organization.*

Suggested guidelines for physicians or physician assistants:

1. Please review the Iowa Out-of-Hospital Do-Not-Resuscitate order and related protocol with the patient/patient's legal representative(s). The following points may be helpful:
 - Patient/patient's legal representative(s) listed on this order must understand the significance of this order, that in the event the patient's heart or breathing stops or malfunctions, the anticipated result of this order is death.
 - Patient/patient's legal representative(s) listed on this order may revoke this directive at any time. However, the desire to revoke must be communicated to the EMS or other health care professionals at the scene.
 - It is important to emphasize that this order does not apply to medical interventions to make the patient more comfortable.
 - The importance of wearing the uniform identifier for those qualified patients who would benefit from the mobility this offers should be stressed. It is also helpful to walk patients through the process they must follow to acquire the identifier.
2. Provide a copy of this order to the patient/patient's legal representative(s) listed on this order and place the original in the patient's medical records.

The OOH DNR Order form is available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or through the Bureau of EMS's ~~Web site www.idph.state.ia.us/ems~~ website idph.iowa.gov/BETS/EMS/rules.

APPENDIX B

EMS OUT-OF-HOSPITAL DO-NOT-RESUSCITATE PROTOCOL

Purpose: This protocol is intended to avoid unwarranted resuscitation by emergency care providers in the out-of-hospital setting for a *qualified patient*.¹ There must be a valid Out-of-Hospital Do-Not-Resuscitate (OOH DNR) order signed by the qualified patient's attending physician or physician assistant or the presence of the OOH DNR identifier indicating the existence of a valid OOH DNR order.

No resuscitation: Means withholding any medical intervention that utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function, including but not limited to:

1. Chest compressions,

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2. Defibrillation,
3. Esophageal/tracheal/double-lumen airway; endotracheal intubation, or
4. Emergency drugs to alter cardiac or respiratory function or otherwise sustain life.

Patient criteria: The following patients are recognized as qualified patients to receive no resuscitation:

1. The presence of the uniform OOH DNR order or uniform OOH DNR identifier, or
2. The presence of the attending physician or attending physician assistant to provide direct verbal orders for care of the patient.

The presence of a signed physician or physician assistant order on a form other than the uniform OOH DNR order form approved by the department may be honored if approved by the service program EMS medical director. However, the immunities provided by law apply only in the presence of the uniform OOH DNR order or uniform OOH DNR identifier. When the uniform OOH DNR order or uniform OOH DNR identifier is not present, contact must be made with on-line medical control and on-line medical control must concur that no resuscitation is appropriate.

Revocation: An OOH DNR order is deemed revoked at any time that a patient, or an individual authorized to act on the patient's behalf as listed on the OOH DNR order, is able to communicate in any manner the intent that the order be revoked. The personal wishes of family members or other individuals who are not authorized in the order to act on the patient's behalf shall not supersede a valid OOH DNR order.

Comfort Care (♥): When a patient has met the criteria for no resuscitation under the foregoing information, the emergency care provider should continue to provide that care which is intended to make the patient comfortable (a.k.a. ♥ Comfort Care). Whether other types of care are indicated will depend upon individual circumstances for which medical control may be contacted by or through the responding ambulance service personnel.

♥ **Comfort Care** may include, but is not limited to:

1. Pain medication.
2. Fluid therapy.
3. Respiratory assistance (oxygen and suctioning).

¹Qualified patient means an adult patient determined by an attending physician or attending physician assistant to be in a terminal condition for which the attending physician or attending physician assistant has issued an Out-of-Hospital DNR order in accordance with the law. (~~Iowa Administrative Code Rule 641—142.1(144A), definitions~~)

[Filed 1/12/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6848C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to radon testing standards and requirements for school testing

The Public Health Department hereby amends Chapter 43, "Minimum Requirements for Radon Testing and Analysis," Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 136B.4 and section 280.32 as enacted by 2022 Iowa Acts, House File 2412.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 136B and section 280.32 as enacted by 2022 Iowa Acts, House File 2412.

Purpose and Summary

These amendments have been drafted to implement the Radon Testing and Mitigation in Public Schools Act, 2022 Iowa Acts, House File 2412, which Governor Reynolds signed after the 2022 Legislative Session. The amendments:

- Clean up outdated certification agency language throughout 641—Chapter 43. The National Environmental Health Association (NEHA) no longer certifies radon professionals.
- Update rules to include the current national consensus radon measurement standards.
- Add rules about measurement training requirements and training course approval for school district employees as required by 2022 Iowa Acts, House File 2412.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6647C**. The Department received comments from the American Association of Radon Scientists and Technologists (AARST), the Energy Association of Iowa Schools (EAIS), and the American Lung Association. The following changes from the Notice have been made in response to the comments.

- One commenter recommended the deletion of “or AARST/NRPP” from the definition of “NRPP” in rule 641—43.2(136B). Although used informally in the past, AARST/NRPP is not a legal alternative acronym for the AARST organization. In response, the term has been removed.
- The following language has been stricken from paragraph 43.3(2)“c”: “When a portable electronic detection device is used, the device must be calibrated on at least an annual basis by the manufacturer, or by persons acceptable to the department.” This change has been made because ANSI/AARST standards describe minimum calibration procedures, so this language is unnecessary.
- In subparagraph 43.4(1)“b”(1), the phrase “Proof of successful participation in” has been replaced with “Proof of meeting the requirements of” to read as follows: “Proof of meeting the requirements of the NRPP or NRSB Radon/Radon Progeny Measurement Proficiency Program.”
- “ANSI/AARST” and “as applicable” have been added to subparagraph 43.4(1)“b”(3) to read as follows: “A signed statement that all EPA, ANSI/AARST, NRPP or NRSB, and any department measurement guidelines, standards and protocols will be followed, as applicable.” Adding “as applicable” is helpful since it is possible a laboratory may participate in one but not the other of these programs. This language will also help avoid any possible conflict between the requirements of these two programs that may prevent adherence to both.
- One commenter recommended a change to the minimum number of instructional hours for school district employee training to allow for it to be completed within one working day. The phrase “Consist of at least eight instructional hours” has been changed to “Consist of five to eight instructional hours” in paragraph 43.8(2)“b.”
- The following language has been added in paragraph 43.8(2)“d”: “The course attendee must pass the quiz with a score of 70 percent or better to receive the attendee’s completion certificate.” This change clarifies that the trainee is required to pass the quiz in order to be permitted to perform radon measurements in buildings within the trainee’s district.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 11, 2023.

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 the Department's waiver provisions contained in 641—Chapter 178.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of “AARST,” “ANSI” and “NRPP” in rule **641—43.2(136B)**:

“AARST” means the American Association of Radon Scientists and Technologists.

“ANSI” means the American National Standards Institute.

“NRPP” means the National Radon Proficiency Program facilitated by the American Association of Radon Scientists and Technologists (AARST).

ITEM 2. Rescind the definition of “NEHA” in rule **641—43.2(136B)**.

ITEM 3. Amend paragraph **43.3(2)“c”** as follows:

c. Use detection devices approved by ~~EPA and the department~~ the NRPP, the NRSB, or another department-approved national radon proficiency program to measure radon. The detection device must be obtained from an ~~Iowa-certified~~ Iowa-certified radon measurement laboratory. ~~When a portable electronic detection device is used, the device must be calibrated on at least an annual basis by the manufacturer, or by persons acceptable to the department.~~ The records of calibration must be maintained for review by the department or agents of the department.

ITEM 4. Adopt the following **new** paragraph **43.3(3)“c”**:

c. The certified person shall comply with all EPA, ANSI/AARST and department-approved radon measurement and quality assurance/quality control (QA/QC) guidelines, protocols, and standards and shall conduct measurements following the standard as of March 15, 2023, applicable to the building being tested. The standards include the following:

(1) ANSI/AARST MS-QA-2019, *Radon Measurement Systems Quality Assurance*.

(2) ANSI/AARST MAH-2019, *Protocol for Conducting Measurements of Radon and Radon Decay Products in Homes*.

(3) ANSI/AARST MALB-2014 with 1/2021 Revisions, *Protocol for Conducting Measurements of Radon and Radon Decay Products in Schools and Large Buildings*.

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(4) ANSI/AARST MAMF-2017 with 1/2021 Revisions, *Protocol for Conducting Measurements of Radon and Radon Decay Products in Multifamily Buildings*.

ITEM 5. Amend subparagraph **43.4(1)“a”(2)** as follows:

(2) Proof of successful completion of an examination approved by this department. A letter from ~~NEHA~~ the NRPP or NRSB showing a passing score for the radon measurement specialist examination fulfills this requirement.

ITEM 6. Amend subparagraph **43.4(1)“a”(4)** as follows:

(4) A ~~quality assurance/quality control (QA/QC)~~ QA/QC plan for all measurement devices and equipment. If laboratory devices are used, the names and addresses of the ~~Iowa-certified~~ Iowa-certified radon measurement laboratories must be included. If a continuous radon monitor is used, the name of the manufacturer, model, and picture of the monitor must be included. The manufacturer of any device used must have EPA NRPP, NRSB or other national agency approval ~~which that~~ indicates the device has been approved for measuring radon. Only measurement devices from ~~Iowa-certified~~ Iowa-certified radon measurement laboratories or a continuous radon monitor that has been satisfactorily calibrated and approved by the Iowa radon program are allowed for use in performing radon measurements.

ITEM 7. Amend subparagraph **43.4(1)“a”(6)** as follows:

(6) A signed statement that the individual will follow all EPA radon measurement guidelines, ANSI/AARST radon measurement standards, and department radon measurement guidelines, standards and protocols.

ITEM 8. Amend paragraph **43.4(1)“b”** as follows:

b. An application for a radon measurement laboratory must include:

(1) Proof of ~~successful participation in~~ meeting the requirements of the NEHA NRPP or NRSB Radon/Radon Progeny Measurement Proficiency Program.

(2) A quality assurance plan and quality control procedures for all measurements and equipment.

(3) A signed statement that all EPA, ~~NEHA~~ ANSI/AARST, NRPP and NRSB and any department measurement guidelines, standards and protocols will be followed, as applicable.

(4) Name(s) and address(es) of any retail operation(s) selling the laboratory's testing service(s) within Iowa.

(5) A signed statement that all changes in the original application will be submitted to the department within 14 working days.

(6) The fee specified in subrule 43.4(6).

ITEM 9. Amend paragraph **43.5(2)“s”** as follows:

s. Being discontinued or removed from the ~~NEHA NRPP~~ or NRSB Radon/Radon Progeny Measurement Proficiency Program; or

ITEM 10. Renumber rules ~~641—43.8(136B)~~ to ~~641—43.11(136B)~~ as ~~641—43.9(136B)~~ to **641—43.12(136B)**.

ITEM 11. Adopt the following new rule 641—43.8(136B,280):

641—43.8(136B,280) School district employee measurement training.

43.8(1) School district employee requirements. In order for school district employees to perform radon measurements in buildings within their districts, they must complete a radon measurement training course approved by the department and the Iowa department of education. A school district employee who has completed an approved training can only test buildings within the employee's district.

43.8(2) Approved training. Training programs shall not state that they have been approved by the state of Iowa unless they have met the requirements of 641—43.8(136B,280) and been approved by the department and the Iowa department of education and are listed on the department's website. An approved training course shall meet the following requirements:

a. Be based on the measurement requirements as found in the ANSI/AARST standard MALB-2014 with 1/2021 Revisions, *Protocol for Conducting Measurements of Radon and Radon Decay Products in Schools and Large Buildings*.

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- b. Consist of five to eight instructional hours.
- c. Cover at least the following subjects:
 - (1) Introduction to radon and its health effects.
 - (2) Guidance for building managers.
 - (3) Review of the measurement standard including:
 - 1. Purpose and scope of testing.
 - 2. Preparing a testing plan.
 - 3. Test locations.
 - 4. Testing procedures and options.
 - 5. Quality control.
 - 6. Conditions required before and during testing.
 - 7. Documentation, test reports and record keeping.
 - 8. Actions based on test results.
- d. Conclude with a quiz to review the learned materials. The course attendee must pass the quiz with a score of 70 percent or better to receive the attendee's completion certificate.

43.8(3) Certificate of completion. The training provider shall provide that a certificate of completion will be issued and that it will contain at minimum the name of the student, the name of the course and the course ID, the name of the course provider, the course date(s), the number of hours, and the signature and typed name of the training provider.

43.8(4) Application for approval of a training course for school district employees. A person or organization that plans to conduct or sponsor a training course shall apply to the department for approval of the course on a form or in a manner approved by the department. The application shall include:

- a. The sponsoring organization's name and website URL (if any), contact person, mailing address, email address and telephone number.
- b. The name of the course.
- c. The type of course: webinar, online or in-person.
- d. The course agenda or course outline, including the approximate time allotted to each training segment.
- e. A copy of the training materials provided to the student (manual, notes, templates, etc.).
- f. A list of reference materials, texts and audiovisual materials used in the course.
- g. A copy of the quiz for the course, containing at least 20 questions.

ITEM 12. Amend **641—Chapter 43**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 136B and 280.

[Filed 1/12/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6849C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to certificates of nonviable birth

The Public Health Department hereby amends Chapter 95, "Vital Records: General Administration," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 144.3 and section 144.31B as enacted by 2022 Iowa Acts, Senate File 577.

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State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 144.31B as enacted by 2022 Iowa Acts, Senate File 577.

Purpose and Summary

These amendments implement 2022 Iowa Acts, Senate File 577, by establishing a process to request and issue a certificate of nonviable birth when a health care provider diagnoses a nonviable birth.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6648C**. No public comments were received. One change from the Notice has been made. Since publication of the Notice, 2022 Iowa Acts, Senate File 577, has been codified. One reference in the rule making to Senate File 577 has been removed accordingly.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 11, 2023.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa. A fiscal impact of less than \$100,000 annually or \$500,000 over five years is anticipated. The Department anticipates hiring one clerk specialist, and a fee for issuance of a certificate of nonviable birth will be established.

Jobs Impact

The Department anticipates hiring one clerk specialist for the issuance of certificates of nonviable birth.

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 the Department's waiver provisions contained in 641—Chapter 178.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** paragraph **95.6(1)“h”**:

h. The state registrar shall charge a fee of \$15 for the purpose of issuing a certificate of nonviable birth pursuant to Iowa Code section 144.31B.

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ITEM 2. Renumber rules **641—95.15(144)** to **641—95.17(144)** as **641—95.16(144)** to **641—95.18(144)**.

ITEM 3. Adopt the following new rule 641—95.15(144):

641—95.15(144) Certificate of nonviable birth.

95.15(1) As used in this rule:

“*Certificate of nonviable birth*” means a document issued based upon a nonviable birth.

“*Health care provider*” means the same as defined in Iowa Code section 144.29A.

“*Hospital*” means the same as defined in Iowa Code section 135B.1.

“*Nonviable birth*” means an unintentional, spontaneous fetal demise occurring after demonstration of a doppler-detected heartbeat and prior to the twentieth week of gestation during a pregnancy that has been verified by a health care provider.

95.15(2) A health care provider who attends or diagnoses a nonviable birth or a hospital at which a nonviable birth occurs shall advise a patient who experiences a nonviable birth that the patient may request a certificate of nonviable birth as provided in this section and, upon request by the patient, shall provide a letter certifying the nonviable birth to the patient on the form prescribed by the state registrar.

95.15(3) The department shall issue a certificate of nonviable birth to a patient within 60 days of receipt of a request and certification letter. The request shall be made on the form prescribed by the state registrar.

95.15(4) The certificate of nonviable birth shall contain all of the following:

a. The date of the nonviable birth.

b. The name and gender of the baby, if known.

(1) If the name is not furnished by the patient, the department shall complete the certificate with the name “baby boy” or “baby girl” and the last name of the patient.

(2) If the gender is unknown, the department shall complete the certificate with the name “baby” and the last name of the patient.

c. The name of the patient and, if married, the patient’s spouse.

d. The statement: “This certificate is not proof of live birth.”

95.15(5) The fees collected shall be remitted to the treasurer of state for deposit in the general fund of the state and the vital records fund in accordance with Iowa Code section 144.46A.

95.15(6) A certificate of nonviable birth shall not be filed or registered with the department. The department shall not register the nonviable birth associated with a certificate issued under this section or use the nonviable birth in calculating live birth statistics.

95.15(7) A certificate of nonviable birth shall not be used to establish, bring, or support a civil cause of action seeking damages against any person for bodily injury, personal injury, or wrongful death for a nonviable birth.

95.15(8) This section shall only apply to, and a certificate of nonviable birth may be requested and issued for, nonviable births occurring on or after January 1, 2000.

This rule is intended to implement Iowa Code section 144.31B.

[Filed 1/12/23, effective 3/15/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6842C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to exemptions**

The Revenue Department hereby rescinds Chapter 14, “Computation of Tax,” and Chapter 19, “Sales and Use Tax on Construction Activities”; amends Chapter 203, “Elements Included in and Excluded from a Taxable Sale and Sales Price,” and Chapter 219, “Sales and Use Tax on Construction Activities”; and rescinds Chapter 287, “Foods for Human Consumption, Prescription Drugs, Insulin, Hypodermic Syringes, Diabetic Testing Materials, Prosthetic, Orthotic or Orthopedic Devices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 423.

