



# IOWA ADMINISTRATIVE BULLETIN

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Pages 1791 to 1868

## CONTENTS IN THIS ISSUE

Pages 1804 to 1867 include ARC 4255C to ARC 4274C

### AGENDA

Administrative rules review committee . . . . . 1795

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Filed, Noxious weeds, amendments to ch  
58 ARC 4260C . . . . . 1816

Filed, Meat and poultry regulations, 76.1  
to 76.4 ARC 4261C . . . . . 1817

### ALL AGENCIES

Agency identification numbers . . . . . 1802

Citation of administrative rules. . . . . 1793

Schedule for rule making. . . . . 1794

### ECONOMIC DEVELOPMENT

#### AUTHORITY[261]

Filed, Iowa energy center grant program,  
ch 404 ARC 4262C . . . . . 1819

Filed, Alternate energy revolving loan  
program, ch 405 ARC 4263C . . . . . 1824

### HUMAN SERVICES DEPARTMENT[441]

Notice, Managed care  
organizations—inclusion of advanced  
registered nurse practitioners and  
physician assistants as primary care  
providers, 73.8(5) ARC 4258C . . . . . 1804

### INSPECTIONS AND APPEALS

#### DEPARTMENT[481]

Filed, Design and construction standards  
for nursing facilities, 61.2(3), 61.6,  
61.9 ARC 4264C . . . . . 1828

### IOWA FINANCE AUTHORITY[265]

Filed, Military service member  
home ownership assistance  
program—definitions of “manufactured  
home” and “qualified home,” 27.2  
ARC 4265C . . . . . 1830

### PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Filed, Supervision of pharmacist-interns,  
4.9 ARC 4266C . . . . . 1831

Filed, Pharmacy operations—delegation  
of functions, pharmacist absence,  
reference library, security, dispensing,  
records, amendments to chs 5, 7, 8  
ARC 4267C . . . . . 1833

Filed, Universal practice  
standards—licenses, fees;  
telepharmacy, 8.35, 13.16 ARC 4268C . . . . . 1845

Filed, Temporary scheduling of  
cannabidiol drug products as Schedule  
V controlled substances, 10.39(4)  
ARC 4269C . . . . . 1848

Filed, Expanded practice  
standards—statewide protocols,  
amendments to ch 39 ARC 4270C . . . . . 1850

### PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice, Polysomnographic  
technologists and respiratory  
care and polysomnography  
practitioners—continuing education,  
telehealth visits, amendments to chs  
262, 265 ARC 4259C . . . . . 1805

**PUBLIC HEARINGS**

Summarized list ..... 1798

**TRANSPORTATION DEPARTMENT[761]**Notice, Permitting of implements  
of husbandry—manual for bridge  
evaluation, 181.1(2) **ARC 4257C** ..... 1808Notice, Federal motor carrier  
safety and hazardous materials  
regulations—adoption by reference,  
520.1(1), 529.1, 607.10(1)“c” **ARC 4256C**.... 1809Filed, Minors’ school licenses; licensing  
information and forms; waiver of  
accompanying driver for intermediate  
licensee, amendments to ch 602 **ARC 4271C** .. 1855**USURY**

Notice ..... 1814

**UTILITIES DIVISION[199]**COMMERCE DEPARTMENT[181]“umbrella”Notice Terminated, Inmate calling rates,  
22.19(8) **ARC 4255C**..... 1814Filed, Civil penalties, amendments to ch  
8 **ARC 4272C**..... 1859Filed, Utility records—access, retention,  
amendments to ch 18 **ARC 4273C**..... 1863Filed, Energy efficiency planning  
and reporting for natural gas and  
electric utilities not required to be  
rate-regulated, rescind ch 36 **ARC 4274C**..... 1866

## PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

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### CITATION of Administrative Rules

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

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

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

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

NOTE: In accordance with Iowa Code section 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 2019

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 8, 2019	February 27, 2019
19	Friday, February 22, 2019	March 13, 2019
20	Friday, March 8, 2019	March 27, 2019

**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\*\***

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, February 8, 2019, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

**ACCOUNTANCY EXAMINING BOARD[193A]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Review of rules; online licensing and renewals; accountancy designations, amendments to  
chs 3 to 5, 7 to 10, 15 Filed **ARC 4243C** ..... 1/16/19

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Update of human resources policies and procedures, 68.1, 68.2(2), 68.6 Filed **ARC 4244C** ..... 1/16/19

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Noxious weeds, amendments to ch 58 Filed **ARC 4260C** ..... 1/30/19

Meat and poultry regulations, 76.1 to 76.4 Filed **ARC 4261C** ..... 1/30/19

**AUDITOR OF STATE[81]**

Organization and procedures, 25.4 to 25.8 Filed **ARC 4245C** ..... 1/16/19

**CITY FINANCE COMMITTEE[545]**

MANAGEMENT DEPARTMENT[541]“umbrella”

Transfers of moneys between funds, 2.1, 2.5(1) Notice **ARC 4234C** ..... 1/16/19

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

Iowa energy center grant program, ch 404 Filed **ARC 4262C** ..... 1/30/19

Alternate energy revolving loan program, ch 405 Filed **ARC 4263C** ..... 1/30/19

**EGG COUNCIL, IOWA[301]**

Nomination petitions; rule updates, amendments to chs 1 to 5 Notice **ARC 4223C** ..... 1/16/19

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Surface water classification, 61.3(5) Notice **ARC 4227C** ..... 1/16/19

**HUMAN SERVICES DEPARTMENT[441]**

Managed care organizations—inclusion of advanced registered nurse practitioners and  
physician assistants as primary care providers, 73.8(5) Notice **ARC 4258C** ..... 1/30/19

Dependent adult abuse—update of forms and information, 176.4(2), 176.6, 176.10(10),  
176.15(2) Notice **ARC 4239C** ..... 1/16/19

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Design and construction standards for nursing facilities, 61.2(3), 61.6, 61.9 Filed **ARC 4264C** ..... 1/30/19

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]“umbrella”

Short-term limited-duration health insurance policies, 35.23, 36.4(17), 36.6(11), 36.7(13)  
Notice **ARC 4242C** ..... 1/16/19

**IOWA FINANCE AUTHORITY[265]**

Military service member home ownership assistance program—definitions of “manufactured  
home” and “qualified home,” 27.2 Filed **ARC 4265C** ..... 1/30/19

**IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]**

Contribution rates; sick and compensatory time; bona fide funds; vesting; service credit and  
purchases; IRC Section 415 testing; beneficiaries; alternate payees; overpayments and  
underpayments, amendments to chs 4, 6 to 9, 11, 12, 14, 16 Notice **ARC 4238C** ..... 1/16/19