Purpose and Summary

Several years ago, the Department adopted new chapters related to sales tax on construction as well as food, drugs, and other medical devices. As part of an ongoing effort to review and revise its rules, the Department is rescinding Chapters 19 and 287. There is one rule in Chapter 19 that was not replicated in Chapter 219 on construction contracts with designated exempt entities. This rule making provides an updated version of that rule to be located in Chapter 219. In addition, Chapter 14 only contains one rule, which was revised in 2021. The Department is rescinding rule 701—14.3(423) to include it in Chapter 203 and is rescinding and reserving 701—Chapter 14 since it no longer contains any rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 2, 2022, as **ARC 6611C**. 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 January 10, 2023.

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 701—7.28(17A).

REVENUE DEPARTMENT[701](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).

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making actions are adopted:

- ITEM 1. Renumber rule **701—14.3(423)** as **701—203.9(423)**.
- ITEM 2. Rescind and reserve **701—Chapter 14**.
- ITEM 3. Rescind and reserve **701—Chapter 19**.
- ITEM 4. Adopt the following **new** rule 701—219.23(423):

701—219.23(423) Construction contracts with designated exempt entities. This rule applies to exempt sales of building materials, supplies, equipment, or services to certain persons performing construction contracts for sponsors that are designated exempt entities and the continuing right of designated exempt entities and other persons to seek refund of taxes paid by persons performing construction contracts.

219.23(1) Definitions.

“*Construction contract*” means the same as defined in rule 701—219.8(423).

“*Designated exempt entity*” means the same as defined in Iowa Code section 423.3(80).

“*GovConnectIowa*” means the e-services portal of the department.

219.23(2) Registration with the department. A designated exempt entity seeking to issue exemption certificates to contractors, subcontractors, builders, or manufacturers performing construction contracts shall register with the department through GovConnectIowa. The designated exempt entity shall provide the following information:

- a. The name and address of the designated exempt entity.
- b. The federal identification number of the designated exempt entity.
- c. The name of the construction project or the project number for which exemption is requested.
- d. A general description of the construction project.
- e. The name and address of all contractors, subcontractors, builders, or manufacturers to which the designated exempt entity shall provide exemption certificates.
- f. Additional information as requested by the department if the status of the entity seeking registration as a designated exempt entity is unclear.

219.23(3) Exemption certificates. Once a designated exempt entity's registration is completed and approved, the designated exempt entity can obtain exemption certificates to provide to its contractors, subcontractors, builders, or manufacturers. The contractors, subcontractors, builders, or manufacturers may then provide these exemption certificates to retailers when purchasing building materials, supplies, equipment, or services to be used in completion of the construction contract with the designated exempt entity in order to make those purchases exempt from sales tax.

219.23(4) Exempt purchases, withdrawals from inventory, and manufacturers' fabrication costs.

a. A contractor, subcontractor, or builder who purchases building materials, supplies, equipment, or services intending to use such property or services in the performance of a construction contract with a designated exempt entity shall purchase the property or services from a retailer exempt from tax if the property or services are subsequently used in the performance of that contract and the contractor, subcontractor, or builder presents an exemption certificate issued by the designated exempt entity to the retailer.

REVENUE DEPARTMENT[701](cont'd)

b. The withdrawal of building materials, supplies, or equipment from inventory by a contractor, subcontractor, or builder who is also a retailer is exempt from tax if the materials are withdrawn for use in construction performed for a designated exempt entity and an exemption certificate is received from the designated exempt entity.

c. The fabricated cost, as defined in rule 701—219.6(423), of building materials, supplies, or equipment purchased and consumed by the manufacturer of such property in the performance of a construction contract for a designated exempt entity is exempt from tax if an exemption certificate is received from the exempt entity and presented to a retailer.

d. Sales, withdrawals, or a manufacturer's consumption of building materials, supplies, equipment, or services used in the performance of a construction contract for purposes other than incorporation into real property with subsequent loss of identity as tangible personal property are not eligible for the exemption described by this rule.

219.23(5) Refunds. A designated exempt entity that does not complete the registration process in order to provide exemption certificates to contractors, subcontractors, builders, or manufacturers in advance of its construction project may request a refund of sales tax the designated exempt entity paid to its contractors, subcontractors, builders, or manufacturers. The contractors, subcontractors, builders, or manufacturers should provide the designated exempt entity with completed Iowa Contractor's Statement forms. The designated exempt entity shall then submit a Construction Contract Claim for Refund form and all accompanying Iowa Contractor's Statement forms to the department.

This rule is intended to implement Iowa Code sections 423.3(80) and 423.4(1).

ITEM 5. Rescind and reserve **701—Chapter 287.**

[Filed 1/10/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6872C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to contact information

The Revenue Department hereby amends Chapter 25, "Challenges to Administrative Levies and Publication of Names of Debtors," and Chapter 262, "Administration of Marijuana and Controlled Substances Stamp Tax," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 453B and sections 421.14, 421.17A and 421.17B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 453B and sections 421.17A and 421.17B.

Purpose and Summary

This rule making removes an outdated mailing address for submitting challenges to administrative levy actions and replaces the address with references to electronic communication options and the Department's website. Additionally, this rule making updates the location at which to purchase a drug tax stamp.

REVENUE DEPARTMENT[701](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 14, 2022, as **ARC 6748C**.

One comment was received from a taxpayer asking about drug tax stamps and their function as it pertains to selling drugs. Additionally, this taxpayer asked about the offset program and debt with the Department. Finally, the taxpayer made comments about the illegality of marijuana in Iowa. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on January 20, 2023.

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 701—7.28(17A).

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 701—25.5(421) as follows:

701—25.5(421) Issues that may be raised.

25.5(1) The issues raised by the challenging party, which are limited to a mistake of fact, may include but are not limited to:

1. *a.* The challenging party has the same name as the obligor but is not the correct person.
2. *b.* The challenging party does not have an interest in the account that is being seized.
3. *c.* The amount listed in the notice to the obligor is greater than the amount actually owed.

4. **25.5(2)** The written challenge must be sent by electronic means, including email or online as indicated on the department's notice, or mailed to: ~~Centralized Collection Facility, P.O. Box 6128, Des Moines, Iowa 50309,~~ the central collections unit at the address found on the department's website at tax.iowa.gov/mailing-addresses with adequate postage.

ITEM 2. Amend **701—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 421.17 and 421.17A.

REVENUE DEPARTMENT[701](cont'd)

ITEM 3. Amend rule 701—262.2(453B) as follows:

701—262.2(453B) Sales of stamps. The director or the director’s authorized representative shall offer for sale to members of the public, during normal business hours, stamps which are capable of being affixed to taxable substances. The stamps shall be sold at the Hoover State Office Building, ~~fourth floor~~ First Floor, Des Moines, Iowa, and at other locations as may be designated by the director.

The director shall offer for sale four different stamps: (1) a stamp for a substance consisting of or containing marijuana, (2) a stamp for taxable substances other than marijuana which are sold by weight, (3) a stamp for taxable substances other than marijuana which are not sold by weight, and (4) a stamp for each unprocessed marijuana plant. Each package or container which contains a taxable substance must have a stamp affixed to it. The stamps will be issued in denominations requested by the purchaser so long as the minimum purchase price for a single stamp purchase transaction is \$215 or more. In addition, the denomination of individual stamps cannot be less than the price for ten dosage units, multiples of ten dosage units, one whole gram, or multiples of one gram even if the stamp will be affixed to a package containing less than ten dosage units or multiples thereof, or only a portion of one gram or multiples thereof.

The director will accept payment for stamps in the form of cash, cashier’s check, or money order. Payment may not be made by personal check.

The stamps are valid for a period of six months from the date of issuance, and the stamps shall contain a statement that the stamps expire after six months from the date of issue. A stamp is “unused” and expires if it has not been affixed to taxable substances within six months of the date of issue.

Stamps may be purchased in person or by mail. Persons (including dealers) purchasing stamps are not required to provide identification such as their name or address when purchasing stamps. Neither the director nor any employee of the department shall reveal any information obtained from a stamp purchaser, nor shall information obtained from a stamp purchaser in the course of purchasing stamps be used against the stamp purchaser in any criminal proceeding, unless the information is independently obtained, except in connection with a proceeding involving taxes due under this chapter from the stamp purchaser against whom a tax was assessed.

[Filed 1/20/23, effective 3/15/23]

[Published 2/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6858C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to the property assessment appeal board

The Property Assessment Appeal Board hereby amends Chapter 102, “Assessment Practices and Equalization,” and Chapter 115, “Property Assessment Appeal Board,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.4, 421.1A(4)“f” and 421.1A(4)“g.”

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 441.37A.

REVENUE DEPARTMENT[701](cont'd)

Purpose and Summary

The Board is making the following amendments to its rules:

Item 1 rescinds rule 701—102.21(421,17A). This rule is no longer needed.

Items 2 through 12 remove references to appeals filed prior to 2018 and references to content in rule 701—102.21(421,17A).

Item 2 adds a definition for “written consideration.”

Item 3 amends the rule to remove any reference to assessment years 2018 and prior since these appeals have largely been adjudicated. The amendment also clarifies what is to be included in the board of review’s answer to a notice of appeal.

Item 4 amends the rule to permit parties, upon agreement, to serve one another via email.

Item 5 amends the rule to identify where a public access terminal is available for the public based on changes to the Hoover State Office Building and the Board’s office. The amendment also clarifies which documents the Board’s staff may electronically file on behalf of a party.

Item 6 amends the rule to include a requirement for filing a motion to dismiss for lack of jurisdiction within 90 days of filing the notice of appeal.

Item 7 amends the rule establishing a threshold for required filing of hearing scheduling and discovery plans from \$2 million to \$3 million.

Item 8 amends the Board’s discovery rules by limiting the number of discovery requests that may be served in cases involving property assessed for less than \$1 million.

Item 9 amends language regarding waiving 30-day notice of a Board hearing and permits video proceedings before the Board. The amendment identifies that participants in a hearing before the Board may now elect to participate via videoconference. The amendment also defines “ex parte” communications and notifies parties that ex parte communication with Board members is prohibited.

Item 10 amends the rule regarding reopening the record and reconsiderations by specifying and clarifying the requirements for each filing.

Item 11 amends the rule to clarify service requirements for petitions for judicial review and to require that a party seeking judicial review shall bear the cost of producing the transcript of a Board hearing, if a transcript is requested.

Item 12 amends the rule to include provision for records retention following guidelines established by the State Records Commission.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 19, 2022, as **ARC 6601C**. A public hearing was held on January 13, 2023. No one attended the public hearing. No public comments were received.

Changes from the Notice have been made to update the numbering of Chapters 71 and 126, which were recently renumbered as Chapters 102 and 115, respectively. Cross-references to those chapters have also been updated.

Adoption of Rule Making

This rule making was adopted by the Board on January 13, 2023.

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.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve rule **701—102.21(421,17A)**.

ITEM 2. Amend rule 701—115.1(421,441) as follows:

701—115.1(421,441) Applicability and definitions.

115.1(1) *Applicability and scope.* The rules set forth in this chapter govern the proceedings for all cases filed ~~on or after January 1, 2015,~~ in which the property assessment appeal board (board) has jurisdiction to hear appeals from the action of a local board of review.

115.1(2) *Definitions.* For the purpose of these rules, the following definitions shall apply:

“*Appellant*” means the party filing the appeal with the property assessment appeal board.

“*Board*” means the property assessment appeal board as created by Iowa Code section 421.1A and governed by Iowa Code chapter 17A and section 441.37A.

“*Department*” means the Iowa department of revenue.

“*Electronic filing*” means the electronic transmission of a document to the electronic filing system together with the production and transmission of a notice of electronic filing.

“*Electronic filing system*” means the system established by the board for the filing of papers and service of the same to opposing parties.

“*Electronic record*” means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

“*Electronic service*” means the electronic transmission of a notification to the registered users who are entitled to receive notice of the filing.

“*Local board of review*” means the board of review as defined by Iowa Code section 441.31.

“*Nonelectronic filing*” means a process by which a paper document or other nonelectronic item is filed with the board.

“*Notice of electronic filing*” means an email notification generated by the electronic filing system when a document is electronically filed.

“*Party*” means each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*PDF*” means an electronic document filed in a portable document format which is readable by the free Adobe® Acrobat® Reader.

“*Presiding officer*” means the chairperson, member or members of the property assessment appeal board who preside over an appeal of proceedings before the board.

“*Public access terminal*” means a computer located at the board's office where the public may view, print, and electronically file documents.

REVENUE DEPARTMENT[701](cont'd)

“Registered user” means an individual who can electronically file documents and electronically view and download files through the use of a username and password.

“Remote access” means a registered user’s ability to electronically search, view, copy, or download electronic documents in an electronic record without the need to physically visit the board’s office.

“Secretary” means the secretary for the property assessment appeal board.

“Signature” means a registered user’s username and password accompanied by one of the following:

1. “Digitized signature” means an embeddable image of a person’s handwritten signature;
2. “Electronic signature” means an electronic symbol (“/s/” or “/registered user’s name/”) executed or adopted by a person with the intent to sign; or
3. “Nonelectronic signature” means a handwritten signature applied to an original document.

“Written consideration” means the board’s consideration of an appeal without a hearing.

115.1(3) to 115.1(5) No change.

ITEM 3. Amend rule 701—115.2(421,441) as follows:

701—115.2(421,441) Appeal and answer.

115.2(1) to 115.2(3) No change.

115.2(4) Scope of review.

a. Grounds for appeal. The appellant may appeal the action of the board of review relating to protests of assessment, valuation, or the application of an equalization order. The board shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof.

~~(1) For assessment years prior to January 1, 2018, no new grounds in addition to those set out in the protest to the local board of review can be pleaded but additional evidence to sustain those grounds may be introduced.~~

~~(2) For assessment years beginning on or after January 1, 2018, new~~ New grounds in addition to those set out in the protest to the local board of review may be pleaded, and additional evidence to sustain those grounds may be introduced. The board may order the appellant to clarify the grounds on which the appellant seeks relief.

b. Burden of proof. There shall be no presumption as to the correctness of the valuation of the assessment appealed from.

~~(1) For assessment years prior to January 1, 2018, the burden of proof is on the appellant; however, when the appellant offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the party seeking to uphold the valuation.~~

~~(2) For assessment years beginning on or after January 1, 2018, the~~ The burden of proof is on the appellant; however, when the appellant offers competent evidence that the market value of the property is different than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold the valuation.

c. The appeal is a contested case.

115.2(5) No change.

115.2(6) Answer by local board of review. Using the form provided by the board or a conforming document, the local board of review’s attorney or representative shall file an answer within 30 days after service of the notice of appeal, unless the time period is shortened or extended by the board. The answer shall include: a statement setting forth the local board of review’s position on the appeal and the

a. The subject property’s current assessed value;

b. A statement regarding the timeliness of the protest to the local board of review and the timeliness of the appeal to the board;

c. How the local board of review will participate in the hearing; and

d. If the local board of review is represented by an attorney or designated representative, the attorney or designated representative’s name, mailing address, email address, and telephone number.

REVENUE DEPARTMENT[701](cont'd)

115.2(7) Docketing. Appeals shall be assigned ~~consecutive~~ docket numbers. Electronic records consisting of the case name and the corresponding docket number assigned to the case shall be maintained by the board, as well as all filings made in the appeal.

115.2(8) and 115.2(9) No change.

ITEM 4. Amend rule 701—115.3(421,441) as follows:

701—115.3(421,441) Nonelectronic service on parties and filing with the board.

115.3(1) Applicability. This rule applies to all nonelectronic filings made with the board by parties not voluntarily using the electronic filing system or in all other cases for which the board has not ordered the conversion of the case to an electronic file. Electronic filing and service of documents using the board's electronic filing system is governed by rule ~~701—126.4(421,441)~~ 701—115.4(421,441).

115.3(2) Service and filing of paper documents. After the appeal has been filed, all motions, pleadings, briefs, and other papers shall be served upon each of the parties of record contemporaneously with their filing with the board.

a. Service on parties to the appeal. All documents are deemed served at the time they are delivered in person to the opposing party; delivered to an established courier service for immediate delivery; or mailed by first-class mail, so long as there is proof of mailing; or emailed to the opposing party per mutual agreement.

b. Filing with the board. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for immediate delivery; or mailed by first-class mail, so long as there is proof of mailing. A registered user of the board's electronic filing system may electronically file documents with the board pursuant to rule ~~701—126.4(421,441)~~ 701—115.4(421,441).

c. No change.

115.3(3) to 115.3(6) No change.

ITEM 5. Amend rule 701—115.4(421,441) as follows:

701—115.4(421,441) Electronic filing system.

115.4(1) Electronic filing and applicability.

a. Electronic filing. The board will maintain an electronic filing system, which shall be the preferred method for filing documents with the board.

b. Applicability. This rule applies to electronic filing and service of documents using the board's electronic filing system. Nonelectronic filing and service are governed by rule ~~701—126.3(421,441)~~ 701—115.3(421,441).