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Conveyance safety program—elevator alterations, fees, 71.10(4), 71.16(4) Notice **ARC 4237C** ..... 1/16/19

**MEDICINE BOARD[653]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Application and licensure fees—acupuncturists, genetic counselors, 8.2(2), 8.14 Filed **ARC 4246C** ..... 1/16/19

Standards of practice—medical cannabidiol, 13.15(1) <u>Notice</u> <b>ARC 4241C</b> .....	1/16/19
Standards of practice for medical directors of medical spas—delegation and supervision of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians, 13.8 <u>Filed</u> <b>ARC 4247C</b> .....	1/16/19
Standards of practice—medical cannabidiol, 13.15(1) <u>Filed</u> <b>ARC 4248C</b> .....	1/16/19
Prescribing psychologists, ch 19 <u>Filed</u> <b>ARC 4249C</b> .....	1/16/19

#### **NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Camping, rental facility, vessel storage, and other special privilege fees, 61.2 to 61.6, 61.22(1)“b” <u>Notice</u> <b>ARC 4225C</b> .....	1/16/19
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#### **NATURAL RESOURCES DEPARTMENT[561]**

State park and recreation area fees, ch 16 <u>Notice</u> <b>ARC 4226C</b> .....	1/16/19
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#### **PHARMACY BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Supervision of pharmacist-interns, 4.9 <u>Filed</u> <b>ARC 4266C</b> .....	1/30/19
Pharmacy operations—delegation of functions, pharmacist absence, reference library, security, dispensing, records, amendments to chs 5, 7, 8 <u>Filed</u> <b>ARC 4267C</b> .....	1/30/19
Universal practice standards—licenses, fees; telepharmacy, 8.35, 13.16 <u>Filed</u> <b>ARC 4268C</b> .....	1/30/19
Temporary scheduling of cannabidiol drug products as Schedule V controlled substances, 10.39(4) <u>Filed</u> <b>ARC 4269C</b> .....	1/30/19
Expanded practice standards—statewide protocols, amendments to ch 39 <u>Filed</u> <b>ARC 4270C</b> .....	1/30/19

#### **PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

COMMERCE DEPARTMENT[181]“umbrella”

Organization and operation, amendments to ch 1 <u>Filed</u> <b>ARC 4250C</b> .....	1/16/19
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#### **PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Prescribing psychologists, ch 244 <u>Filed</u> <b>ARC 4251C</b> .....	1/16/19
Polysomnographic technologists and respiratory care and polysomnographic practitioners—continuing education, telehealth visits, amendments to chs 262, 265 <u>Notice</u> <b>ARC 4259C</b> .....	1/30/19

#### **PUBLIC HEALTH DEPARTMENT[641]**

Vaporizable forms of medical cannabidiol, 154.14 <u>Notice</u> <b>ARC 4240C</b> .....	1/16/19
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#### **REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Oversight by superintendent of banking—update of rules, amend chs 1, 3, 5, 6, 8, 9, 11, 16, 17; adopt chs 18 to 25 <u>Notice</u> <b>ARC 4224C</b> .....	1/16/19
--	---------

#### **REVENUE DEPARTMENT[701]**

Excise tax rate on motor fuels, 68.2(1) <u>Filed</u> <b>ARC 4252C</b> .....	1/16/19
---	---------

#### **SECRETARY OF STATE[721]**

Primary election—nominations by write-in votes for certain offices, rescind 21.602 <u>Notice</u> <b>ARC 4222C</b> .....	1/16/19
--	---------

#### **SOIL CONSERVATION AND WATER QUALITY DIVISION[27]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

Increase in eligible costs of certain soil erosion control and water protection practices, 10.20, 10.60(1)“b,” 12.84 <u>Notice</u> <b>ARC 4235C</b> .....	1/16/19
--	---------

#### **TRANSPORTATION DEPARTMENT[761]**

Procurement of equipment, materials, supplies and services; exemptions from competition with private enterprise, amendments to chs 20, 25 <u>Notice</u> <b>ARC 4236C</b> .....	1/16/19
Public improvement quotation process—retained funds, amendments to ch 180 <u>Notice</u> <b>ARC 4228C</b> .....	1/16/19
Permitting of implements of husbandry—manual for bridge evaluation, 181.1(2) <u>Notice</u> <b>ARC 4257C</b> .....	1/30/19
Motor vehicle dealer licensing for final-stage manufacturers; business records; security interest notation on certificate of title, 400.1, 400.4, 400.8(2), 425.10(3)“c,” 425.11 to 425.13 <u>Notice</u> <b>ARC 4230C</b> .....	1/16/19

Initial application for firefighter plates, 401.9(1) <u>Notice</u> <b>ARC 4232C</b> .....	1/16/19
Permitted tandem axle weights, 511.13(6) <u>Notice</u> <b>ARC 4231C</b> .....	1/16/19
Federal motor carrier safety and hazardous materials regulations—adoption by reference, 520.1(1), 529.1, 607.10(1)“c” <u>Notice</u> <b>ARC 4256C</b> .....	1/30/19
For-hire intrastate motor carrier authority, 524.1 to 524.8, 524.11, 524.12(1)“b,” 524.15, 524.18 <u>Notice</u> <b>ARC 4233C</b> .....	1/16/19
Minors’ school licenses; licensing information and forms; waiver of accompanying driver for intermediate licensee, amendments to ch 602 <u>Filed</u> <b>ARC 4271C</b> .....	1/30/19
Operating while intoxicated revocations—issuance of temporary restricted license, installation of ignition interlock device, 620.3 <u>Notice</u> <b>ARC 4229C</b> .....	1/16/19

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Inmate calling rates, 22.19(8) <u>Notice of Termination</u> <b>ARC 4255C</b> .....	1/30/19
Complaint procedures, amendments to ch 6 <u>Filed</u> <b>ARC 4253C</b> .....	1/16/19
Civil penalties, amendments to ch 8 <u>Filed</u> <b>ARC 4272C</b> .....	1/30/19
Utility records—access, retention, amendments to ch 18 <u>Filed</u> <b>ARC 4273C</b> .....	1/30/19
Energy efficiency planning and reporting for natural gas and electric utilities not required to be rate-regulated, rescind ch 36 <u>Filed</u> <b>ARC 4274C</b> .....	1/30/19
Universal service, 39.2, 39.3, 39.6, 39.7, 39.8(1) <u>Filed</u> <b>ARC 4254C</b> .....	1/16/19

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Waylon Brown  
109 South Summer Street  
St. Ansgar, Iowa 50472

Representative Steven Holt  
1430 Third Avenue South  
Denison, Iowa 51442

Senator Mark Costello  
37265 Rains Avenue  
Imogene, Iowa 51645

Representative Megan Jones  
4470 Highway 71  
Sioux Rapids, Iowa 50585

Senator Robert Hogg  
P.O. Box 1361  
Cedar Rapids, Iowa 52406

Representative Joe Mitchell  
Mount Pleasant, Iowa

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2368 Jackson Street  
Dubuque, Iowa 52001

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**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Surface water classification,  
61.3(5)  
IAB 1/16/19 ARC 4227C

Urbandale Public Library  
3520 86th St.  
Urbandale, Iowa

February 12, 2019  
4 p.m.

Nicola-Stoufer Room  
Washington Public Library  
115 W. Washington St.  
Washington, Iowa

February 13, 2019  
4 p.m.

Harlan Community Library  
718 Court St.  
Harlan, Iowa

February 14, 2019  
4 p.m.

**INSURANCE DIVISION[191]**

Short-term limited-duration  
health insurance policies, 35.23,  
36.4(17), 36.6(11), 36.7(13)  
IAB 1/16/19 ARC 4242C

Division Offices, Fourth Floor  
Two Ruan Center  
601 Locust St.  
Des Moines, Iowa

February 8, 2019  
11 a.m. to 12 noon

**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

Contribution rates; sick and  
compensatory time; bona fide  
funds; vesting; service credit  
and purchases; IRC Section 415  
testing; beneficiaries; alternate  
payees; overpayments and  
underpayments, amendments to  
chs 4, 6 to 9, 11, 12, 14, 16  
IAB 1/16/19 ARC 4238C

IPERS  
7401 Register Dr.  
Des Moines, Iowa

February 5, 2019  
9 to 10 a.m.

**LABOR SERVICES DIVISION[875]**

Conveyance safety  
program—elevator alterations,  
fees, 71.10(4), 71.16(4)  
IAB 1/16/19 ARC 4237C

150 Des Moines St.  
Des Moines, Iowa

February 6, 2019  
9 a.m.  
(If requested)

**MEDICINE BOARD[653]**

Standards of practice—medical  
cannabidiol, 13.15(1)  
IAB 1/16/19 ARC 4241C

Board Office, Suite C  
400 S.W. 8th St.  
Des Moines, Iowa

February 5, 2019  
9 a.m.

**NATURAL RESOURCE COMMISSION[571]**

Camping, rental facility, vessel  
storage, and other special  
privilege fees, 61.2 to 61.6,  
61.22(1)“b”  
IAB 1/16/19 ARC 4225C

Conference Room 4E/4W  
Wallace State Office Bldg.  
Des Moines, Iowa

February 7, 2019  
12 noon to 2 p.m.

Lake Darling Lodge  
111 Lake Darling Rd.  
Brighton, Iowa

February 7, 2019  
12 noon to 2 p.m.

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

Conference Room Cold Springs District Office 57744 Lewis Rd. Lewis, Iowa	February 7, 2019 12 noon to 2 p.m.
Clear Lake State Park Office 2730 South Lakeview Dr. Clear Lake, Iowa	February 7, 2019 12 noon to 2 p.m.
Conference Room Delaware County Conservation Board 2379 Jefferson Rd. Manchester, Iowa	February 7, 2019 12 noon to 2 p.m.
Banquet Room Lewis and Clark Visitor Center 21914 Park Loop Onawa, Iowa	February 7, 2019 12 noon to 2 p.m.

**NATURAL RESOURCES DEPARTMENT[561]**

State park and recreation area fees, ch 16 IAB 1/16/19 ARC 4226C	Conference Room Delaware County Conservation Board 2379 Jefferson Rd. Manchester, Iowa	February 7, 2019 12 noon to 2 p.m.
	Clear Lake State Park Office 2730 South Lakeview Dr. Clear Lake, Iowa	February 7, 2019 12 noon to 2 p.m.
	Banquet Room Lewis and Clark Visitor Center 21914 Park Loop Onawa, Iowa	February 7, 2019 12 noon to 2 p.m.
	Conference Room Cold Springs District Office 57744 Lewis Rd. Lewis, Iowa	February 7, 2019 12 noon to 2 p.m.
	Lark Darling Lodge 111 Lake Darling Rd. Brighton, Iowa	February 7, 2019 12 noon to 2 p.m.
	Conference Room 4E/4W Wallace State Office Bldg. Des Moines, Iowa	February 7, 2019 12 noon to 2 p.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Polysomnographic technologists and respiratory care and polysomnographic practitioners—continuing education, telehealth visits, amendments to chs 262, 265 IAB 1/30/19 ARC 4259C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	February 19, 2019 8 to 9 a.m.
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**PUBLIC HEALTH DEPARTMENT[641]**

Vaporizable forms of medical cannabidiol, 154.14 IAB 1/16/19 ARC 4240C	Room 518 Lucas State Office Bldg. Des Moines, Iowa	February 6, 2019 11 to 11:30 a.m.
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**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Oversight by superintendent of banking—update of rules, amend chs 1, 3, 5, 6, 8, 9, 11, 16, 17; adopt chs 18 to 25 IAB 1/16/19 <b>ARC 4224C</b>	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	February 8, 2019 8:30 to 9:30 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Procurement of equipment, materials, supplies and services; exemptions from competition with private enterprise, amendments to chs 20, 25 IAB 1/16/19 <b>ARC 4236C</b>	Department of Transportation Administration Bldg. First Floor, South Conference Room 800 Lincoln Way Ames, Iowa	February 7, 2019 9 a.m. (If requested)
Public improvement quotation process—retained funds, amendments to ch 180 IAB 1/16/19 <b>ARC 4228C</b>	Department of Transportation Administration Bldg. First Floor, North Conference Room 800 Lincoln Way Ames, Iowa	February 7, 2019 11 a.m. (If requested)
Permitting of implements of husbandry—manual for bridge evaluation, 181.1(2) IAB 1/30/19 <b>ARC 4257C</b>	Department of Transportation Administration Bldg. First Floor, South Conference Room 800 Lincoln Way Ames, Iowa	February 21, 2019 1 p.m. (If requested)
Motor vehicle dealer licensing for final-stage manufacturers; business records; security interest notation on certificate of title, 400.1, 400.4, 400.8(2), 425.10(3)“c,” 425.11 to 425.13 IAB 1/16/19 <b>ARC 4230C</b>	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	February 7, 2019 1 p.m. (If requested)
Initial application for firefighter plates, 401.9(1) IAB 1/16/19 <b>ARC 4232C</b>	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	February 7, 2019 4 p.m. (If requested)
Permitted tandem axle weights, 511.13(6) IAB 1/16/19 <b>ARC 4231C</b>	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	February 11, 2019 10 a.m. (If requested)
Federal motor carrier safety and hazardous materials regulations—adoption by reference, 520.1(1), 529.1, 607.10(1)“c” IAB 1/30/19 <b>ARC 4256C</b>	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	February 21, 2019 10 a.m. (If requested)
For-hire intrastate motor carrier authority, 524.1 to 524.8, 524.11, 524.12(1)“b,” 524.15, 524.18 IAB 1/16/19 <b>ARC 4233C</b>	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	February 7, 2019 2 p.m. (If requested)