(1) The board may order the conversion of any case to an electronic file. Upon such an order, all future filings must be made using the board's electronic filing system in compliance with this rule, unless a filing is subject to the exception in paragraph ~~126.4(1)“e.”~~ 115.4(1)“c.”

(2) In all other cases, a party or parties to a proceeding may voluntarily choose to use the electronic filing system in compliance with this rule.

c. Exceptions. Any item that is not capable of electronic filing shall be filed in a nonelectronic format pursuant to rule ~~701—126.3(421,441)~~ 701—115.3(421,441).

115.4(2) to 115.4(4) No change.

115.4(5) Exhibits and other attachments. Any attachments to a filing, such as an exhibit, shall be uploaded and electronically attached to the filing. Each exhibit shall be filed as a separate PDF. Exhibits shall be labeled as required by paragraph ~~126.7(3)“d.”~~ 115.7(3)“d.”

115.4(6) Filing and service using electronic filing.

a. and b. No change.

c. Email or fax. The emailing or faxing of a document to the board will not generate a notice of electronic filing and does not constitute electronic filing of the document unless otherwise ~~ordered~~ authorized by the board.

REVENUE DEPARTMENT[701](cont'd)

d. Public access terminal. ~~The board shall maintain a public access terminal at the board's office. A public access terminal is available at the reception desk on the first floor of the Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319.~~

e. Service of filings. When a document is electronically filed, the electronic filing system will produce and transmit a notice of electronic filing to all parties to the appeal who are registered users. The notice of electronic filing shall constitute service of the filing on registered users. No other service is required on registered users unless ordered by the board. The filing party is responsible for ensuring service, pursuant to paragraph ~~126.3(2)"a,"~~ 115.3(2)"a," on any party that is not a registered user. Notices of electronic filing will continue to be sent to registered users appearing or intervening in a proceeding until the users have filed a withdrawal of appearance.

f. Proof of service of nonelectronic filings. Parties filing a document nonelectronically pursuant to paragraph ~~126.3(2)"e,"~~ 115.3(2)"c," and rule ~~701—126.3(421,441)~~ 701—115.3(421,441) shall electronically file a notice of nonelectronic filing along with proof of service.

g. Electronic filing and service of board-generated documents. All board-generated documents issued in an appeal governed by this chapter shall be electronically filed and served. The board shall only mail paper copies of documents as provided in subrule ~~126.3(3)~~ 115.3(3).

115.4(7) Filing by the board on behalf of a party.

a. No change.

b. When a party to an appeal contacts board staff via telephone or other means and indicates the party's desire to file a motion or request specified in paragraph ~~126.4(7)"e,"~~ 115.4(7)"c," board staff may file the request or motion in the electronic filing system on behalf of the party. The request or motion shall be consistent with the instructions and information provided by the party and shall only be filed with the permission of the party. Board staff shall not file any motions or requests on behalf of a party if any opposing party requires nonelectronic service under subrule ~~126.3(2)~~ 115.3(2).

c. Only the following motions or requests may be filed by board staff on behalf of a party:

(1) ~~Motion for telephone hearing~~ Request to participate in a hearing in person, by telephone, or by video;

~~(2) Motion to appear in person at hearing;~~

~~(3) (2)~~ Motion for hearing;

~~(4) (3)~~ Motion for continuance;

~~(5) (4)~~ Motion to withdraw appeal.

d. Upon filing of the motion or request, board staff will provide a courtesy copy of the filing to the party.

ITEM 6. Amend rule 701—115.5(421,441) as follows:

701—115.5(421,441) Motions and settlements.

115.5(1) No change.

115.5(2) Motions. No technical form for motions is required. All prehearing motions shall be in writing, shall be filed with the board and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit. Any party may file a written response to a motion no later than ~~10~~ ten days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. The presiding officer may schedule oral argument on any motion.

a. Filing of motions. Motions pertaining to the hearing, except motions ~~for summary judgment, discussed in paragraph~~ 115.5(2)"b," must be filed and served at least ~~10~~ ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by the board or presiding officer.

b. Motions for summary judgment and motions to dismiss for lack of jurisdiction.

(1) Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this chapter or any other provision of law governing the procedure in contested cases.

REVENUE DEPARTMENT[701](cont'd)

(2) Motions for summary judgment and motions to dismiss for lack of jurisdiction must be filed and served no later than 90 days after service of the notice of appeal, unless good cause is shown for a later filing. Good cause may include, but is not limited to, information the moving party obtains through discovery. Any party resisting the motion shall file and serve a resistance within 20 days, unless otherwise ordered by the board or presiding officer, from the date a copy of the motion was served. ~~The time fixed for hearing or nonoral submission shall be not less than 30 days after the filing of the motion, unless a shorter time is ordered by the presiding officer.~~ The board may request oral argument on the motion or may issue a ruling without argument. A summary judgment order rendered on all issues in a contested case or order on motion to dismiss for lack of jurisdiction is subject to ~~rehearing~~ reconsideration pursuant to subrule ~~126.9(2)~~ 115.9(2).

c. Motions to withdraw. An appellant may withdraw the appeal ~~prior to the hearing~~. Such a withdrawal of an appeal must be in writing and signed by the appellant or the appellant's designated representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal. Within 20 days of the board's granting of a withdrawal of appeal, the appellant may make a motion to reopen the file and rescind the withdrawal based upon fraud, duress, undue influence, or mutual mistake.

d. Motions for refund. ~~For assessment years beginning on or after January 1, 2018, if~~ If the board reduces an assessment following a contested case hearing, the appellant shall be notified in the board's final agency action of the appellant's right to elect to be refunded for taxes already paid by filing a motion with the board. Such a motion shall be filed within ~~10~~ ten days of the board's final agency action. If the appellant does not timely file a motion for refund, any change in taxes resulting from the assessment reduction shall be credited toward future tax payments.

115.5(3) No change.

ITEM 7. Amend rule 701—115.6(421,441) as follows:

701—115.6(421,441) Hearing scheduling and discovery plan.

115.6(1) When required. For appeals involving properties ~~classified commercial, industrial, or multiresidential~~ and assessed at ~~\$2~~ \$3 million or more, the parties shall confer and file a hearing scheduling and discovery plan within 60 days of the notice provided in subrule ~~126.2(5)~~ 115.2(5). In any other appeal, the parties may jointly file a hearing scheduling and discovery plan or the board may, on its own motion or the motion of any party, require parties to file a hearing scheduling and discovery plan. The dates established in a hearing scheduling and discovery plan under this rule shall supersede any dates set forth in any other rule in this chapter.

115.6(2) to 115.6(4) No change.

ITEM 8. Amend rule 701—115.7(421,441) as follows:

701—115.7(421,441) Discovery and evidence.

115.7(1) Discovery procedure. The scope of discovery described in Iowa Rule of Civil Procedure 1.503 shall apply to contested case proceedings. When considering a question of relevancy, the board shall consider the provisions of Iowa Code chapter 441, ~~701—Chapter 71~~ 701—Chapter 102, and other applicable law. The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; entry upon land for inspection and other purposes; and requests for admission. The time frames for discovery in specific Iowa Rules of Civil Procedure govern those specific procedures, unless lengthened or shortened by the board.

a. No change.

b. Subject to the limitations in paragraph 115.7(1)“h,” Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in an appeal.

REVENUE DEPARTMENT[701](cont'd)

c. Subject to the limitations in paragraph 115.7(1) "*h*," Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things; and entry upon land for inspection and other purposes in an appeal.

d. to *g.* No change.

h. In addition to the limits on discovery requests in Iowa Rule of Civil Procedure 1.509 and 1.512, the following limits shall apply to appeals of property assessed for less than \$1 million:

(1) A party shall not serve on any other party more than 15 interrogatories, including all discrete subparts.

(2) A party shall not serve on any other party more than ten requests for production of documents, electronically stored information, and things.

A party to the appeal may file a motion with the board requesting leave to serve additional discovery requests. The motion shall set forth the proposed interrogatories or requests for production of documents and the reasons establishing good cause for their use.

115.7(2) No change.

115.7(3) *Evidence.*

a. and *b.* No change.

c. Scope of admissible evidence. Evidence in the proceeding shall be confined to the issues contained in the notice from the board prior to the hearing, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. Admissible evidence is that which, in the opinion of the board, is determined to be material, relevant, or necessary for the making of a just decision in accordance with the provisions of Iowa Code section 441.21, ~~701—Chapter 71~~ 701—Chapter 102, or other applicable law. Upon an objection pursuant to paragraph ~~126.7(3) "e,"~~ 115.7(3) "e," irrelevant, immaterial or unduly repetitious evidence may be excluded. A finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. Hearsay evidence is admissible. The rules of privilege apply in all proceedings before the board.

d. Exhibits, exhibit and witness lists, and briefs. The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents to be used as evidence, exhibit lists, and a list of witnesses intended to be called at hearing shall be served on the opposing party at least 21 calendar days prior to the hearing, unless the time period is extended or shortened by the board or presiding officer or the parties have filed a hearing scheduling and discovery plan under rule ~~701—126.6(421,441)~~ 701—115.6(421,441). Rebuttal evidence need not be exchanged or served on the opposing party prior to the hearing. All exhibits and briefs admitted into evidence shall be appropriately marked and be made part of the record. The appellant shall mark each exhibit with consecutive numbers. The appellee shall mark each exhibit with consecutive letters.

(1) to (3) No change.

e. to *g.* No change.

115.7(4) *Subpoenas.*

a. Issuance.

(1) and (2) No change.

(3) The board shall refuse to issue a subpoena when there is reasonable ground to believe the subpoena is requested for the purpose of harassment; may seek irrelevant information as provided under Iowa Code section 441.21, ~~701—Chapter 71~~ 701—Chapter 102, or other applicable law; or is untimely. If the board refuses to issue a subpoena, the board shall provide a written statement of the ground for refusal. A party to whom a refusal is issued may obtain a prompt hearing before the board regarding the refusal by filing with the board and serving on all parties a written request for hearing.

b. No change.

ITEM 9. Amend rule 701—115.8(421,441) as follows:

701—115.8(421,441) Hearings before the board.

REVENUE DEPARTMENT[701](cont'd)

115.8(1) No change.

115.8(2) *Notice of hearing.* Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board. All hearings are open to the public. ~~If~~ Unless subject to a hearing scheduling and discovery plan, if a hearing is requested, the board shall serve a notice of hearing to the parties at least 30 days prior to the hearing. The parties may jointly waive the 30-day notice by following the provisions of subrule ~~126.8(3)~~ 115.8(3). The notice of hearing shall contain the following information:

a. to j. No change.

115.8(3) *Waiver of 30-day notice.* The parties to the appeal may jointly waive the 30-day written notice requirement for a hearing in Iowa Code section 441.37A by submitting a mutually agreed upon hearing date approved by the board. ~~The waiver must be signed by the parties or their designated representatives and filed with the board. By waiving notice, the parties acknowledge they are ready to proceed with the hearing. The parties will be contacted when a hearing date is available but notice for said date may be less than 30 days. The parties will have the right to accept or reject the hearing date.~~

115.8(4) No change.

115.8(5) *Telephone and video proceedings.* The board or presiding officer may conduct a telephone or video conference in which all parties have an opportunity to participate to resolve preliminary procedural motions. Other proceedings, including contested case hearings, may be held by telephone or video. The board will determine the location of the parties and witnesses for telephone and video hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when the location is chosen.

115.8(6) *Hearing procedures.* A party to the appeal may request a hearing, or the appeal may proceed ~~without a hearing~~ as a written consideration. The local board of review may be present and participate at such hearing. Hearings may be conducted by the board or by one or more of its members.

a. to e. No change.

115.8(7) to 115.8(9) No change.

115.8(10) *Ex parte communications with board members.* Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate. Ex parte communications between a person or party and any board members in connection with any issue of fact or law in the contested case proceeding is prohibited except as permitted by Iowa Code section 17A.17. All of the provisions of Iowa Code section 17A.17 apply to proceedings before the board.

~~115.8(10)~~ **115.8(11)** *Disqualification of board member.* A board member or members must, on their own motion or on a motion from a party in the proceeding, withdraw from participating in an appeal if there are circumstances that warrant disqualification.

a. No change.

b. Motion for disqualification.

(1) If a party asserts disqualification on any appropriate ground, including those listed in paragraph ~~126.8(10)“a,”~~ 115.8(11)“a,” the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification, but must establish the grounds by the introduction of evidence into the record.

(2) If a majority of the board determines that disqualification is appropriate, the board member shall withdraw. If a majority of the board determines that withdrawal is not required, the board shall enter an order to that effect. ~~A party asserting disqualification may seek an interlocutory appeal and a stay as provided under 701—Chapter 7.~~

c. and d. No change.

ITEM 10. Amend rule 701—115.9(421,441) as follows:

701—115.9(421,441) Posthearing motions.

115.9(1) *Motion to reopen records.* The board or presiding officer, on the board’s or presiding officer’s own motion or on the motion of a party, may reopen the record for the reception of further evidence. A motion to reopen the record may be made anytime prior to the issuance of a final decision.

REVENUE DEPARTMENT[701](cont'd)

A motion to reopen the record filed after issuance of the final decision will not be considered. In ruling on a motion to reopen the record from a party filed prior to issuance of the final decision, the board may consider:

- a. Whether the information sought to be admitted is material;
- b. The timeliness of the motion;
- c. Whether the information sought to be admitted was available as of the date for hearing or written consideration and whether there is good cause for failing to present it;
- d. The prejudice on the other party;
- e. Any and all other factors deemed relevant by the board.

115.9(2) Rehearing and reconsideration.

a. Application for rehearing or reconsideration. Any party to a case may file an application for rehearing or reconsideration of the final decision. The application for rehearing or reconsideration shall be filed within 20 days after the final decision in the case is issued. The board's consideration of the application shall be limited to the admitted exhibits and testimony offered at the hearing. No new evidence will be accepted or considered.

b. Contents of application. Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error and the relief sought. If a claim of error of fact is asserted, the application should clearly specify the factual error and cite to admitted exhibits or testimony in support of the claim. If a claim of error of law is asserted, the application should clearly specify the legal error and cite statutes, case law, administrative rules, or other sources of law in support of the claim. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration shall present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included.

c. Notice to other parties. ~~A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. The applicant shall serve a copy of the application on all parties to the contested case in accordance with rules 701—115.3(421,441) and 701—115.4(421,441).~~ If the application does not contain a certificate of service, the board shall serve copies on all parties.

d. Requirements for objections Resistance to applications for rehearing or reconsideration. ~~An answer or objection~~ A resistance to an application for rehearing or reconsideration must be filed within 14 ten days of the date the application was filed with the board, unless otherwise ordered by the board.

e. Disposition. Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

ITEM 11. Amend rule 701—115.10(17A,441) as follows:

701—115.10(17A,441) Judicial review.

115.10(1) Appeals of board decisions. A party may seek judicial review of a decision rendered by the board. The filing of the petition does not itself stay execution or enforcement of the board's final decision. The board may grant a stay on appropriate terms or other temporary remedies during the pendency of judicial review.

a. ~~For assessment years prior to January 1, 2018, a party may seek judicial review by filing a written notice of appeal with the clerk of the district court where the property is located within 20 days after the board's final agency action is postmarked to the appellant or the final agency action is filed in the board's electronic filing system. Iowa Code chapter 17A applies to judicial review of the board's final decision.~~

b. a. ~~For assessment years beginning on or after January 1, 2018, a~~ A party may seek judicial review of a decision rendered by the board by filing a petition for judicial review with the clerk of the district court where the property is located within 30 days after the board's action pursuant to Iowa Code chapter 17A. Within ten days of filing for judicial review, the party seeking judicial review must serve notice on the board and notice on all parties to the contested case proceeding pursuant to Iowa Code chapter 17A.

REVENUE DEPARTMENT[701](cont'd)

b. The party or parties seeking judicial review shall bear the costs of preparing the transcription of the board hearing, if a transcription is required by the reviewing court.

115.10(2) No change.

ITEM 12. Amend rule 701—115.11(22,421) as follows:

701—115.11(22,421) Records access.

115.11(1) to 115.11(7) No change.

115.11(8) Retention of board records. The board will follow the records retention schedule for administrative case files established by the state records commission.

[Filed 1/18/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6871C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to the register of assessors and deputy assessors

The Revenue Department hereby amends Chapter 103, "Examination and Certification of Assessors and Deputy Assessors," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14, 441.5 and 441.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 441.5 and 441.10.

Purpose and Summary

Iowa Code sections 441.5(7) and 441.10(3) require the Director of Revenue to maintain a register containing the names of all individuals who are eligible for appointment as assessor or deputy assessor, respectively. This rule making allows the Department to more efficiently maintain the register by requiring that assessors and deputy assessors provide the Department with up-to-date contact information and by allowing the Department to remove deceased assessors or deputy assessors from the register. Additionally, this rule making reflects the Department's current practice of indicating on the register whether an assessor or deputy assessor has retired.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6747C**. 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 January 19, 2023.

Fiscal Impact

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

REVENUE DEPARTMENT[701](cont'd)

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).

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 March 15, 2023.