**TRANSPORTATION DEPARTMENT[761]** (cont'd)

Operating while intoxicated  
revocations—issuance of  
temporary restricted license,  
installation of ignition interlock  
device, 620.3  
IAB 1/16/19 **ARC 4229C**

Department of Transportation  
Motor Vehicle Division  
6310 SE Convenience Blvd.  
Ankeny, Iowa

February 7, 2019  
3 p.m.  
(If requested)

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Soil Conservation and Water Quality Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]  
OMBUDSMAN[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
EARLY CHILDHOOD IOWA STATE BOARD[249]  
ECONOMIC DEVELOPMENT AUTHORITY[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
ENERGY INDEPENDENCE, OFFICE OF[350]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
    Community Action Agencies Division[427]  
    Criminal and Juvenile Justice Planning Division[428]  
    Deaf Services Division[429]  
    Persons With Disabilities Division[431]  
    Latino Affairs Division[433]  
    Status of African-Americans, Division on the[434]

Status of Women Division[435]  
Status of Iowans of Asian and Pacific Islander Heritage[436]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
Employment Appeal Board[486]  
Child Advocacy Board[489]  
Racing and Gaming Commission[491]  
State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
IOWA PUBLIC INFORMATION BOARD[497]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
Appeal Board, State[543]  
City Finance Committee[545]  
County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
Energy and Geological Resources Division[565]  
Environmental Protection Commission[567]  
Natural Resource Commission[571]  
Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
Military Division[611]  
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
Professional Licensure Division[645]  
Dental Board[650]  
Medicine Board[653]  
Nursing Board[655]  
Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
Labor Services Division[875]  
Workers' Compensation Division[876]  
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 4258C

**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to primary care providers  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 73, “Managed Care,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 128.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 128.

*Purpose and Summary*

This proposed amendment allows advanced registered nurse practitioners (ARNPs) and physician assistants (PAs) to be primary care providers with a managed care organization (MCO).

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 19, 2019. Comments should be directed to:

Harry Rossander  
Bureau of Policy Coordination  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

## HUMAN SERVICES DEPARTMENT[441](cont'd)

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** subrule 73.8(5):

**73.8(5)** An enrollee's primary care provider shall be responsible for providing preventative and primary health care to the enrollee; for initiating referrals for specialist care, where appropriate; and for maintaining the continuity of patient care. Primary care providers may be physicians, advanced registered nurse practitioners, or physician assistants, licensed and practicing in accordance with state law.

**ARC 4259C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rule making related to telehealth visits and independent study  
and providing an opportunity for public comment**

The Iowa Board of Respiratory Care and Polysomnography hereby proposes to amend Chapter 262, "Continuing Education for Respiratory Care Practitioners and Polysomnographic Technologists," and Chapter 265, "Practice of Respiratory Care Practitioners and Polysomnographic Technologists," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 148G.5, 152B.6, and 272C.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 148G.5, 152B.6, and 272C.4.

*Purpose and Summary*

The proposed amendments to the continuing education rules allow licensees to earn more hours toward license renewal via independent study. The current rules only allow licensees to earn 10 of the 24 hours required for renewal via independent study. The proposed amendments increase to 12 the number of hours licensees can earn via independent study. The proposed amendment to Chapter 265 sets minimum standards for the provision of respiratory care services being delivered via telehealth. The proposed rule sets the expectation that respiratory care services provided via telehealth shall meet the same standard of care as in-person respiratory care. The proposed rule also requires licensees to ensure telehealth services are provided via secure means and patients are educated on the risks and limitations associated with services provided via electronic means.

*Fiscal Impact*

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

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

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on February 19, 2019. Comments should be directed to:

Tony Alden  
Professional Licensure Division  
Iowa Department of Public Health  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.281.4401  
Fax: 515.281.3121  
Email: [tony.alden@idph.iowa.gov](mailto:tony.alden@idph.iowa.gov)

*Public Hearing*

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

February 19, 2019  
8 to 9 a.m.

Fifth Floor Board Conference Room 526  
Lucas State Office Building  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed 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 Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **262.2(1)“a”** as follows:

a. For respiratory care practitioner licensees: complete a minimum of 24 hours of continuing education. ~~Fourteen~~ Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

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

ITEM 2. Amend paragraph **262.2(1)“b”** as follows:

b. For respiratory care and polysomnography practitioner licensees: complete a minimum of 24 hours of continuing education. ~~Fourteen~~ Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee. At least 8 hours but not more than 12 hours shall be on sleep-related topics.

ITEM 3. Amend paragraph **262.2(1)“c”** as follows:

c. For polysomnographic technologist licensees: complete a minimum of 24 hours of continuing education. ~~Fourteen~~ Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

ITEM 4. Amend **645—Chapter 262**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 272C.2 and ~~chapter~~ chapters 148G and 152B and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

ITEM 5. Adopt the following new rule 645—265.9(152B,272C):

**645—265.9(152B,272C) Telehealth visits.** A licensee may provide respiratory care services to a patient utilizing a telehealth visit if the respiratory care services are provided in accordance with all requirements of this chapter.

**265.9(1)** “Telehealth visit” means the provision of respiratory care services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the therapy session.

**265.9(2)** A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for a therapy session or to communicate with a patient between therapy sessions.

**265.9(3)** A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person respiratory care. A licensee shall not utilize a telehealth visit if the standard of care for the particular therapy services cannot be met using technology.

**265.9(4)** Any respiratory therapist who provides a respiratory care telehealth visit to a patient located in Iowa shall be licensed in Iowa.

**265.9(5)** Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide respiratory care services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

**265.9(6)** A licensee shall only provide respiratory care services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

**265.9(7)** A licensee shall identify in the clinical record when respiratory care services are provided utilizing a telehealth visit.

ITEM 6. Amend **645—Chapter 265**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 147, 148G, 152B, and 272C ~~and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G]~~.

**ARC 4257C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to reference manual for bridge evaluation and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 181, “Statewide Standard for Permitting Certain Implements of Husbandry,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 321.463(4).