The following rule-making action is adopted:

Amend rule 701—103.12(441) as follows:

701—103.12(441) Register of eligible candidates.**103.12(1) Assessor and deputy assessor register.**

a. Following the administration and grading of an examination for assessor or deputy assessor, the director shall establish updated registers containing the names, in alphabetical order, and addresses of all persons eligible for appointment. The registers shall not contain test scores, but the scores shall be given to the city or county conference board upon request. Eligible candidates shall remain on the register for two years following the date of certification by the director after which time the person must successfully retake the examination to be placed on the register. However, assessors and deputy assessors with six years of consecutive service shall be placed on the register ~~permanently~~ without further testing being required. "Consecutive service" means service in which there was not more than 30 days' break in service. Assessor and deputy assessor service cannot be combined to meet the six-year consecutive service requirement. Assessors and deputy assessors are responsible for maintaining current contact information with the department, including mailing address, email address, and telephone number.

b. In maintaining the register, the department shall indicate which assessors and deputy assessors have retired from the profession. An assessor or deputy assessor may request to no longer be indicated as retired on the register.

c. Deceased assessors and deputy assessors shall be removed from the register.

103.12(2) Continuing education requirements. Assessors and deputy assessors must complete the continuing education requirements provided in Iowa Code sections 441.5 and 441.10 to be reappointed to their present position or appointed to the same position in a different assessing jurisdiction. This provision does not apply to persons not presently serving as an assessor or deputy assessor. It shall be the duty of the conference board in the case of assessor appointments and the duty of the assessor in the case of deputy assessor appointments to receive written verification from the director of continuing education requirement compliance. An assessor or deputy assessor appointed as such without having complied with continuing education requirements shall be removed from office on order of the director.

REVENUE DEPARTMENT[701](cont'd)

No continuing education requirements need be met for an assessor to be appointed a deputy assessor nor for a deputy assessor to be appointed an assessor.

This rule is intended to implement Iowa Code sections 441.5 and 441.10.

[Filed 1/19/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6887C

SECRETARY OF STATE[721]

Adopted and Filed

Rule making related to fees

The Secretary of State hereby amends Chapter 30, "Uniform Commercial Code," and Chapter 40, "Corporations," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 17A and section 9.4A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 9.4A and 2022 Iowa Acts, Senate File 2385, section 29.

Purpose and Summary

In 2017, the Legislature authorized the Secretary of State to temporarily increase some fees for the purposes of modernizing Secretary of State technology to benefit Iowa's business community. Those temporary increases ended effective June 30, 2022. This rule making reverts those fees to the amounts prior to the increase. The Secretary of State's office stopped collecting the extra fees as scheduled starting July 1, 2022. This rule making reflects that practice.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 27, 2022, as **ARC 6427C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Secretary of State on January 15, 2023.

Fiscal Impact

The Secretary of State received up to \$2 million in revenue to update and modernize technology. That total, plus slightly more in some years (sent to the General Fund), will no longer be collected by the Secretary of State. This is not an impact of the rule making itself, but is due to the sunset provision in the 2017 legislation authorizing those fees, ending June 30, 2022. This rule making merely reflects the sunset provision.

Jobs Impact

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

SECRETARY OF STATE[721](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 Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 30.1(10) as follows:

30.1(10) Filing fees.

a. Filing fee. The fee for filing and indexing a UCC document of one or two pages communicated on paper or in a paper-based format (including faxes) is ~~\$20~~ \$10. If there are additional pages, the fee is ~~\$40~~ \$20. But the fee for filing and indexing a UCC document communicated by a medium authorized by these rules which is other than on paper or in a paper-based format shall be ~~\$10~~ \$5. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fees will revert back to the amounts authorized prior to July 1, 2017. Funds generated by these fees shall be exclusively used for improving business services technology.~~

b. UCC search fee. The fee for a UCC search request communicated verbally, on paper or in a paper-based format is \$5.

c. UCC search—copies. The fee for paper copies of UCC documents is \$1 per page.

ITEM 2. Amend subrule 40.8(1) as follows:

40.8(1) A limited partnership or foreign limited partnership authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 488.210.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is ~~\$60~~ \$45. This fee may be provided in the form of ~~credit card, cash, personal check, cashier's check, or money order or by secretary of state charge account.~~ credit card or secretary of state charge account. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert back to the amount authorized prior to July 1, 2017. Funds generated by this fee shall be exclusively used for improving business services technology.~~

b. The fee for an electronic filing through the secretary of state Internet website is ~~\$45~~ \$30. This fee must be paid by ~~check, credit card, or secretary of state charge account~~ credit card or secretary of state charge account. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert back to the amount authorized prior to July 1, 2017. Funds generated by this fee shall be exclusively used for improving business services technology.~~

ITEM 3. Amend subrule 40.8(2) as follows:

40.8(2) A limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 489.209.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is ~~\$60~~ \$45. This fee may be provided in the form of credit card, cash, personal check, cashier's check, or money

SECRETARY OF STATE[721](cont'd)

order or by secretary of state charge account. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert back to the amount authorized prior to July 1, 2017. Funds generated by this fee shall be exclusively used for improving business services technology.~~

b. The fee for an electronic filing through the secretary of state Internet website is ~~\$45~~ \$30. This fee must be paid by ~~check, credit card, or secretary of state charge account~~ credit card or secretary of state charge account. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert back to the amount authorized prior to July 1, 2017. Funds generated by this fee shall be exclusively used for improving business services technology.~~

ITEM 4. Rescind subrule **40.8(3)**.

ITEM 5. Amend **721—Chapter 40**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 490, 491, 499, 504, and 548 ~~and 2017 Iowa Acts, Senate File 516, section 23.~~

[Filed 1/15/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6845C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to emergency vehicle certificates

The Transportation Department hereby amends Chapter 451, "Emergency Vehicle Certificate," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.451(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.231(2), 321.231(3), 321.231(4) and 321.451 as amended by 2022 Iowa Acts, Senate File 333, sections 2, 3 and 9, and sections 321.231(3A), 321.231A and 321.324A(3A) as enacted by 2022 Iowa Acts, Senate File 333, sections 4, 5 and 7, respectively.

Purpose and Summary

This rule making conforms Chapter 451 with 2022 Iowa Acts, Senate File 333. This legislation adds the following to the list of vehicles eligible under Iowa Code section 321.451 for a certificate of designation as an authorized emergency vehicle by the Department:

1. A vehicle privately owned by a certified chief or certified fire officer of a volunteer fire department, a fire department comprised of volunteer and paid members, or a nonprofit corporation delivering emergency services to a municipality under contract. The owner of the vehicle must provide proof of certification as a fire officer.
2. A vehicle privately owned by a chief, medical director, or certified medical provider of an authorized emergency medical service.

Prior to the Department approving an application, additional requirements for these categories of vehicles include that the owner must have completed an emergency vehicle operations course approved

TRANSPORTATION DEPARTMENT[761](cont'd)

by either the Fire Service Training Bureau or the Department of Public Health as applicable, and that the owner must provide proof of financial liability coverage or risk pool coverage.

These amendments provide that a person seeking an authorized emergency vehicle certificate must meet the requirements set forth under Iowa Code section 321.451 as amended by Senate File 333, section 9, and in addition these amendments expand the permitted operations of an authorized emergency vehicle to allow the driver of an authorized emergency vehicle to operate the vehicle during parades, events and funeral processions as identified in newly enacted Iowa Code sections 321.231A and 321.324A. These amendments also align the Department's authority to deny an application or revoke a certificate of designation with the amended and additional requirements for operation of an authorized emergency vehicle.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6702C**. No public comments were received.

Since publication of the Notice of Intended Action, 2022 Iowa Acts, Senate File 333, has been codified. Therefore, references in this rule making to 2022 Iowa Acts, Senate File 333, have been removed accordingly. No other changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on January 11, 2023.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

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 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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—451.2(321) as follows:

761—451.2(321) Authorized emergency vehicle certificate.

451.2(1) Application. Application for a certificate which designates a privately owned vehicle as an authorized emergency vehicle shall be submitted to the motor vehicle division in the form and manner prescribed by the department. The department shall deny an application if the applicant does not establish

TRANSPORTATION DEPARTMENT[761](cont'd)

for the department that the vehicle will be used as an authorized emergency vehicle, as described in Iowa Code section 321.451, ~~or~~ that the vehicle does not otherwise demonstrate necessity for the designation, or that the applicant does not meet the criteria for issuance of a certificate established by Iowa Code section 321.451.

451.2(2) No change.

451.2(3) Limitation. In addition to the provisions of Iowa Code ~~section~~ sections 321.231(2), 321.231(4), 321.231A, 321.324A(3A) and 321.451, a towing or recovery vehicle with a valid certificate of designation may only display illuminated emergency lights in one of the following circumstances:

a. and *b.* No change.

This rule is intended to implement Iowa Code sections 321.231, 321.231A, 321.324A(3A) and 321.451.

ITEM 2. Amend rule 761—451.3(17A,321) as follows:

761—451.3(17A,321) Application denial or certificate revocation.

451.3(1) The department may deny an application or revoke a certificate of designation if an applicant or certificate holder fails to comply with the applicable provisions of this chapter or Iowa Code section 321.231, 321.231A, 321.324A(3A) or 321.451; or if the certificate holder is no longer eligible for the certificate, or the certificate holder otherwise abuses the certification.

451.3(2) No change.

This rule is intended to implement Iowa Code chapter 17A and sections 321.13, 321.16, 321.231, 321.231A, 321.324A(3A) and 321.451.

[Filed 1/11/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6846C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to driver's licenses for undercover law enforcement officers

The Transportation Department hereby amends Chapter 625, "Driver's Licenses for Undercover Law Enforcement Officers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.189A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.189 and 321.189A.

Purpose and Summary

These amendments add the provision that an applicant who is employed by a state or local law enforcement agency that is located outside Iowa is ineligible for an undercover Iowa driver's license. These officers typically have no jurisdictional authority to conduct official activity in Iowa and may seek to obtain an undercover driver's license from their state of domicile. However, federal law enforcement officers remain eligible to obtain undercover driver's licenses as provided in Iowa Code section 321.189A(2).

In addition, these amendments update terminology from "disapprove" to "deny" in relation to application processing, clarify that the Bureau of Investigation and Identity Protection is responsible

TRANSPORTATION DEPARTMENT[761](cont'd)

for collecting and canceling surrendered driver's licenses, and update the chapter's implementation sentence to add Iowa Code section 321.189, which is the statute that prescribes the content of all driver's licenses issued by the Department.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6703C**.

The Department received comments from one person. The commenter expressed concerns that the Department's current practice of issuing undercover driver's licenses in compliance with Iowa Code section 321.189A is noncompliant with federal REAL ID regulations pursuant to 6 CFR Part 37 and also noncompliant with federal and state laws limiting a person to possession of only one driver's license or ID card at a time. The commenter also questioned whether the amendments violate federal and state laws and regulations.

The Department's response identified the federal REAL ID regulation that expressly permits state driver's license agencies to issue undercover driver's license to law enforcement officials and clarified how the Department's existing practices and rules maintain compliance with the "one license" and "one REAL ID" requirements of federal and state laws.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on January 11, 2023.

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 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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—625.2(321) as follows:

761—625.2(321) Application.

625.2(1) to **625.2(3)** No change.

625.2(4) The department shall approve or ~~disapprove~~ deny the application, based on the results of the investigation and the determination of necessity.

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625.2(5) An applicant employed by a state or local law enforcement agency that is located in a state other than Iowa is not eligible for an undercover driver's license issued under this chapter.

ITEM 2. Amend rule 761—625.5(321) as follows:

761—625.5(321) Cancellation. When the need for an undercover license no longer exists or if the licensee ceases to be employed by the sponsoring law enforcement agency, the licensee shall surrender the undercover license to the ~~department~~ bureau of investigation and identity protection for cancellation.

ITEM 3. Amend **761—Chapter 625**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 22.7, 80G.3, 321.189, 321.189A, and 321.196 and 6 CFR Part 37.

[Filed 1/11/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.

ARC 6841C

WORKERS' COMPENSATION DIVISION[876]

Adopted and Filed

Rule making related to electronic filing and reaching settlements

The Workers' Compensation Commissioner hereby amends Chapter 1, "Purpose and Function," Chapter 2, "General Provisions," Chapter 3, "Forms," Chapter 4, "Contested Cases," Chapter 6, "Settlements and Commutations," Chapter 8, "Substantive and Interpretive Rules," Chapter 9, "Public Records and Fair Information Practices," and Chapter 11, "Electronic Data Interchange (EDI)," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 86.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 22, 85, 85A, 85B, 86 and 87.

Purpose and Summary

The purpose of this rule making is to update language in the rules for consistency with the implementation of the electronic filing system, to update the waiver provisions for the electronic filing system, to allow represented parties more flexibility in reaching settlements, to update outdated language, and to increase the filing fee.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6701C**. No public comments were received. One change from the Notice has been made in rule 876—4.17(17A,85,86) in Item 29 to include "physician assistants" pursuant to 2022 Iowa Acts, House File 803.

Adoption of Rule Making

This rule making was adopted by the Commissioner on January 4, 2023.

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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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to rule 876—12.4(17A).

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 March 15, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 876—1.2(86,17A) as follows:

876—1.2(86,17A) Location. Interested persons may contact the Iowa Workers' Compensation Commissioner, 150 Des Moines Street, Des Moines, Iowa 50309; telephone (515)725-4120 or 1-800-645-4583. The fax number is (515)281-6501. The website address is www.iowaworkforce.org/we www.iowaworkcomp.gov.

ITEM 2. Amend rule 876—2.1(86) as follows:

876—2.1(86) Extending time and continuances. ~~For good cause the~~ The workers' compensation commissioner or the commissioner's designee a deputy workers' compensation commissioner may modify the time to comply with any rule for good cause.

This rule is intended to implement Iowa Code chapter 86.

ITEM 3. Amend rule 876—2.2(85A,85B,86,87) as follows:

876—2.2(85,85A,85B,86,87) Applicability. When appropriate, all rules shall apply to Iowa Code chapters 85, 85A, 85B, 86 and 87 as well as chapter 85.

This rule is intended to implement Iowa Code chapters 85, 85A, 85B, 86 and 87.

ITEM 4. Adopt the following **new** implementation sentence in rule **876—2.3(86,87)**:

This rule is intended to implement Iowa Code chapters 86 and 87.

ITEM 5. Amend rule 876—2.5(85,85A,85B,86) as follows:

876—2.5(85,85A,85B,86) Use of workers' compensation electronic system (WCES) for submission of filings. ~~The division of workers' compensation requires the filing of electronic~~ Electronic data interchange (EDI) information, forms, petitions, pleadings, responses, motions, briefs, and any other submissions to be effectuated by use of shall be filed through the workers' compensation electronic system (WCES). The website address for WCES is efile.iowaworkcomp.gov www.iowaworkcomp.gov/efile. ~~The division of workers' compensation may provide exceptions to the~~

WORKERS' COMPENSATION DIVISION[876](cont'd)

~~mandatory use of WCES in contested claims. Any electronic filing that is quarantined due to a virus will not be considered received. Any electronic filing that is quarantined due to a virus will not be considered received.~~

~~2.5(1) The division of workers' compensation shall may grant exceptions for filing in WCES for good cause, such as a power outage at the filer's office or home a request for waiver of the mandatory use of WCES in contested cases, pursuant to rule 876—12.4(17A).~~

~~2.5(2) The division of workers' compensation shall grant exceptions for part or the duration of a case for good cause, such as when a filer cannot use a computer or does not have regular access to the Internet at home through a device capable of displaying documents. This inability to file in or follow the case could put a filer at a disadvantage before the agency. Only a deputy workers' compensation commissioner or the workers' compensation commissioner can grant an exception for the duration of a request for waiver of the mandatory use of WCES in a contested case.~~

~~2.5(3) The commissioner or the commissioner's designee shall allow the filing of paper documents in case of a systemic failure of WCES. If the division of workers' compensation grants a waiver of the mandatory use of WCES in a contested case, the division of workers' compensation shall file paper documents received from the filer in WCES.~~

This rule is intended to implement Iowa Code chapters 85, 85A, 85B and 86.

ITEM 6. Amend rule 876—2.7(86) as follows:

876—2.7(86) Official record. The electronic record made and maintained by the division of workers' compensation is the official record of a contested case ~~unless different means are ordered by the commissioner or deputy commissioner or unless a proceeding is not required to use WCES. The division may require parties to scan and file in WCES pleadings, exhibits and other records that were filed as paper documents before the establishment of WCES.~~

This rule is intended to implement Iowa Code chapters 85, 85A, 85B and 86.

ITEM 7. Amend rule 876—2.8(86) as follows:

876—2.8(86) Document requirements. Pleadings, responses to pleadings, exhibits, and transcripts submitted to the division of workers' compensation shall be scanned, attached, and filed in portable document format (pdf) or as image-on-text documents (searchable pdf). A hearing report or proposed order or proposed ruling shall be submitted ~~in Microsoft Word format as a pdf or searchable pdf.~~ Transcripts submitted shall include an index. Filings shall not exceed ~~30~~ 20 megabytes (MB). Documents exceeding ~~30~~ 20 MB shall be divided and submitted as separate attachments to comply with this size limit. All filings pursuant to this rule shall be submitted via WCES unless otherwise ordered by the workers' compensation commissioner, or a deputy workers' compensation commissioner ~~or other agency staff who have been delegated authority by the commissioner.~~ Audio or video files shall use MP3 or MP4 format and should be submitted with a virus-scanned USB drive ~~or DVD~~ and shall not exceed 500 MB for each filing.

This rule is intended to implement Iowa Code chapters 85, 85A, 85B and 86.

ITEM 8. Rescind and reserve rule ~~876—2.9(86)~~.

ITEM 9. Amend subrules 3.1(1) and 3.1(2) as follows:

3.1(1) First report of injury (FROI). ~~The first report of injury (FROI)~~ FROI contains general information concerning the employee, the employer and the claimed injury. ~~It~~ A FROI is to be filed whether or not an adjudication or admission of liability for the injury exists and is to be filed as provided in Iowa Code section 86.11 and 876—Chapter 11. ~~The first report of injury FROI~~ FROI is to be filed when demanded by the commissioner pursuant to Iowa Code section 86.12 and when an employer is served with an original notice and petition that alleges an injury for which a ~~first report FROI~~ FROI has not been filed. If an original notice and petition alleges multiple injury dates, only one ~~first report of injury FROI~~ FROI should be filed, and the date of injury reported should be the date the reporter uses when adjusting the claim.

3.1(2) Subsequent report of injury (SROI).

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a. The ~~subsequent report of injury (SROI)~~ SROI provides for filing of notice of commencement of payments, correcting erroneous claim information, supplying additional information, denying compensability, agreeing to the weekly benefit rate and agreeing to make payments under the Workers' Compensation Act, reporting the status of a claim, or recording benefits paid. Notice of commencement of payments shall be filed within 30 days of the first payment. When liability on a claim is denied, a letter shall be sent to claimant stating reasons for denial. The SROI shall also be filed when compensation is terminated or interrupted. Medical data supporting the action taken shall be filed when temporary total disability or temporary partial disability exceeds 13 weeks or when the employee sustains a permanent disability.

b. No change.

ITEM 10. Amend subrule 3.1(7) as follows:

3.1(7) Form—original notice and petition. The following forms are types of original notice and petition: original notice and petition—Form 100 (Form No. 14-0005); original notice, and petition, ~~answer and order~~ concerning application for independent medical examination—Form 100A (Form No. 14-0007); answer and order concerning application for independent medical examination—Form 100A (Form No. 14-0007A); original notice, and petition, ~~answer and order~~ concerning vocational rehabilitation program benefit—Form 100B (Form No. 14-0009); answer concerning vocational rehabilitation program benefit—Form 100B (Form No. 14-0009A); original notice, petition, ~~and answer~~ concerning application for alternate medical care—Form 100C (Form No. 14-0011); answer concerning application for alternate medical care—Form 100C (Form No. 14-0011A); original notice, and petition, ~~and answer~~ concerning application for vocational training and education—Form 100D (Form No. 14-0012); answer concerning application for vocational training and education—Form 100D (Form No. 14-0012A); original notice and petition for full commutation of all remaining benefits of ten weeks or more 876 IAC 6.2(6)—Form 9 (Form No. 14-0013); ~~checklist for full commutation (Form No. 14-0015);~~ and original notice and petition and order for partial commutation—Form 9A (Form No. 14-0017); ~~and checklist for partial commutation (Form No. 14-0019).~~ See rule 876—4.6(85,86,17A) for further descriptions.

ITEM 11. Amend subrules 3.1(18) and 3.1(19) as follows:

3.1(18) Form No. 9—original notice and petition ~~and order~~ for commutation of all remaining benefits of ten weeks or more 876 IAC 6.2(6). (Form No. 14-0013) This form contains data relevant to benefits paid and those to be paid by commutation when all unaccrued benefits are due. Signatures of the parties are necessary. Approval by the workers' compensation commissioner or a deputy workers' compensation commissioner is necessary. The form contains language of release.

3.1(19) Form No. 9A—original notice and petition ~~and order~~ for partial commutation. (Form No. 14-0017) This form contains the same data and requirements as Form No. 9. However, all remaining benefits are not commuted. No language of release is contained.

ITEM 12. Rescind subrule 3.1(27) and adopt the following **new** subrule in lieu thereof:

3.1(27) Form—nonelection of workers' compensation or employers' liability coverage. (Form No. 14-0175) This form is used for exclusion from liability coverage pursuant to Iowa Code section 87.22.

ITEM 13. Rescind subrule 3.1(28) and adopt the following **new** subrule in lieu thereof:

3.1(28) Form—shorthand reporter identification form. (Form No. 14-0178) This form is used to identify the official shorthand reporter and custodian of the notes for a hearing.

ITEM 14. Amend subrule 3.1(29) as follows:

3.1(29) Form—~~application to be excused from filing in WCES~~ request for waiver of the mandatory use of WCES. (Form No. 14-0176) This form is used by a self-represented party to request permission a waiver from those rules requiring filing in WCES and allows a party to file and serve documents in paper form ~~and be excused from using WCES.~~

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ITEM 15. Rescind and reserve subrule **4.1(13)**.

ITEM 16. Amend rule 876—4.2(86) as follows:

876—4.2(86) Separate evidentiary hearing or consolidation of proceedings. A person presiding over a contested case proceeding in a workers' compensation matter may conduct a separate evidentiary hearing for determination of any issue in the contested case proceeding which goes to the whole or any material part of the case. An order determining the issue presented shall be issued before a hearing is held on the remaining issues. The issue determined in the separate evidentiary hearing shall be precluded at the hearing of the remaining issues. If the order on the separate issue does not dispose of the whole case, it shall be deemed interlocutory for purposes of appeal.

When any contested case proceeding shall be filed prior to or subsequent to the filing of an arbitration or review-reopening proceeding and is of such a nature that it is an integral part of the arbitration or review-reopening proceeding, it shall be deemed merged with the arbitration or review-reopening proceeding. No appeal to the workers' compensation commissioner of a deputy workers' compensation commissioner's order in such a merged proceeding shall be had separately from the decision in arbitration or review-reopening unless appeal to the commissioner from the arbitration or review-reopening decision would not provide an adequate remedy.

Entitlement to denial or delay benefits provided in Iowa Code section 86.13 shall be pled, and if pled, discovery shall be limited to matters discoverable in the absence of such pleading unless it is bifurcated. The claimant may bifurcate the denial or delay issue by filing and serving a notice of bifurcation at any time before a case is assigned for hearing, in which case discovery on that issue may proceed only after the final decision of the agency on all other issues.

This rule is intended to implement Iowa Code sections 86.13, 86.18 and 86.24.

ITEM 17. Amend rule 876—4.3(85,85A,86,87) as follows:

876—4.3(85,85A,86,87) Compliance proceedings. If the workers' compensation commissioner shall have reason to believe that there has not been compliance with the workers' compensation law by any person or entity, the workers' compensation commissioner may on the workers' compensation commissioner's own motion give notice to the person or entity and schedule a hearing for the purpose of determining whether or not there has been compliance by the person or entity. The notice shall state the time and place of the hearing and a brief statement of the matters to be considered. The notice of hearing may be given by ordinary mail or by WCES if the alleged noncompliant person or entity is registered in WCES and is currently participating in a contested case using WCES and may be given to the insurer for the employer in lieu of the employer as permitted by Iowa Code section 87.10 if the insurer has filed a report, pleading or motion that acknowledges that it is the insurer for the claim at issue. Following the hearing, the workers' compensation commissioner or a deputy workers' compensation commissioner may issue a finding regarding compliance. In the event a failure to comply is found, the workers' compensation commissioner may impose sanctions in accordance with Iowa Code section 86.12, 86.13 or 86.13A or order compliance within a specified time and under specified circumstances. The workers' compensation commissioner may file a certified copy of the order in an appropriate district court and may file a certified copy of the order with the Iowa insurance division of the department of commerce with a request for action by the insurance division upon failure to comply with the order.

Nothing in this rule shall prevent the workers' compensation commissioner from conducting an informal conference with any person or entity concerning problems of compliance prior to the initiation of a compliance proceeding.

This rule is intended to implement Iowa Code chapters 85, 85A, 86 and 87.

ITEM 18. Amend rule 876—4.4(86) as follows:

876—4.4(86) Request for hearing. ~~Unless otherwise ordered, a~~ A hearing shall not be held in proceedings under subrules 4.1(8) to ~~4.1(13)~~ 4.1(12), unless otherwise ordered or requested in writing

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by the petitioner in the original notice or petition or by the respondent within ten days following the time allowed by these rules for appearance.

This rule is intended to implement Iowa Code chapter 86.

ITEM 19. Amend rule 876—4.5(86) as follows:

876—4.5(86) Commencement by the workers' compensation commissioner. In addition to an aggrieved party, the workers' compensation commissioner may initiate proceedings under subrule 4.1(10). The proceeding may be held before a deputy workers' compensation commissioner or the workers' compensation commissioner. The workers' compensation commissioner shall be the only person to commence a proceeding under subrule 4.1(14), unless such authority is specifically delegated by the workers' compensation commissioner to a deputy workers' compensation commissioner concerning a specific matter.

This rule is intended to implement Iowa Code chapter 86.

ITEM 20. Amend rule 876—4.6(85,86,17A) as follows:

876—4.6(85,86,17A) Original notice and petition. A petition or application must be delivered or filed with the original notice unless original notice Form 100, Form 100A, Form 100B, or Form 100D of the division of workers' compensation is used.

The original notice Form 100, Form 100A, Form 100B, Form 100C, Form 100D, or a determination of liability reimbursement for benefits paid and recovery of interest form shall provide for the data required in Iowa Code section 17A.12(2) and shall contain factors relevant to the contested case proceedings listed in rule 876—4.1(85,85A,85B,86,87,17A). Form 100 is to be used for all contested case proceedings except as indicated in this rule. Form 100A is to be used for the contested case proceedings provided for in subrules subrule 4.1(12) and 4.1(13). Form 100B is to be used for the contested case proceeding provided for in subrule 4.1(8). Form 100C is to be used for the contested case proceeding provided for in subrule 4.1(15) and rule 876—4.48(17A,85,86). Form 100D is to be used for the contested case proceeding provided for in rule 876—4.50(85). The application and consent order for payment of benefits under Iowa Code section 85.21 is to be used for contested case proceedings brought under Iowa Code section 85.21. When a commutation is sought, Form No. 9 14-0013 or Form No. 9A 14-0017 must be filed in addition to any other document. The petition for declaratory order, approval of attorney fees, determination of compliance and other proceedings not covered in the original notice forms must accompany the original notice.

At the same time and in the same manner as service of the original notice and petition, the claimant shall serve a patient's waiver using Form 14-0043 (authorization for release of information regarding claimants seeking workers' compensation benefits), or a substantially equivalent form, which shall not be revoked until conclusion of the contested case. The claimant shall provide the patient's waivers in other forms and update the patient's waivers as necessary to permit full disclosure of discoverable information whenever requested by a medical practitioner or institution.

A separate original notice and petition shall be filed for each claim that seeks benefits due to the occurrence of an injury, occupational disease or occupational hearing loss. The original notice and petition shall allege a specific date of occurrence consisting of a day, month and year. Alternate or multiple dates of occurrence may be alleged in the same original notice and petition if the claim or claims arose from the same occurrence or series of occurrences and uncertainty exists concerning the correct date of occurrence or the number of occurrences. An employee may join any number of employers or insurance carriers in the same original notice and petition if the claim is made against them jointly, severally or in the alternative. The remedy for misjoinder must be requested by motion within a reasonable time after the grounds become known, but in no event later than the claimant's case preparation completion date. All remedies will be applied without prejudice to any claim or defense. In addition to the remedies contained in Iowa Rule of Civil Procedure 1.236, the workers' compensation commissioner may order that parts of a claim be severed and proceeded with separately or that separate related claims be joined or consolidated for administrative convenience or for any good cause. If a

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correction is ordered but not made by a date specified in the order, the original notice and petition may be dismissed without further notice. If the correction is made within the specified time, the correction relates back to the date of the initial filing for purposes of the statute of limitations.

This rule is intended to implement Iowa Code sections 85.27, 85.45, 85.48, and 17A.12.

ITEM 21. Amend rule 876—4.7(86,17A) as follows:

876—4.7(86,17A) Delivery of notice, orders, rulings and decisions. Delivery of the original notice shall be made by the petitioning party as provided in Iowa Code section 17A.12(1) except that a party may deliver the original notice on a nonresident employer as provided in Iowa Code section 85.3. A proposed or final decision, order or ruling may be delivered by the division of workers' compensation to any party by regular mail, by email or by WCES. Filing of a notice, ruling and decision in WCES is the official filing and start of any appeal or motion deadline. ~~Parties registered in WCES for a claim will be sent a courtesy email informing the parties of a filing.~~

This rule is intended to implement Iowa Code sections 85.3 and 17A.12.

ITEM 22. Amend rule 876—4.8(86) as follows:

876—4.8(86) Filing of notice.

4.8(1) No change.

4.8(2) Filing fee.

a. For all original notices and petitions for arbitration or review-reopening relating to weekly benefits filed on account of each injury, ~~gradual or cumulative injury~~, occupational disease or occupational hearing loss alleged, a filing fee shall be paid at the time of filing. The filing fee for petitions is ~~\$100~~ \$125. No filing fee is due for the filing of other actions where the sole relief sought is one of the following or a combination of any of them: medical and other benefits under Iowa Code section 85.27; burial benefits, under Iowa Code section 85.28; determination of dependency, under Iowa Code sections 85.42, 85.43, and 85.44; equitable apportionment, under Iowa Code section 85.43; second injury fund, under Iowa Code sections 85.63 to 85.69; vocational rehabilitation benefits, under Iowa Code section 85.70(1); vocational training and education benefits, under Iowa Code section 85.70(2); approval of legal, medical and other fees under Iowa Code section 86.39; commutation, under Iowa Code sections 85.45 to 85.48; employee's examination, under Iowa Code section 85.39; employee's examination or sanctions, under Iowa Code section 85.39; application for alternate care, under Iowa Code section 85.27; determination of liability, reimbursement for benefits paid and recovery of interest, under Iowa Code section 85.21; interest, under Iowa Code section 85.30; penalty, under Iowa Code section 86.13; application for approval of third-party settlement, under Iowa Code section 85.22; and petitions for declaratory orders or petitions for interventions filed pursuant to 876—Chapter 5. An amendment to a petition ~~that was filed on or after July 1, 1988~~, that alleges an additional or alternate date of occurrence does not require payment of an additional filing fee if a filing fee was paid when the petition was filed.

b. A filing fee shall be required for each original notice and petition filed, as required in paragraph 4.8(2) "a." If a party overpays a filing fees have been overpaid, the amount overpaid shall be refunded to fee, the party who made the overpayment may receive a refund. The party who made the overpayment must request a refund before June 1 of the fiscal year in which the overpayment occurred.

~~*c.* and *d.* Rescinded IAB 11/27/02, effective 1/1/03.~~

~~*e.* If the correct filing fee or fees are not paid at the time of filing of the original notice and petition, the workers' compensation commissioner shall enter an order requiring payment of the correct filing fee or fees. If the required correction is not made by a date specified in the order, the original notice and petition shall automatically be dismissed without prejudice without entry of further order. See rule 876—4.36(86). If correction is made within the specified time, the initial filing shall be sufficient to have tolled the statute of limitations.~~

c. If no filing fee is paid at the time of filing of the original notice and petition, the workers' compensation commissioner shall return the original notice and petition to the party filing it. Filing an

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original notice and petition without paying the fee shall not toll the statute of limitations. Tendering an amount less than required will be considered failure to pay a filing fee.

~~f. d.~~ The filing fee may be taxed as a cost to the losing party in the case. If the filing fee would impose an undue hardship or be unjust in the circumstances for the losing party, the filing fee may be taxed as costs to the winning party in the case. ~~If an original notice and petition is erroneously accepted for filing without payment of the correct filing fee or fees, any unpaid fees may be taxed as costs.~~ See rule 876—4.33(86).

~~g. e.~~ The filing fee shall be paid at the same time the petition is filed. The filing fee shall be paid electronically with a credit card ~~or electronic check, via automated clearing house (ACH),~~ or by other electronic means as allowed by WCES. ~~Checks should be made, unless an order granting permission for nonelectronic payment has been issued. If an order granting permission for nonelectronic payment has been issued, the party filing the petition shall issue a check payable to the "Iowa Division of Workers' Compensation."~~ If the payment of the filing fee is made by an account with insufficient funds ~~check or a check on which or the payment is stopped, or a check on which the payment is otherwise not honored,~~ it will be treated as a failure to pay the correct filing fee. See 4.8(2) "~~e.~~" paragraph 4.8(2) "c." Nonelectronic payment will not be accepted without an order granting permission for nonelectronic payment. ~~Any~~ The statute of limitations is not tolled if a party has requested nonelectronic payment and is awaiting an order.