*Purpose and Summary*

This proposed amendment updates subrule 181.1(2) to reference the 2018 edition of the American Association of State Highway and Transportation Officials Manual for Bridge Evaluation. This manual is used by local authorities to evaluate bridges when issuing special permits for certain implements of husbandry with a weight in excess of the weights allowed under Iowa Code chapter 321. The proposed amendment, which updates the edition of the manual, will allow engineers to use the most current information for the evaluation of bridges. The dynamic load allowance sections of the manual, sections 6A.4.4.3 and 6A.4.5.5, referenced in Chapter 181 remain unchanged between manual editions. Other changes in section 6 of the manual are nonsubstantive.

*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 person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 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 19, 2019. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Strategic Communications and Policy  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

## TRANSPORTATION DEPARTMENT[761](cont'd)

*Public Hearing*

A public hearing to hear requested oral presentations will be held as follows:

February 21, 2019  
1 p.m.

Department of Transportation  
Administration Building  
First Floor, South Conference Room  
800 Lincoln Way  
Ames, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed 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, the Department's rules administrator, 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 action is proposed:

Amend subrule 181.1(2) as follows:

**181.1(2)** A local authority shall evaluate a bridge according to section 6 of the American Association of State Highway and Transportation Officials (AASHTO) Manual for Bridge Evaluation (MBE), ~~Second Edition (2010), as revised by the 2014 Interim Revisions~~ Third Edition (2018). The operating level shall be used for the evaluation of the bridge with only one fence-line feeder, grain cart, tank wagon or tracked implement of husbandry on the bridge at a time. The live load to be used in the analysis for permit decisions should be the actual vehicle crossing the bridge, together with a dynamic load allowance in accordance with section 6A.4.4.3 or 6A.4.5.5 of the AASHTO MBE ~~Second Edition (2010) and 2014 Interim Revisions~~ Third Edition (2018).

**ARC 4256C**

**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to federal motor carrier safety and hazardous materials regulations and providing an opportunity for public comment**

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

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

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

TRANSPORTATION DEPARTMENT[761](cont'd)

*Purpose and Summary*

The proposed amendments are part of the regular, annual update by the Department to adopt the most recent updates to the federal regulations published by the Federal Motor Carrier Safety Administration (FMCSA) and the Pipeline and Hazardous Materials Safety Administration.

Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver's licenses in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399.

Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

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

The proposed amendments to Chapter 520 adopt the current CFR dated October 1, 2018, for 49 CFR Parts 107, 171 to 173, 177, 178, 180, 385 and 390 to 399.

The proposed amendment to Chapter 529 adopts the current CFR dated October 1, 2018, for 49 CFR Parts 365 to 368 and 370 to 379.

The proposed amendment to Chapter 607 adopts the current CFR dated October 1, 2018, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR.

To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2018 edition of the CFR and that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Part 367 (FR Vol. 83, No. 4, Pages 605-613, 01-05-18)

This final rule establishes reductions in the annual registration fees collected from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration Plan and Agreement for the registration years 2018 and 2019 and subsequent years. For the 2018 registration year, the fees will be reduced below the current level by approximately 9.10 percent to ensure that fee revenues do not exceed the statutory maximum and to account for the excess funds held in the depository. For the 2019 registration year and subsequent years, the fees will be reduced below the current level by approximately 4.55 percent to ensure the fee revenues in 2019 and future years do not exceed the statutory maximum. Effective date: January 5, 2018.

Parts 370, 371, 373, 375, 376, 378-380, 382, 387, 390, 391, 395, 396, and 398 (FR Vol. 83, No. 73, Pages 16210-16228, 04-16-18)

This final rule amends the FMCSR to allow the use of electronic records and signatures to satisfy FMCSA's regulatory requirements. The amendments permit the use of electronic methods to generate, certify, sign, maintain, or exchange records so long as the documents accurately reflect the required information and can be used for their intended purpose. This rule applies only to those documents that FMCSA's regulations obligate entities or individuals to retain; it does not apply to forms or other documents that must be submitted directly to FMCSA unless there are already procedures in place in the regulations for electronic submission to FMCSA. This rule partially implements the Government

## TRANSPORTATION DEPARTMENT[761](cont'd)

Paperwork Elimination Act and the Electronic Signatures in Global and National Commerce Act. Effective date: June 15, 2018.

Parts 350, 360, 365, 373, 380, 382-385, 387, 390, 393, and 395-398 (FR Vol. 83, No. 96, Pages 22865-22882, 05-17-18)

This final rule amends FMCSR by making technical corrections. FMCSA makes minor changes to correct inadvertent errors and omissions, remove or update obsolete references, ensure conformity with Office of the Federal Register style guidelines, and improve the clarity and consistency of certain regulatory provisions. Effective date: June 18, 2018.

Parts 370, 371, 373, 375, 376, 378, 379, 380, 382, 387, 390, 391, 395, 396, and 398 (FR Vol. 83, No. 102, Page 24228, 05-25-18)

This final rule corrects the electronic documents and signatures final rule published on April 16, 2018, that amended FMCSR to allow the use of electronic records and signatures to satisfy FMCSA's regulatory requirements. This document corrects an amendatory instruction, removes two extra commas at the end of two phrases, and adds "of this section" to a cross reference in a paragraph. Finally, FMCSA rescinds its January 4, 2011, interpretations and regulatory guidance. Effective date: June 15, 2018.

Part 373 (FR Vol. 83, No. 110, Page 26374, 06-07-18)

This final rule corrects the technical corrections final rule published on May 17, 2018, that amended FMCSR to make minor changes to correct inadvertent errors and omissions, remove or update obsolete references, ensure conformity with Office of the Federal Register style guidelines, and improve the clarity and consistency of certain regulatory provisions. This document corrects an amendatory instruction. Effective date: June 18, 2018.

Parts 390 and 391 (FR Vol. 83, No. 112, Pages 26846-26864, 06-11-18)

This final rule amends FMCSR to establish an alternative process for qualified advanced practice nurses, doctors of chiropractic, doctors of medicine, doctors of osteopathy, physician assistants, and other medical professionals who are employed in the U.S. Department of Veterans Affairs (VA) and are licensed, certified, or registered in a state to perform physical examinations (qualified VA examiners) to be listed on FMCSA's National Registry of Certified Medical Examiners (National Registry), as required by the Fixing America's Surface Transportation (FAST) Act and the Jobs for Our Heroes Act. After successful completion of online training and testing developed by FMCSA, these qualified VA examiners will become certified VA medical examiners who can perform medical examinations of, and issue medical examiner's certificates to, commercial motor vehicle operators who are military veterans enrolled in the VA health care system. This rule will reduce the costs for qualified VA examiners to be listed on the National Registry. Effective date: August 10, 2018.

Parts 172, 173, and 180 (FR Vol. 83, No. 117, Pages 28162-28168, 06-18-18)

This final rule is in response to appeals submitted to a previously published final rule. On June 2, 2016, the Pipeline and Hazardous Materials Safety Administration published a final rule that made miscellaneous amendments to the HMR. This final rule specifically responds to appeals to extend the effective date of certain nitric acid packaging and emergency response telephone number amendments as previously adopted. This final rule also clarifies amendments associated with the trigger date of the ten-year test period for certain motor carrier 331 cargo tanks in dedicated propane service and corrects editorial errors. Effective date: July 18, 2018.

Parts 383, 384, and 391 (FR Vol. 83, No. 120, Pages 28774-28783, 06-21-18)

This interim final rule amends FMCSR to delay the compliance date from June 22, 2018, to June 22, 2021, for several provisions of FMCSA's April 23, 2015, Medical Examiner's Certification Integration final rule. This action is being taken to provide FMCSA additional time to complete certain information technology system development tasks for its National Registry and provide state driver's licensing agencies sufficient time to make the necessary information technology programming changes after upgrades to the National Registry. Effective date: June 21, 2018.

Part 391 (FR Vol. 83, No. 182, Pages 47486-47521, 09-19-18)

This final rule revises FMCSR to permit individuals with a stable insulin regimen and properly controlled insulin-treated diabetes mellitus (ITDM) to be qualified to operate commercial motor

## TRANSPORTATION DEPARTMENT[761](cont'd)

vehicles (CMVs) in interstate commerce. Previously, individuals with ITDM were prohibited from driving CMVs in interstate commerce unless the individuals obtained an exemption from FMCSA. This rule enables a certified medical examiner to grant an individual with ITDM a Medical Examiner's Certificate, MCSA-5876, for up to a maximum of 12 months. To do so, the treating clinician (the health care professional who manages and prescribes insulin for the treatment of the individual's diabetes) provides the Insulin-Treated Diabetes Mellitus Assessment Form MCSA-5870 to the certified medical examiner indicating that the individual maintains a stable insulin regimen and proper control of the individual's diabetes. The certified medical examiner then determines that the individual meets FMCSA's physical qualifications standards and can operate CMVs in interstate commerce. Effective date: November 19, 2018.

Parts 360, 380, 382, 385, 390, 391, and 395-397 (FR Vol. 83, No. 188, Pages 48721-48726, 09-27-18)

This final rule makes technical corrections throughout the FMCSR. FMCSA makes minor changes to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions. Effective date: September 27, 2018.

Parts 383 and 384 (FR Vol. 83, No. 189, Pages 48964-48976, 09-28-18)

This final rule allows, but does not require, state driver's licensing agencies to waive the requirement of the commercial learner's permit knowledge test for certain individuals who are, or were, regularly employed within the last year in a military position that requires, or required, the operation of a CMV. This rule includes the option for a state driver's licensing agency to waive the tests required for a passenger carrier (P) endorsement, tank vehicle (N) endorsement, or hazardous material (H) endorsement, with proof of training and experience. Effective date: November 27, 2018.

#### *Fiscal Impact*

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

#### *Jobs Impact*

The proposed amendments may have a slight impact on motor carrier operations. However, the amendments should not negatively impact jobs or employment opportunities because the amendments align the rules to federal regulations and bring uniformity and consistency to the industry, which should have a positive impact on employment.

#### *Waivers*

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

#### *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 19, 2019. Comments should be directed to:

## TRANSPORTATION DEPARTMENT[761](cont'd)

Tracy George  
Department of Transportation  
DOT Rules Administrator, Strategic Communications and Policy  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

*Public Hearing*

A public hearing to hear requested oral presentations will be held as follows:

February 21, 2019  
10 a.m.

Department of Transportation  
Motor Vehicle Division  
6310 SE Convenience Boulevard  
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed 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, the Department's rules administrator, 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. Amend paragraph **520.1(1)“a”** as follows:

*a. Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2017~~ 2018).

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

*b. Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2017~~ 2018).

ITEM 3. Amend rule 761—529.1(327B) as follows:

**761—529.1(327B) Motor carrier regulations.** The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2017~~ 2018, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

ITEM 4. Amend paragraph **607.10(1)“c”** as follows:

*c.* The following portions of 49 CFR Part 383 (October 1, ~~2017~~ 2018):

- (1) Section 383.51, Disqualification of drivers.
- (2) Subpart E—Testing and Licensing Procedures.
- (3) Subpart G—Required Knowledge and Skills.
- (4) Subpart H—Tests.

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

February 1, 2018 — February 28, 2018	4.50%
March 1, 2018 — March 31, 2018	4.50%
April 1, 2018 — April 30, 2018	4.50%
May 1, 2018 — May 31, 2018	4.50%
June 1, 2018 — June 30, 2018	4.50%
July 1, 2018 — July 31, 2018	5.00%
August 1, 2018 — August 31, 2018	5.00%
September 1, 2018 — September 30, 2018	5.00%
October 1, 2018 — October 31, 2018	5.00%
November 1, 2018 — November 30, 2018	5.00%
December 1, 2018 — December 31, 2018	5.25%
January 1, 2019 — January 31, 2019	5.00%
February 1, 2019 — February 28, 2019	4.75%

**ARC 4255C**

## UTILITIES DIVISION[199]

### Notice of Termination

#### Terminating rule making related to inmate calling rates

The Utilities Board hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on March 14, 2018, as **ARC 3674C**, proposing to amend Chapter 22, “Service Supplied by Telephone Utilities,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

The above-mentioned rule making is terminated under the authority provided in Iowa Code sections 17A.4, 17A.7, 476.2 and 476.91.

#### *Purpose and Summary*

This rule making terminates the proposed rule making that would have implemented rate caps on charges that may be assessed to inmates in Iowa correctional facilities and inmates’ families for local and intrastate telephone calls. On January 2, 2019, the Board issued an order terminating rule making. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2017-0004.

#### *Reason for Termination*

An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on May 9, 2018, as **ARC 3773C** in order to allow for a public hearing (oral presentation) at which public comment could be received. The public hearing was held on July 10, 2018. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Securus Technologies, Inc. (Securus); and Telespan Communications, Inc.; and NCIC Inmate Telephone Services (collectively, Petitioners) participated at the hearing.