~~h. f.~~ The workers' compensation commissioner may accept for filing an original notice and petition without prepayment of the filing fee if in the discretion of the workers' compensation commissioner the petitioner is unable to pay the fee at the time of filing. A deferral of payment of the filing fee shall only be granted upon written application by the petitioner. The application shall be filed at the same time the original notice and petition is filed. The application shall be in the form required by the workers' compensation commissioner and shall include an affidavit signed by the petitioner. When payment of the filing fee is deferred, provisions for payment of the filing fee must be included in any settlement submitted to the workers' compensation commissioner for approval or taxed as costs. When the application for deferral of payment of the filing fee is denied, the filing fee shall be paid as ordered. See 4.8(2) "~~e.~~" paragraph 4.8(2) "c." The form for the application deferral of prepayment of fees (Form No. 14-0075) shall not be filed using WCES. The document shall be filed in paper form. If the request for deferral of fees is granted, a claim will be established in WCES. Parties to the claim shall use WCES for future filings, unless a party has been ~~excused from using~~ granted a waiver of the mandatory use of WCES.

~~i.~~ ~~Rescinded IAB 1/29/97, effective 3/5/97.~~

~~j. g.~~ Parties shall use the payment gateway in WCES to pay filing fees, unless an order has been issued allowing deferral of the payment of the filing fee or payment outside of WCES. In addition to the filing fee, the parties shall pay the convenience fee charged by the financial institution that is processing payment for WCES. This cost may be recoverable under rule 876—4.33(86).

This rule is intended to implement Iowa Code section 17A.12.

ITEM 23. Amend rule 876—4.9(17A) as follows:

876—4.9(17A) Appearance and responses, pleadings, motions and settlements. Appearances and responses to pleadings and motions shall be made ~~using the division of workers' compensation's~~ in WCES. Registration with the division of workers' compensation's WCES is required. Registration is accepted at efile.iowaworkcomp.gov www.iowaworkcomp.gov/efile. After a matter has been commenced and the respondent has been served with an original notice and filed an answer or appearance, subsequent filings or submissions in WCES do not require proof of service to parties of record who are registered with WCES. If a party has been granted a waiver of the mandatory use of WCES, the party shall include a proof of service for all parties of record. Attorneys will need to use the AT pin or pro hac vice pin assigned by the Iowa Supreme Court to be associated with a case in WCES. When an attorney is not representing a party, the employer or insurance carrier or the employer's or insurance carrier's agent or claimant shall register in WCES to file the settlement or medical data pursuant to 876—subrule 3.1(2). The filer will receive a status update for the information the filer submits based upon the status the filer selects when registering in WCES.

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4.9(1) Respondent—appearance. A respondent shall appear by filing an answer or a motion within 20 days after the service of the original notice and petition upon the respondent in WCES, or if a party has been granted a waiver of the mandatory use of WCES, the respondent shall file an answer or motion within 20 days after service of the original notice and petition upon the respondent with the division of workers' compensation. A respondent shall file a response by answer or motion by using WCES for all claims in which a petition was filed within WCES unless permission has been granted to be excused from using WCES.

4.9(2) to 4.9(5) No change.

4.9(6) Form, submission and ruling on motions. All motions, including pre-answer motions and motions for summary judgment, shall have appended to them a concise memorandum brief and argument. All motions and applications except motions for summary judgment shall be deemed submitted without hearing on the record presented on the tenth day following filing. Motions for summary judgment shall be deemed submitted as provided in Iowa Rule of Civil Procedure 1.981. Resistances to motions shall have appended to them a concise memorandum brief and argument and shall be filed on or before the date of submission. Briefs and arguments are waived unless appended to the motion, application or resistance.

An order may be entered consolidating any motion for ruling with the hearing of the contested case. Any party desiring a ruling on a motion prior to the hearing may concisely set forth the necessity of prior ruling in the motion, application or resistance. If a pre-answer motion alleging lack of jurisdiction is overruled or consolidated with hearing of the contested case, the party shall plead to the merits and proceed to hearing of the contested case without submitting to the jurisdiction of the workers' compensation commissioner. If a motion attacking a pleading is consolidated with hearing of the contested case, the party shall respond to the pleading in the same manner as if the motion had been overruled.

4.9(7) Consolidation. All petitions involving the same claimant and employer will automatically be consolidated. Any party may file a motion to consolidate common questions of fact and law surrounding an injury or a series of injuries. The motion to consolidate shall be deemed approved without an order if no resistance to the motion is filed with the workers' compensation commissioner within ten days of the filing of the motion. No order granting the motion will be filed by the workers' compensation commissioner. As an alternative, the parties may make an oral motion to consolidate common questions of fact or law at the time of the pretrial hearing. A ruling on the motion will be included with the order issued from the pretrial hearing.

4.9(8) to 4.9(10) No change.

This rule is intended to implement the provisions of Iowa Code section 17A.12.

ITEM 24. Amend rule 876—4.12(86) as follows:

876—4.12(86) Service on parties. Any document or paper not delivered under rules 876—4.6(85,86,17A) and 876—4.7(86,17A) which is to be filed, or which and seeks relief from or action of or against another party, or which makes argument, or which has any significant effect on any contested case, shall be served on each party of record under rule 876—4.13(86).

This rule is intended to implement Iowa Code sections 17A.12 and 86.18.

ITEM 25. Amend rule 876—4.13(86) as follows:

876—4.13(86) Method of service. Except as provided in rules 876—4.6(85,86,17A) and 876—4.7(86,17A), service of all documents and papers to be served according to 876—4.12(86) and 876—4.18(85,86,17A) this chapter or otherwise upon a party represented by an attorney shall be made upon the attorney unless service upon the party is ordered by the workers' compensation commissioner or deputy workers' compensation commissioner. Service upon the attorney or party shall be made using WCES once a party or party's attorney has registered in WCES for the claim being contested. If a party has been allowed to not file with granted a waiver of the mandatory use of WCES or if a party or attorney has not appeared in WCES, service upon the attorney or party shall be made by delivery of

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a copy or mailing a copy to the last-known address of the attorney or party or, if no address is known, by filing a copy with the division of workers' compensation. Delivery of a copy within this rule means: ~~Handing~~ handing it to the attorney or party; leaving it at the office of the attorney or party's office or with the person in charge of the office; or if there is no one in charge of the office, leaving it in a conspicuous place in the office; or if the office is closed or the person to be served has no office, leaving it at the person's dwelling house, or usual place of abode with some person of suitable age and discretion who is residing at the dwelling or abode. Service by mail under this rule is complete upon mailing. Documents that are served on a party for discovery and medical evidence under rules 876—4.14(86) and 876—4.18(17A,85,86) ~~are~~ shall not ~~to~~ be filed with the division of workers' compensation. No documents or papers referred to in this rule shall be served by the workers' compensation commissioner.

This rule is intended to implement Iowa Code sections 17A.12 and 86.18.

ITEM 26. Amend rule 876—4.14(86) as follows:

876—4.14(86) Filing of documents and papers. All documents and papers required to be served on a party under rule 876—4.12(86) shall be filed with the workers' compensation commissioner either before service or within a reasonable time thereafter. ~~However, unless otherwise ordered by the workers' compensation commissioner or deputy workers' compensation commissioner, no~~ No deposition, notice of deposition, notice of ~~service of interrogatories, interrogatories, request for production of documents, request for admission~~ requests for discovery, notice of responses to requests for discovery, and notice of medical records and reports required to be served by rule 876—4.17(86), and answers and responses thereto shall be filed with or accepted for filing ~~by the workers' compensation commissioner in WCES unless ordered by the workers' compensation commissioner or a deputy workers' compensation commissioner, or its use becomes otherwise necessary in the action, in which case it shall be attached to the relevant motion or response to the motion requiring its use, or unless offered as evidence at hearing of the contested case.~~

This rule is intended to implement Iowa Code section 86.18.

ITEM 27. Amend rule 876—4.15(86) as follows:

876—4.15(86) Proof of service. Proof of service of all documents and papers to be served on another party under rule 876—4.12(86) shall be filed with the division of workers' compensation promptly and, in any event, before action is to be taken thereon by the workers' compensation commissioner or a deputy workers' compensation commissioner or any party unless a responsive pleading has been filed. Proof shall be made by filing the document in WCES when another party is registered in WCES for that claim. If a party or a party's attorney or representative is not in WCES for the claim being contested, the proof shall show the date and manner of service and may be by written acknowledgment of service, by certification of a member of the bar of this state, by affidavit of the person who served the papers, or by any other proof satisfactory to the workers' compensation commissioner.

This rule is intended to implement Iowa Code section 86.18.

ITEM 28. Rescind and reserve rule **876—4.16(86)**.

ITEM 29. Amend rule 876—4.17(17A,85,86) as follows:

876—4.17(17A,85,86) Service of records and reports. Each party to a contested case shall serve all records received pursuant to a patient's waiver (Form 14-0043—authorization for release of information regarding claimants seeking workers' compensation benefits) and medical records and reports concerning the injured worker in the possession of the party upon each opposing party not later than 20 days following filing of an answer or, if not then in possession of a party, within 10 days of receipt. Medical records and reports are records of medical practitioners and institutions concerning the injured worker. ~~Medical practitioners and institutions are medical doctors, osteopaths, include~~ physicians, physician assistants, surgeons, osteopathic physicians and surgeons, chiropractors, dentists, nurses, podiatrists, psychiatrists, psychologists, counselors, hospitals, clinics, persons engaged in physical or vocational rehabilitation or evaluation for rehabilitation, all other practitioners of the healing

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arts or sciences, and all other institutions in which the healing arts or sciences are practiced. Each party shall serve a notice accompanying the records and reports identifying the records and reports served by the name of the practitioner or institution or other source and date of the records and reports and, if served later than 20 days following filing of the answer, stating the date when the records and reports were received by the party serving them. Pursuant to rule 876—4.14(86), the notice and records and reports shall not be filed with the workers' compensation commissioner. A party failing to comply with the provisions of this rule shall, if the failure is prejudicial to an opposing party, be subject to the provisions of rule 876—4.36(86). This rule does not require a party to serve any record or report that was previously served by another party in a contested case proceeding.

~~For hearings on or after July 1, 2004, compliance~~ Compliance with this rule does not automatically permit a record or report to be received into evidence if the record or report was not served prior to an applicable deadline established by rule or order for completing discovery or service of exhibits.

This rule is intended to implement Iowa Code sections 86.8 and 86.18.

ITEM 30. Amend rule 876—4.19(86) as follows:

876—4.19(86) Prehearing procedure.

4.19(1) No change.

~~4.19(2) Counsel of record and pro-se litigants~~ The parties have a duty to exercise reasonable diligence to bring the contested case to hearing at the earliest reasonable opportunity.

~~4.19(3) For contested cases that were filed on or after July 1, 2004, the~~ The following time limits govern prehearing procedure, completion of discovery and case management in contested cases, except proceedings under rules 876—4.46(17A,85,86) and 876—4.48(17A,85,86) and except when otherwise ordered by the workers' compensation commissioner or a deputy workers' compensation commissioner.

a. Within 120 days following filing of a petition, the counsel of record for all parties and all ~~pro-se litigants~~ self-represented parties shall request a hearing by using WCES ~~when this function is available to the public in WCES~~. In a case for which ~~permission has been granted to be excused from using WCES~~ a request for waiver of the mandatory use of WCES has been granted, counsel of record for all parties and all ~~pro-se litigants~~ self-represented parties shall jointly contact the hearing administrator by telephone at (515)725-3891 between the hours of 8:30 a.m. and 11 a.m. central time, Monday through Friday, excluding holidays, or by email at dwc.hearing@iwd.state.ia.us to schedule a hearing date, place and time. Claimant has primary responsibility for initiating the contact. The parties shall identify the case by file number and the names of the parties and request that the hearing be set at a specific date, place and time that is shown to be available on the hearing scheduler published on the division's website. Primary and backup times must be requested for hearings in venues other than Des Moines. When the contact is made by email, a copy of the request shall be sent to each opposing party, and the hearing administrator will reply indicating whether or not the case is assigned at the time requested. If a request is denied, the parties shall continue to contact the hearing administrator by telephone or email until the case is scheduled or a prehearing conference is ordered. A joint scheduling contact may be initiated by any party at any other time agreeable to the parties. If more than 120 days have elapsed since the petition was filed, any party may move to schedule the hearing at a particular date, time and place that is available and the hearing administrator may assign the case for hearing at any date, time and place. The hearing date shall be within 12 months following the date the petition was filed or as soon thereafter as reasonably practicable as determined by the hearing administrator. If the parties fail to schedule the hearing with the hearing administrator within nine months of the filing of the original notice and petition, the case will be scheduled at the discretion of the hearing administrator without prior notice to the parties.

b. No change.

c. Discovery responses must be supplemented as required in Iowa Rules of Civil Procedure 1.503(4) and 1.508(3). Discovery responses shall be supplemented within 20 days after a party requests supplementation. All discovery responses, depositions, and reports from independent medical examinations shall be completed and served on opposing counsel and ~~pro-se litigants~~ self-represented parties at least 30 days before hearing. The parties may alter these times by written agreement.

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d. At least 30 days before hearing, counsel of record and ~~pro se litigants~~ self-represented parties shall serve a witness and an exhibit list on all opposing counsel and ~~pro se litigants~~ self-represented parties and exchange all intended exhibits that were not previously required to be served. The witness list shall name all persons, except the claimant, who will be called to testify at the hearing or who will be deposed prior to the hearing in lieu of testifying at the hearing. The witness and exhibit lists are not filed in WCES. If the exhibit list does not contain actual exhibits, the exhibit list must specifically identify each exhibit in a way that permits the opposing party to recognize the exhibit. The description for a document should include the document's date, number of pages and author or source. ~~Exhibits that were specifically identified when served pursuant to rule 876—4.17(17A,85,86) or in a discovery response may be collectively identified by describing the service such as “exhibits described in the notices served pursuant to rule 876—4.17(17A,85,86) on May 7, June 11 and July 9, 2004.”~~ Blanket references such as “all medical records,” “personnel file” or “records produced during discovery” do not specifically identify an exhibit. A party may serve a copy of the actual intended exhibits in lieu of an exhibit list. At least 14 days before hearing, counsel of record and ~~pro se litigants~~ self-represented parties shall file all proposed exhibits in WCES, ~~or, if the counsel of record and pro se litigants are excused from using WCES, if a party has been granted a waiver of the mandatory use of WCES, the party shall file the proposed exhibits with the division of workers' compensation.~~ Counsel ~~At least seven days before the hearing, counsel~~ of record and ~~pro se litigants~~ self-represented parties shall file all written objections and motions to exclude evidence ~~at least seven days before the hearing~~ with the division of workers' compensation and serve a copy on all other parties. Objections to exhibits are waived if they are not filed at least seven days before the hearing. Evidentiary depositions pursuant to Iowa Code section 86.18(2) may be taken at any time before the hearing in lieu of the witness testifying at the hearing.

e. If evidence is offered at hearing that was not disclosed in the time and manner required by these rules, ~~or as altered by order of the workers' compensation commissioner or a deputy workers' compensation commissioner or by a written agreement by the parties,~~ the evidence will be excluded if the objecting party shows that receipt of the evidence would be unfairly prejudicial. Sanctions may be imposed pursuant to ~~rule 876—4.36(86)~~ in addition to or in lieu of exclusion if exclusion is not an effective remedy for the prejudice. If a party offers an exhibit or document in paper form which is accepted by the workers' compensation commissioner or a deputy workers' compensation commissioner, the party shall have five working days to submit an electronic copy of the document by using WCES.

f. At least 14 days before the hearing, counsel of record and ~~pro se litigants~~ self-represented parties shall prepare and file a joint hearing report that defines the claims, defenses, and issues that are to be submitted to the deputy workers' compensation commissioner who presides at the hearing. The hearing report shall be filed in Microsoft Word format portable document format (pdf) or as an image-on-text document (searchable pdf) as a proposed hearing report. ~~After the hearing report is finalized at the hearing, the deputy commissioner or a party shall save and file the completed hearing report as a pdf or scanned document in WCES.~~ The hearing report shall be signed by all counsel of record and ~~pro se litigants~~ and submitted to the deputy self-represented parties. The approved hearing report order shall be signed by the deputy workers' compensation commissioner and filed in WCES.

g. If a ~~filer~~ party is unable to meet a nonjurisdictional filing deadline because of a technical failure in WCES, the ~~filer~~ party must file the document using the earliest available electronic or nonelectronic means. The filing of the document will be accepted by the division of workers' compensation as timely unless the workers' compensation commissioner or a deputy workers' compensation commissioner determines ~~that the untimely filing of the document should not be excused~~ otherwise.

h. Jurisdictional deadlines, including but not limited to any applicable statute of limitations, cannot be extended. It is ~~the filer's~~ each party's responsibility to ensure that a document is filed timely to comply with jurisdictional deadlines. A technical failure, including a failure of WCES, will not excuse a failure to comply with a jurisdictional deadline.

i. A ~~filer~~ party is not excused from missing a jurisdictional or nonjurisdictional filing deadline because of problems attributable to the ~~filer (such as telephone line problems, problems with the filer's Internet service provider, hardware problems, software problems, etc.)~~ party.

This rule is intended to implement Iowa Code chapter 86.

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ITEM 31. Amend rule 876—4.20(86) as follows:

876—4.20(86) Prehearing conference. A deputy workers' compensation commissioner or the workers' compensation commissioner may order parties in the case to either appear before the workers' compensation commissioner or a deputy workers' compensation commissioner for a conference, or communicate with the commissioner or ~~the commissioner's designee~~ a deputy commissioner and with each other in any manner as may be prescribed to consider, so far as applicable to the particular case:

1. The necessity or desirability of amending pleadings by formal amendment or prehearing order;
2. Agreeing to admissions of facts, documents or records not really controverted, to avoid unnecessary proof;
3. Limiting the number of witnesses;
4. Settling any facts of which the workers' compensation commissioner or a deputy workers' compensation commissioner is to be asked to take official notice;
5. Stating and simplifying the factual and legal issues to be determined;
6. Specifying the items and amounts of compensation claimed;
7. Specifying all proposed exhibits and proof thereof;
8. ~~Consolidation, separation for hearing, and determination of points of law of cases and bifurcation of issues;~~
9. Specifying all witnesses expected to testify;
10. Possibility of settlement;
11. Filing of advance briefs, if any;
12. Setting or altering dates for completion of discovery or completion of medical evidence by each party;
13. Any other matter which may facilitate, expedite, or simplify any contested case.

This rule is intended to implement Iowa Code sections 86.17 and 86.18.

ITEM 32. Amend rule 876—4.21(86) as follows:

876—4.21(86) Prehearing conference record. At the request of any attorney in the case, or at the discretion of a deputy workers' compensation commissioner or the workers' compensation commissioner, the entire prehearing conference or any designated part thereof shall be recorded and the cost of the reporter shall be assessed to the requesting party; or, if directed by the workers' compensation commissioner or deputy workers' compensation commissioner, assessed as costs.

This rule is intended to implement Iowa Code sections 86.17 and 86.18.

ITEM 33. Amend rule 876—4.22(86) as follows:

876—4.22(86) Orders. ~~The~~ A deputy workers' compensation commissioner or the workers' compensation commissioner may enter an order reciting any action taken at ~~the~~ a prehearing conference or pursuant to any other procedures prescribed which will control the subsequent course of action relative to matters which it includes, unless modified to prevent manifest injustice.

This rule is intended to implement Iowa Code sections 86.17 and 86.18.

ITEM 34. Amend rule 876—4.23(86) as follows:

876—4.23(86) Assignment for hearing. Contested cases shall be set for hearing within the discretion of the workers' compensation commissioner as soon as practicable after the parties have had adequate opportunity to prepare for hearing. A party may request in writing that no hearing in a contested case be held until such time as specified matters have been accomplished or specified events have occurred. Continuances of hearings in contested cases shall be granted only by the workers' compensation commissioner or ~~the commissioner's designee~~ a deputy workers' compensation commissioner. Continuances are governed by Iowa Rules of Civil Procedure 1.910-1.912. Requests for continuance shall also state in detail the reasons for the request and whether the opposing party accedes to the request.

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~~Defendants~~ The parties shall promptly notify the workers' compensation commissioner of settlements.

This rule is intended to implement Iowa Code sections 86.8 and 86.18.

ITEM 35. Amend rule 876—4.24(17A,86) as follows:

876—4.24(17A,86) Rehearing. Any party may file an application for rehearing of a proposed decision in any contested case by a deputy workers' compensation commissioner or a decision in any contested case by the workers' compensation commissioner within 20 days after the issuance of the decision in WCES. ~~If a party has been allowed to file not using WCES or a party to the claim is not in WCES, a copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. granted a waiver of the mandatory use of WCES, the party shall file the application for rehearing with the division of workers' compensation and serve a copy on the other parties.~~ An application for rehearing shall be deemed denied unless the deputy workers' compensation commissioner or workers' compensation commissioner rendering the decision grants the application within 20 days after its filing. For purposes of this rule, motions or requests for reconsideration or new trial or retrial or any reexamination of any decision, ruling, or order shall be treated the same as an application for rehearing.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 36. Amend rule 876—4.25(17A,86) as follows:

876—4.25(17A,86) Appeal when rehearing requested. An appeal to or review on motion of the workers' compensation commissioner must be filed within 20 days after the application for rehearing of a proposed decision by a deputy workers' compensation commissioner under rule 876—4.24(17A,86) has been denied or deemed denied or a decision on rehearing has been issued. If a notice of appeal is filed by one party and an application for rehearing is filed by a different party, the deputy workers' compensation commissioner retains jurisdiction to act on the application for rehearing, and the notice of appeal is stayed and deemed to have been filed on the day after the application for rehearing is denied or deemed denied or the decision on rehearing is issued.

This rule is intended to implement Iowa Code sections 17A.15, 17A.16 and 86.24.

ITEM 37. Amend rule 876—4.27(17A,86) as follows:

876—4.27(17A,86) Appeal. Except as provided in rules 876—4.2(86) and 876—4.25(17A,86), an appeal to the workers' compensation commissioner from a decision, order or ruling of a deputy workers' compensation commissioner in contested case proceedings shall be commenced within 20 days of the filing of the decision, order or ruling by filing a notice of appeal ~~with the workers' compensation commissioner in WCES.~~ If a party has been granted a waiver of the mandatory use of WCES, the party shall file the notice of appeal with the division of workers' compensation and serve a copy on the other parties. If two or more contested cases were consolidated for hearing, ~~a the notice of appeal in one of the cases is an appeal of all the cases~~ shall specify the case number of each case the party wishes to include in the appeal. The date the notice of appeal is filed shall be the date the notice of appeal is received by the agency. *Miller v. Civil Constructors*, 373 N.W.2d 115 (Iowa 1985). The notice shall be served on the opposing parties as provided in rule 876—4.13(86). An appeal shall be heard in Polk County or in any location designated by the workers' compensation commissioner.

An interlocutory decision, order or ruling can be appealed only as hereinafter provided. A decision, order or ruling is interlocutory if, when issued, it does not dispose of all issues in the contested case that are ripe for adjudication. If the sole issue remaining for determination is claimant's entitlement to additional compensation for unreasonable denial or delay of payment pursuant to Iowa Code section 86.13, the decision is not interlocutory. An adjudication that awards ongoing payments of weekly compensation under Iowa Code section 85.33 or 85.34(1) is not interlocutory. The workers' compensation commissioner may, upon application from any party or on the workers' compensation commissioner's own motion, and upon such terms as the workers' compensation commissioner orders, grant an appeal from an interlocutory decision, order or ruling if the workers' compensation

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commissioner finds that the ruling affects substantial rights, that the ruling will materially affect the final decision and that determination of the correctness of the ruling will better serve the interests of justice.

A cross-appeal may be taken under this rule or rule 876—4.25(17A,86) in the same manner as an appeal within the 20 days for the taking of an appeal or within 10 days after filing of the appeal, whichever is later.

This rule is intended to implement Iowa Code sections 17A.15 and 86.24.

ITEM 38. Amend rule 876—4.28(17A,86) as follows:

876—4.28(17A,86) Briefing requirements on appeal. The workers' compensation commissioner shall decide an appeal upon the record submitted to the deputy workers' compensation commissioner unless the workers' compensation commissioner is satisfied that ~~there exists additional material evidence~~, newly discovered material evidence exists, which could not ~~with reasonable diligence be have been~~ discovered and produced at the hearing with reasonable diligence. A party must file a request for taking additional evidence in WCES within 20 days after the notice of appeal was filed. If a party has been granted a waiver of the mandatory use of WCES, the party shall file the request for taking additional evidence with the division of workers' compensation and serve a copy on the other parties. Any briefs required or allowed by this rule shall be filed promptly following service.

4.28(1) to 4.28(6) No change.

4.28(7) Issues considered on appeal. The appeal will consider the issues presented for review by the appellant and cross-appellant in their briefs and any issues necessarily incident to or dependent upon the issues that are expressly raised, except as provided in rule 876—4.29(86,17A). An issue will not be considered on appeal if the issue could have been, but was not, presented to the deputy workers' compensation commissioner. An issue raised on appeal is decided de novo and the scope of the issue is viewed broadly. If the ruling from which the appeal was taken made a choice between alternative findings of fact, conclusions of law, theories of recovery or defenses and the alternative selected in the ruling is challenged as an issue on appeal, de novo review includes reconsideration of all alternatives that were available to the deputy.

4.28(8) No change.

This rule is intended to implement Iowa Code section 86.24.

ITEM 39. Amend rule 876—4.29(86,17A) as follows:

876—4.29(86,17A) Review upon motion. Except as provided in rule 876—4.25(17A,86), the workers' compensation commissioner may review the decision, order or ruling of a deputy workers' compensation commissioner in any contested case upon the workers' compensation commissioner's own motion. Except as provided in rule 876—4.25(17A,86), the motion to review a decision, order or ruling in all contested cases must be filed within 20 days of the filing of the decision, order or ruling. The workers' compensation commissioner shall specify in a notice filed in WCES or mailed to the parties by certified mail, return receipt requested, on the date of filing of the motion the issues to be reviewed and the additional evidence, if any, to be obtained by the parties. The hearing under this rule shall be heard in Polk County or in any locality designated by the workers' compensation commissioner.

This rule is intended to implement Iowa Code sections 17A.15 and 86.24.

ITEM 40. Amend rule 876—4.30(86,17A) as follows:

876—4.30(86,17A) Transcript on appeal or review. When an appeal to or review on motion of the workers' compensation commissioner is taken pursuant to rule 876—4.27(17A,86) or 876—4.29(86,17A), a transcript of the proceedings before the workers' compensation commissioner shall be filed with the workers' compensation commissioner within 30 days after the notice of the appeal is filed with the workers' compensation commissioner. The appealing party shall bear the initial cost of transcription on appeal and shall pay the certified shorthand reporter or service for the transcript. In the event there is a cross-appeal, the appellant and cross-appellant shall share the cost of the transcript. In the event the cost of the transcript has been initially borne by a nonappealing party prior to appeal,

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the nonappealing party is entitled to reimbursement within 30 days after serving on the appealing party proof of the cost of the transcript. If not so reimbursed, the appeal may be dismissed.

This rule is intended to implement Iowa Code sections 17A.12, 17A.15, 86.19, 86.24 and 86.40.

ITEM 41. Amend rule 876—4.32(86,17A) as follows:

876—4.32(86,17A) Recording of proceedings. The workers' compensation commissioner may arrange for the attendance of a certified shorthand reporter or mechanical means to record proceedings in contested cases. The workers' compensation commissioner may require the defendant employer or on appeal to the workers' compensation commissioner, the appellant, to arrange for the attendance of a certified shorthand reporter or adequate mechanical means of recording the proceedings. The charges for attendance shall be paid initially to the certified shorthand reporter or service by the employer or, on an appeal to the workers' compensation commissioner, the appellant. The charges shall be taxed as costs. The party initially paying the expense shall be reimbursed by the party taxed with the cost. If the expense is unpaid, it shall be paid by the party taxed with the cost.

This rule is intended to implement Iowa Code section 86.19.

ITEM 42. Amend rule 876—4.33(86) as follows:

876—4.33(86) Costs. Costs taxed by the workers' compensation commissioner or a deputy workers' compensation commissioner shall be (1) attendance of a certified shorthand reporter or presence of mechanical means at hearings and evidential depositions, (2) transcription costs when appropriate, (3) costs of service of the original notice and subpoenas, (4) witness fees and expenses as provided by Iowa Code sections 622.69 and 622.72, (5) the costs of doctors' and practitioners' deposition testimony, provided that said costs do not exceed the amounts provided by Iowa Code sections 622.69 and 622.72, (6) the reasonable costs of obtaining no more than two doctors' or practitioners' reports, (7) filing fees when appropriate, including convenience fees incurred by using the WCES payment gateway, and (8) costs of persons reviewing health service disputes. Costs of service of notice and subpoenas shall be paid initially to the serving person or agency by the party utilizing the service. Expenses and fees of witnesses or of obtaining doctors' or practitioners' reports initially shall be paid to the witnesses, doctors or practitioners by the party on whose behalf the witness is called or by whom the report is requested. Witness fees shall be paid in accordance with Iowa Code section 622.74. Proof of payment of any cost shall be filed with the workers' compensation commissioner before costs are taxed. The party initially paying the expense shall be reimbursed by the party taxed with the cost. If the expense is unpaid, it shall be paid by the party taxed with the cost. Costs are to be assessed at the discretion of the deputy workers' compensation commissioner or workers' compensation commissioner hearing the case unless otherwise required by the Iowa Rules of Civil Procedure governing discovery.

This rule is intended to implement Iowa Code section 86.40.

ITEM 43. Amend rule 876—4.35(86) as follows:

876—4.35(86) Rules of civil procedure. The rules of civil procedure shall govern the contested case proceedings before the workers' compensation commissioner unless the provisions are in conflict with these rules and Iowa Code chapters 85, 85A, 85B, 86, 87 and 17A, ~~or obviously inapplicable to the workers' compensation commissioner.~~ In those circumstances, these rules or the appropriate Iowa Code section shall govern. Where appropriate, reference to the word "court" shall be deemed reference to the "workers' compensation commissioner" and reference to the word "trial" shall be deemed reference to "contested case hearing."

This rule is intended to implement Iowa Code sections 17A.1, 17A.12, 17A.13, 17A.14, and 86.8.

ITEM 44. Amend rule 876—4.36(86) as follows:

876—4.36(86) Compliance with order or rules. If any party to a contested case or an attorney representing such party shall fail to comply with these rules or any order of a deputy workers' compensation commissioner or the workers' compensation commissioner, the deputy workers'

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compensation commissioner or workers' compensation commissioner may impose sanctions which may include dismissing the action without prejudice, excluding or limiting evidence, assessing costs or expenses, and closing the record in whole or in part to further activity by the party.

This rule is intended to implement Iowa Code section 86.8.

ITEM 45. Amend rule 876—4.38(17A) as follows:

876—4.38(17A) Recusal.

4.38(1) The workers' compensation commissioner, ~~a chief deputy workers' compensation commissioner~~ or a deputy workers' compensation commissioner shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. to h. No change.

4.38(2) No change.

4.38(3) In a situation where the workers' compensation commissioner, ~~chief deputy workers' compensation commissioner~~ or deputy workers' compensation commissioner knows of information which might reasonably be deemed to be a basis for recusal and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

4.38(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 4.38(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for recusal but must establish the grounds by the introduction of evidence into the record.

If the workers' compensation commissioner, ~~chief deputy workers' compensation commissioner~~ or deputy workers' compensation commissioner determines that recusal is appropriate, that person shall withdraw. If that person determines that withdrawal is not required, that person shall enter an order to that effect.

This rule is intended to implement Iowa Code section 17A.17.

ITEM 46. Amend rule 876—4.39(17A,86) as follows:

876—4.39(17A,86) Filing by facsimile transmission (fax). ~~When permission has been granted to be excused from using~~ If a party has been granted a waiver of the mandatory use of WCES, all documents filed with the agency division of workers' compensation pursuant to this chapter and Iowa Code section 86.24 except an original notice and petition requesting a contested case proceeding (see Iowa Code section 17A.12(9)) may be filed by facsimile transmission (fax). A copy shall be filed for each case involved. A document filed by fax is presumed to be an accurate reproduction of the original. If a document filed by fax is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax is the date the document is received by the agency division of workers' compensation. The agency division of workers' compensation will not provide a mailed file-stamped copy of documents filed by fax. The agency fax number for the division of workers' compensation is (515)281-6501.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 47. Amend rule 876—4.45(17A,86) as follows:

876—4.45(17A,86) Length of briefs. Except by permission of the presiding deputy workers' compensation commissioner or by permission of the workers' compensation commissioner when an appeal pursuant to rule 876—4.27(17A,86) has been filed, principal briefs shall not exceed 50 Arabic-numbered pages. Reply briefs shall not exceed 25 Arabic-numbered pages. ~~Permission may be granted ex parte.~~ In the event of a cross-appeal, appellant's (cross-appellee's) responsive reply brief shall be considered a principal brief. The type used shall not be smaller than pica type, and each line

WORKERS' COMPENSATION DIVISION[876](cont'd)

shall contain an average of no more than 60 characters. If a brief is submitted in excess of the length allowed in this rule, the portion exceeding the allowable length will not be considered. This rule does not prohibit a presiding deputy workers' compensation commissioner or the workers' compensation commissioner from limiting the length of a brief. An exception to this rule is the length of briefs (three pages) in an application for alternate care. See subrule 4.48(11).

This rule is intended to implement Iowa Code sections 17A.12, 17A.15, 86.8, 86.18 and 86.24.