## UTILITIES DIVISION[199](cont'd)

At the public hearing, OCA affirmed its commitment to the proposed rule, stating the rule would provide uniform and predictable call conditions for inmates and their families. Petitioners also affirmed their support for the rule, arguing the rule is in line with policies implemented in a number of states and the rates would be sufficient to cover the costs of providing services. Petitioners further contended that the rule would not impact competition for inmate calling rate services and that any company may seek a waiver of the rate caps should the caps prevent a company from recovering its costs. Securus argued the rule was unnecessary, stating the current alternative operator service provider tariff review process covers most inmate calling service providers in the state. Securus contended that, should the Board continue with the rule, the Board should collect and analyze provider costs to determine the appropriate cap.

Pursuant to the authority of Iowa Code section 17A.4(1)“b,” the Board has terminated the proposed rule making. First, there is an increasing movement, both in Iowa and across the nation, to remove telecommunications regulations to reflect a more competitive marketplace. Correctional facilities have choices as to both the provider and services offered to inmates and have significant ability to control the rates ultimately charged to inmates based on the services selected and the site payments included in the contract. In addition, most companies providing inmate calling rate services in Iowa qualify as alternative operator service companies, which are subject to Board regulation. These companies must file tariffs with the Board for review and approval, which provides a flexible process to review the terms and costs of service. Finally, the Board finds there is insufficient evidence to support the rate caps proposed in the rule.

*Jobs Impact*

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

*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).

**ARC 4260C**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed**

**Rule making related to noxious weeds**

The Agriculture and Land Stewardship Department hereby amends Chapter 58, “Noxious Weeds,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 317.1C.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 317.

*Purpose and Summary*

The amendments add definitions and establish two priority lists of noxious weeds. One list identifies the noxious weeds for eradication, and the other list identifies the noxious weeds for control.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 5, 2018, as **ARC 4151C**. A public hearing was held on December 26, 2018, at 9 a.m. in the Wallace State Office Building, Des Moines, Iowa. No comments were received at the public hearing.

Ten written comments were received. The comments were generally supportive of the proposed amendments. Some commenters suggested specific changes to the lists of noxious weeds. In response to feedback received during the public comment period, rule 21—58.4(317) in Item 2 was changed from the Notice to ensure species of thistles belonging to the genus of *Cirsium* were not classified as Class B noxious weeds unless the thistles were specifically enumerated, such as Canada thistle and Bull thistle.

In addition, references to 2018 Iowa Acts, House File 2422, have been replaced with references to the Iowa Code as the provisions of House File 2422 have been codified.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 10, 2019.

*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 21—Chapter 8.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](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 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 21—58.1(317) as follows:

**21—58.1(317) Definition. Definitions.** As used in this chapter, “sterile”:

“Class A noxious weed for eradication” means a noxious weed determined by the department to be the highest priority for eradication of existing infestations and prevention of new infestations.

“Class B noxious weed for control” means a noxious weed determined by the department to be a priority for preventing new infestations and stopping the spread of the species.

“Sterile” means any plant or variety that is incapable of reproduction or which is either noninvasive or nonaggressive in that the plant does not spread into areas where it was not initially planted.

ITEM 2. Adopt the following **new** rule 21—58.4(317):

**21—58.4(317) Noxious weed lists.**

**58.4(1)** Class A noxious weeds for eradication. The following weed is included:

- a. Palmer amaranth (*Amaranthus palmeri*).
- b. Reserved.

**58.4(2)** Class B noxious weeds for control. The following weeds are included:

- a. Canada thistle (*Cirsium arvense*).
- b. Teasel (*Dipsacus spp.*) biennial.
- c. Leafy spurge (*Euphorbia esula*).
- d. Bull thistle (*Cirsium vulgare*).
- e. Multiflora rose (*Rosa multiflora*).
- f. European morning glory or field bindweed (*Convolvulus arvensis*).
- g. All other species of thistles belonging in the genus of *Carduus*.

ITEM 3. Amend **21—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 317.1C and 317.25.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4261C**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed**

**Rule making related to meat and poultry regulations**

The Agriculture and Land Stewardship Department hereby amends Chapter 76, “Meat and Poultry Inspection,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 189A.7.

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 189A and section 159.5.

*Purpose and Summary*

The amendments update references to federal regulations in order to retain recognition of the state meat and poultry program. The federal regulations relate to roasting chickens, trichinae destruction requirements and canned meats. The Food Safety and Inspection Service (FSIS) amended federal meat inspection regulations to eliminate the requirements for both ready-to-eat and not-ready-to-eat pork and pork products to be treated to destroy trichinae because the regulations are inconsistent with the Hazard Analysis and Critical Control Point (HACCP) regulations, and because these regulations are no longer necessary. FSIS also ended its Trichinella Approved Laboratory Program for evaluation of non-federal laboratories that analyze samples for the presence of trichinae. FSIS also consolidated regulations on thermally processed, commercially sterile meat and poultry products (canned meat and poultry).

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 5, 2018, as **ARC 4150C**. 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, 2019.

*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 21—Chapter 8.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on March 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 21—76.1(189A), introductory paragraph, as follows:

**21—76.1(189A) Federal Wholesome Meat Act regulations adopted.** Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, is hereby adopted in its entirety by reference; and in addition thereto, the following subsections shall be expanded to include:

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ITEM 2. Amend rule 21—76.2(189A) as follows:

**21—76.2(189A) Federal Wholesome Meat Act regulations adopted.** Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 412, Part 416, Part 417, Part 418, Part 424, Part 430, Part 431, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~January 1, 2017~~ July 30, 2018, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

This rule is intended to implement Iowa Code sections 189A.3 and 189A.7(8).

ITEM 3. Amend rule 21—76.3(189A), introductory paragraph, as follows:

**21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted.** Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, is hereby adopted in its entirety with the following exceptions: Sections 381.96, 381.97, 381.99, 381.101, 381.102, 381.104, 381.105, 381.106, 381.107, and 381.128, Subpart R, Subpart T, Subpart V, and Subpart W; and in addition thereto, the following subsections shall be expanded to include:

ITEM 4. Amend rule 21—76.4(189A) as follows:

**21—76.4(189A) Inspection required.** Every establishment except as provided in Section 303.1(a), (b), (c) and (d) of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, in which slaughter of livestock or poultry, or the preparation of livestock products or poultry products is maintained for transportation or sale in commerce, shall be subject to the inspection and other requirements of those parts of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, enumerated in rules 21—76.1(189A), 21—76.2(189A) and 21—76.3(189A).