ITEM 48. Amend subrule 4.46(3) as follows:

4.46(3) The evidence submitted in the contested case proceeding shall be limited to the evidence submitted pursuant to rule 876—10.3(17A,85,86) and a copy of the determination made pursuant to rule 876—10.3(17A,85,86). This evidence shall be filed by the party requesting the contested case proceeding at the time the contested case proceeding is initiated. However, the workers' compensation commissioner may request that additional evidence be submitted or may grant submission of additional evidence if the workers' compensation commissioner is satisfied that there exists additional material evidence, newly discovered, which could not with reasonable diligence be discovered and produced pursuant to rule 876—10.3(17A,85,86). The issues of the contested case proceeding shall be limited to the dispute considered in rule 876—10.3(17A,85,86).

ITEM 49. Rescind subrule **4.48(1)**.

ITEM 50. Renumber subrules **4.48(2)** to **4.48(8)** as **4.48(1)** to **4.48(7)**.

ITEM 51. Amend renumbered subrule **4.48(2)**, definition of "Employer," as follows:

"*Employer*" means the person or entity who is liable for payment of medical services provided pursuant to the Iowa workers' compensation laws and includes an employer, an employer who has been relieved from insurance pursuant to Iowa Code section 87.11, and an insurance carrier which provides an employer with workers' compensation insurance.

ITEM 52. Amend renumbered subrule 4.48(7) as follows:

4.48(7) Notice of hearing. The workers' compensation commissioner will notify the parties by ordinary mail, by facsimile transmission (fax) or by WCES of the time, place and nature of the hearing. No notice will be made until a proper application is received by the workers' compensation commissioner. The notice will specify whether the hearing will be by telephone, in person or by other digital means.

ITEM 53. Adopt the following new subrule 4.48(8):

4.48(8) Appearance or answer. After being served with an application for alternate care, the employer shall file an appearance of answer as soon as practicable before the time of the hearing.

ITEM 54. Amend subrule 4.48(12) as follows:

4.48(12) Hearing. The hearing will be held by telephone, in person or by other digital means in Des Moines, Iowa. The employer shall have the right to request an in-person hearing if the employee has requested a telephone hearing in the application. The employer shall on the record respond to the allegations contained in the application. The hearing will be electronically recorded. If there is an appeal of a proposed decision or judicial review of final agency action, the appealing party is responsible for filing a transcript of the hearing.

Copies of the recording will be provided to the parties upon notice of appeal. A transcript shall be provided by the appealing party pursuant to Iowa Code section 86.24(4) and a copy thereof shall be served on the opposing party at the time the transcript is filed with the workers' compensation commissioner unless the parties submit an agreed-upon transcript. If a party disputes the accuracy of any transcript prepared by the opposing party, that party shall submit its contentions to the workers' compensation commissioner for resolution. Any transcription charges incurred by the workers' compensation commissioner in resolving the dispute shall be initially paid pursuant to Iowa Code section 86.19(1) by the party who disputes the accuracy of the transcript prepared by the appellant.

WORKERS' COMPENSATION DIVISION[876](cont'd)

ITEM 55. Amend subrule 4.48(13) as follows:

4.48(13) Represented party. A party may be represented as provided in Iowa Code section 631.14. The presiding deputy workers' compensation commissioner may permit a party who is a natural person to be assisted during a hearing by any person who does so without cost to that party if the assistance promotes full and fair disclosure of the facts or otherwise enhances the conduct of the hearing. The employer and its insurance carrier shall be treated as one party unless their interests appear to be in conflict, and a representative of either the employer or its insurance carrier shall be deemed to be a representative of both unless notice to the contrary is given.

ITEM 56. Amend subrule 4.50(3) as follows:

4.50(3) Application for vocational training and education.

a. No change.

b. An application for vocational training and education must be filed in WCES unless ~~permission has been granted to file paper documents~~ a party has been granted a waiver of the mandatory use of WCES, in which case the party shall file the application for vocational training and education with the division of workers' compensation. Applicant(s) must serve a copy of this form on the appellee(s) by certified mail, return receipt requested, or by personal service as in civil actions in accordance with rule 876—4.7(86,17A) and mail a copy to the attorney of record for the appellee(s), if known, in accordance with rule 876—4.13(86).

ITEM 57. Amend rule 876—4.51(86) as follows:

876—4.51(86) Agency notice of judicial review matters. A party who petitions for judicial review is ~~responsible for filing with the division of workers' compensation's WCES~~ shall file a copy of the petition for judicial review in WCES within ten days of filing the petition with a district court. If a party has been granted a waiver of the mandatory use of WCES, the party shall file a copy of the petition for judicial review with the division of workers' compensation within ten days of filing the petition with a district court. A party shall also file a copy of each appellate court decision in WCES within ten days of the date the appellate court decision was issued and filed. If a party has been granted a waiver of the mandatory use of WCES, the party shall file a copy of the appellate court decision with the division of workers' compensation within ten days of the date the appellate court decision was issued and filed. Within 45 days of the filing of the final appellate court decision, the same party shall notify the division of workers' compensation of the result of the ~~appellant~~ appellate process.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 58. Amend rule 876—4.52(86) as follows:

876—4.52(86) Rules of electronic procedure. Chapter 16 of the Iowa Court Rules of Electronic Procedure shall govern the use and filings in WCES for contested case proceedings before the workers' compensation commissioner unless the provisions are in conflict with these rules ~~and~~ or Iowa Code chapters 85, 85A, 85B, 86, 87 and 17A or obviously inapplicable to the workers' compensation commissioner. In those circumstances, these rules or the appropriate Iowa Code section shall govern. Where appropriate, reference to the word "court" shall be deemed reference to the "workers' compensation commissioner or deputy workers' compensation commissioner," reference to the word "trial" shall be deemed reference to "contested case hearing," and reference to "clerk of court" shall be deemed reference to staff at the division of workers' compensation.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 59. Amend subrule 6.2(6) as follows:

6.2(6) A detailed statement of claimant's need or other reason for a lump sum of money must be attached to the application. The analysis shall include disclosure of any attorney fee and case expense amount to be paid from the full commutation. A commutation of less than ten weeks' benefits is presumed to be not in the best interest of the claimant. If all parties are represented by an attorney, the parties may waive the statement of need, unless the case involves a dependent who is a minor.

WORKERS' COMPENSATION DIVISION[876](cont'd)

ITEM 60. Adopt the following **new** subrules 6.2(9) and 6.2(10):

6.2(9) If all parties are represented by an attorney, a commutation of benefits is presumed to be in the best interests of the claimant.

6.2(10) If all parties are represented by an attorney, the parties may stipulate to the definitely determined period of compensation.

ITEM 61. Amend subrule 6.3(2) as follows:

6.3(2) Discount. When an original notice and petition for commutation of remaining future weekly benefits, either full or partial, is filed, the remaining future weekly benefits may be commuted to present dollar value. If the remaining future weekly benefits are converted to a present dollar value, the present dollar value shall be determined as provided in this subrule. A discount will be used to convert the value of remaining future weekly benefits to present dollar value. The discount will be based on a compound interest rate calculated pursuant to Iowa Code section 668.13(3) and in effect on the date informal agreement between the parties is reached for commutation and the number of weeks of remaining future benefits. The interest rate used to determine the discount shall be specified on the original notice and petition for commutation filed for approval by the workers' compensation commissioner.

ITEM 62. Amend rule 876—8.1(85) as follows:

876—8.1(85) Transportation expense. Transportation expense as provided in Iowa Code sections 85.27 and 85.39 shall include but not be limited to the following:

1. No change.

2. All mileage incident to the use of a private auto. ~~The per-mile rate for use of a private auto from August 1, 2005, through June 30, 2006, shall be 40.5 cents. For annual periods beginning July 1, 2006, and thereafter, the~~ The per-mile rate shall be the rate allowed by the Internal Revenue Service for the business standard mileage rate in effect on July 1 of each year.

3. to 5. No change.

Transportation ~~expense~~ expenses in the form of reimbursement for mileage which is incurred in the course of treatment or an examination, except under Iowa Code section 85.39, shall be payable at such time as 50 miles or more have accumulated or upon completion of medical care, whichever occurs first. Reimbursement for mileage incurred under Iowa Code section 85.39 shall be paid within a reasonable time after the examination.

The workers' compensation commissioner or a deputy workers' compensation commissioner may order transportation ~~expense~~ expenses to be paid in advance of an examination or treatment. The parties may agree to the advance payment of transportation ~~expense~~ expenses.

This rule is intended to implement Iowa Code sections 85.27 and 85.39.

ITEM 63. Amend rule 876—8.7(86) as follows:

876—8.7(86) Short paper. All paper filings before the workers' compensation commissioner shall be on white paper measuring 8½ inches by 11 inches.

This rule is intended to implement Iowa Code section 86.18.

ITEM 64. Renumber rules **876—8.9(85,86)** to **876—8.11(85)** as **876—8.10(85,86)** to **876—8.12(85)**.

ITEM 65. Adopt the following **new** rule 876—8.9(85):

876—8.9(85) Rate determination. When determining the rate of weekly compensation benefits for a contested case proceeding, the parties to the case shall use the ratebook in effect on the date of the claimant's injury published by the division of workers' compensation at www.iowaworkcomp.gov/ratebook.

This rule is intended to implement Iowa Code chapter 85.

WORKERS' COMPENSATION DIVISION[876](cont'd)

ITEM 66. Amend rule 876—9.12(17A,22,85-87) as follows:

876—9.12(17A,22,85-87) Availability of records.

9.12(1) No change.

9.12(2) The record of declaratory rulings, ~~declaratory~~ declaratory orders, contested case proceedings, decisions, orders, rulings, settlements, and opinions are open for public inspection and copying.

9.12(3) No change.

9.12(4) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to d. No change.

e. Those portions of agency staff manuals, instructions, or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection;
- (2) Facilitate disregard of requirements imposed by law; or
- (3) Give a clearly improper advantage to persons who are in an adverse position to the agency.

f. Records which constitute the work product of the workers' compensation commissioner, a deputy workers' compensation commissioner, an agency attorney, or an employee of the agency;₂ attorney-client communications;₂ or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10, and 622.11;₂ Iowa R. Civ. P. 122(c);₂ Fed. R. Civ. P. 26(b)(3);₂ and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

g. and h. No change.

9.12(5) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 876—9.4(17A,22,85-87). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 9.4(3).


ITEM 67. Amend rule 876—11.6(85,86) as follows:

876—11.6(85,86) Mandatory reporting deadline. All reporters ~~must sign a partnering agreement and begin reporting by EDI Release 3.1 no later than July 16, 2019, or when WCES is available to the public, whichever is later. Reporting by any means other than EDI Release 3.1 after July 16, 2019, will not be acceptable, unless WCES is not available to the public.~~ Reporters are responsible for reporting by EDI 3.1. A reporter may contract with another entity for reporting, but the reporter is ultimately responsible for reporting. ~~Any~~ Each reporter or entity reporting on behalf of a reporter must ~~also~~ sign an EDI partnering agreement.

[Filed 1/6/23, effective 3/15/23]

[Published 2/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/8/23.



State of Iowa
Executive Department

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

EXECUTIVE ORDER NUMBER TEN

- WHEREAS**, over several decades the proliferation of administrative rules and regulations at all levels of government has imposed high costs on employers, inhibited job growth, impeded private sector investment, and increased the complexity and expense of economic life;
- WHEREAS**, reducing this regulatory burden on Iowans will promote citizens' freedom to engage in individual, family, and business pursuits;
- WHEREAS**, the Iowa Administrative Code contains over 20,000 pages and 190,000 restrictive terms;
- WHEREAS**, a comprehensive evaluation of existing administrative rules is essential to determine the necessity and effectiveness of those rules in light of national economic headwinds facing Iowans;
- WHEREAS**, obsolete, ineffective, excessively burdensome, or redundant administrative rules and regulations should be repealed;
- WHEREAS**, rulemaking authority is derived from and limited by the authority delegated to executive agencies by the general assembly;
- WHEREAS**, an administrative rulemaking moratorium will permit the Administrative Rules Coordinator and executive agencies to devote resources to a comprehensive evaluation and rigorous cost-benefit analysis of existing administrative rules; and
- WHEREAS**, wherever possible, and without compromising the health and safety of Iowans, this review should result in the elimination or simplification of unnecessary or unduly burdensome rules and regulations.
- NOW, THEREFORE**, I, Kim Reynolds, Governor of the State of Iowa, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order the following:

PROCESS FOR REVIEW OF EXISTING RULES

- I. Each rule chapter of the Iowa Administrative Code effective on January 1, 2023 shall be reviewed by the agency, board, or commission that promulgated the rule according to a schedule established by the Administrative Rules Coordinator (ARC) as follows:
 - A. All rule chapters shall be reviewed and, if applicable, be promulgated as specified in this Executive Order no later than December 31, 2026;
 - B. The agency review schedule shall be staggered across agencies. The ARC shall ensure the volume of rules that are reviewed by the agencies in any given year is such that the public can engage and provide meaningful input in any individual rulemaking; and
 - C. The agency review schedule shall be posted on the Governor's website as well as the agency's website no later than March 1, 2023.
- II. After issuing the rule report under Part III of this Executive Order, each agency must publish a notice of intended action in accordance with the provisions of the Iowa Administrative Procedure Act to repeal the existing rule chapter by the agency review date.

- III.** An agency wishing to renew a rule chapter beyond the agency review date must promulgate a new rulemaking in accordance with the following requirements in addition to the provisions of the Iowa Administrative Procedure Act:
- A.** The agency, board, or commission must perform a retrospective analysis that includes a comprehensive evaluation and rigorous cost-benefit analysis of each existing administrative rule to determine whether the benefits the rule is intended to achieve are being realized, whether those benefits justify the costs of the rule, and whether there are less restrictive alternatives to accomplish those benefits. This analysis should be guided by the statutory language giving the agency, board, or commission the authority to promulgate the rule.
 - i.** The ARC, with the assistance of the Department of Management (DOM), shall develop a standardized process for the required retrospective analysis. Any such forms shall be posted on the website of DOM no later than March 1, 2023.
 - ii.** Agencies, boards, and commissions should start the new rulemaking from a zero-base and not seek to reauthorize an existing rule chapter without a critical and comprehensive review. Agencies, boards, and commissions must use the retrospective analysis to guide which regulations, if any, should be re-promulgated in order to carry out the statutory language giving the agency, board, or commission the authority to promulgate the rulemaking. The agency, board, or commission shall remove obsolete, outdated, inconsistent, incompatible, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language.
 - iii.** The agency, board, or commission shall submit a rule report to the ARC by September 1 of the year of the agency review date. The rule report shall contain the retrospective analysis of the rule chapter, a list of rules the agency, board, or commission proposes to repeal and not re-promulgate, and a list of rules the agency, board, or commission proposes to re-promulgate.
 - B.** The agency, board, or commission must publish a notice of intended action and hold at least two public hearings designed to maximize public participation in the rulemaking process. A copy of the retrospective analysis must be published on the agency's website prior to the public hearings.
 - C.** Each new rule chapter finalized by the agency must reduce the overall regulatory burden, or remain neutral, as compared to the previous rule chapter.
 - D.** All proposed amendments to an existing chapter must be contained within a single rulemaking.

PROCESS FOR NEW AND AMENDED RULES

- IV.** To create a more stable regulatory environment and provide businesses with certainty, there is a moratorium on rulemaking. State agencies shall not initiate, by filing a notice of intended action or an adopted and filed emergency, any new rulemaking from February 1, 2023 through the agency review date established by the ARC, unless the agency is directed by the ARC to take a rulemaking action or all of the following conditions apply and the rulemaking is precleared by the ARC:
- A.** The rulemaking is narrowly-tailored to achieve one or more of the following objectives:
 - i.** To reduce or remove a regulatory burden, including reducing restrictive terms;
 - ii.** To remove obsolete, outdated, inconsistent, incompatible, redundant, or unnecessary regulations, including instances where rule language is duplicative of statutory language;
 - iii.** To comply with a new statutory requirement, court order, or federal mandate where no waiver is permitted;
 - iv.** To prevent a substantiated and well-documented threat to public health, peace, or safety;

- v. To reduce state spending;
- vi. To repeal a rule chapter as specified in Part II of this Executive Order; or
- vii. To re-promulgate a rule chapter as specified in Part III of this Executive Order.

B. The agency completes a regulatory analysis of the new or amended rulemaking containing the items listed in section 17A.4A(2) of the Iowa Code and complies with the following:

- i. At least one public hearing is conducted on the regulatory analysis prior to final publication on the agency's website.
- ii. A copy of the final regulatory analysis must be published on the agency's website prior to submission of the rulemaking to the ARC for preclearance.

V. Emergency rules shall be limited to those that are intended to avoid an immediate danger or are required to meet a specific deadline specified in statute, a court order, or by this Executive Order or the ARC.

IMPLEMENTATION AND INTERPRETATION

VI. This Executive Order applies to all departments, agencies, boards, or commissions that have promulgated rules contained within the Iowa Administrative Code but does not apply to statewide constitutional officers or rules promulgated under the authority of those officers.

VII. 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.

VIII. 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.

IX. 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 JANUARY IN THE YEAR OF OUR LORD TWO THOUSAND TWENTY-THREE.

Kimberly K. Reynolds

 KIMBERLY K. REYNOLDS
 GOVERNOR

ATTEST:

Paul D. Pate

 PAUL D. PATE
 SECRETARY OF STATE