This rule is intended to implement Iowa Code sections 189A.4 and 189A.5.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4262C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to Iowa energy center grant program**

The Iowa Energy Center Board hereby adopts new Chapter 404, "Iowa Energy Center Grant Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 15.106A and 15.120.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.120.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Purpose and Summary*

2017 Iowa Acts, chapter 169, created new Iowa Code section 15.120 and transferred the Iowa Energy Center from Iowa State University to the Economic Development Authority. Pursuant to Iowa Code section 15.120, the Iowa Energy Center Board is directed to oversee programs, including grant programs, established by the Iowa Energy Center and to adopt rules for the administration of the Iowa Energy Center and its programs.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 5, 2018, as **ARC 4149C**. No public comments were received. The Energy Center Board made the following changes to improve the clarity of the rule making. In rule 261—404.1(15), “energy center” was changed to “Iowa energy center.” In paragraph 404.6(4)“a,” “pilots” was changed to “pilot projects.”

*Adoption of Rule Making*

This rule making was adopted by the Board on January 9, 2019.

*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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 6, 2019.

The following rule-making action is adopted:

Adopt the following **new** 261—Chapter 404:

CHAPTER 404  
IOWA ENERGY CENTER GRANT PROGRAM

**261—404.1(15) Definitions.**

“*Activity*” means one or more specific activities, projects or programs associated with Iowa energy center grant funds.

“*Annual allocation*” means the annual dollar amount the board allocates to the Iowa energy center for Iowa energy center grant activities.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

“*Co-investigator*” means a person who shares the responsibility of conducting grant activities with the principal investigator of a project.

“*Funding announcement*” means a publicly available document that contains the official information for a grant, including the application deadline, goals of the activity, eligibility requirements, reporting requirements, availability of funds and instructions on applying for the grant.

“*Iowa energy center*” or “*IEC*” means the Iowa energy center created within the economic development authority pursuant to Iowa Code section 15.120.

“*Principal investigator*” means a person with the primary responsibility for conducting research.

“*Recipient*” means an organization that was awarded an Iowa energy center grant.

“*Subinvestigator*” means a person who is carrying out grant activities at the direction of the principal investigator and is receiving funds from the award made to the recipient.

“*Subrecipient*” means an organization contracting with and receiving funds from a recipient to carry out IEC grant activities.

**261—404.2(15) Policies and procedures handbook.** The authority will prepare a policies and procedures handbook for approval by the board. The board will review the policies and procedures handbook on an annual basis. The policies and procedures will include the annual allocation to each grant activity.

**261—404.3(15) Eligibility.**

**404.3(1) Eligible applicants.** Eligible applicants include Iowa businesses, colleges and universities, and private nonprofit agencies and foundations.

**404.3(2) Applications with subrecipients.** Any eligible applicant may submit an application that includes one or more subrecipients. The amount of an award that a subrecipient can receive is set forth in the policies and procedures.

**404.3(3) Joint applications.** Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

**404.3(4) Restrictions on applicants.** A principal investigator will be allowed to submit one application per funding announcement. An applicant who has submitted an application as the principal investigator for a funding announcement may also be named as a co-investigator on additional applications submitted for the same funding announcement, provided the applicant is not the principal investigator on any additional applications.

**404.3(5) Eligible projects.** Requirements for IEC grant awards include but are not limited to the following:

- a. Applicants shall demonstrate a benefit for ratepayers.
- b. Applicants shall demonstrate that they are eligible candidates.
- c. Applicants shall demonstrate the capacity for grants administration.
- d. Applicants who have previously received Iowa energy center awards shall have demonstrated acceptable past performance, including the timely expenditure of funds.
- e. Applications shall demonstrate the feasibility of completing the proposed activities with the funds requested.
- f. Applications shall identify and describe any other sources of funding for the proposed activities.

**404.3(6) Ineligible projects.** The following types of projects are ineligible for an award:

- a. Relocation of a business.
- b. Expansion of a business.
- c. Funding for existing training programs.
- d. Private asset development.
- e. Pipeline, transmission line, and distribution line construction.
- f. First generation ethanol.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

g. Cellulosic ethanol.

**261—404.4(15) Funding and award terms.**

**404.4(1)** For each fiscal year that funds are available, the board will determine the amount of funds available to be awarded as grants in that fiscal year.

**404.4(2)** If any funds are allocated to a specific grant activity but are not awarded after a funding cycle, the board may reallocate those funds to a different grant activity.

**404.4(3)** The board may reallocate any recaptured funds to a different grant activity.

**404.4(4)** The maximum grant award is \$1 million per application. The minimum grant award is \$10,000 per application.

**404.4(5)** The initial duration of a grant agreement will be no longer than three years. However, a recipient may apply for a no-cost extension of an agreement. If the approval of a no-cost extension would cause the duration of the grant agreement to exceed five years, the no-cost extension shall not be granted.

**261—404.5(15) Project budget.**

**404.5(1)** Eligible expenses. Only expenditures directly related to the implementation of the funded grant activity will be reimbursed. Examples of eligible expenses can be found in the policies and procedures handbook. Vehicle purchases are eligible only when the purchase of the vehicle is an integral part of the funded grant activity and must be approved by the board at the time the award is made.

**404.5(2)** Ineligible expenses include but are not limited to:

- a. Purchase or rental of buildings.
- b. Office equipment.
- c. Furniture and fixtures.
- d. Intangible assets.
- e. International travel.
- f. Insurance.
- g. Phone expenses.

**404.5(3)** Other budget requirements include the following:

- a. Indirect costs shall not exceed more than 20 percent of a grant award.
- b. IEC grant funds shall not be used as cost share to a federal grant award.
- c. Vehicle purchases or other vehicle-related expenses are not eligible if the purchase or expense supports the proposed grant activity but is not an integral part of the proposed grant activity. If a vehicle purchase is an integral part of a grant activity but a recipient fails to obtain board approval prior to the purchase, then the vehicle purchase is ineligible.

**261—404.6(15) Application process and review.**

**404.6(1)** The board will issue funding announcements for grant applications at least once per fiscal year, provided funds are available.

**404.6(2)** Application forms will be available at [iowagrants.gov](http://iowagrants.gov).

**404.6(3)** Applications will only be accepted during the established application period, as identified by the Iowa energy center on its website at [www.iowaeconomicdevelopment.com](http://www.iowaeconomicdevelopment.com).

**404.6(4)** The Iowa energy center will review applications and make funding decisions after each funding announcement. Review criteria typically include but are not limited to:

- a. The proposed project demonstrates a need for further research, development, training or pilot projects.
- b. The proposed project provides a benefit to ratepayers.
- c. The application has a well-developed budget that is relevant to the project and that provides documentation of planned project expenses.
- d. The application describes a dissemination plan for postgrant activities.

**404.6(5)** Applicants must first submit a preapplication. The authority will review the preapplication for eligibility and recommend preapplications to the grant committee. The grant committee will review the preapplications and determine which preapplications warrant submission of full applications.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**404.6(6)** An application may not be submitted to the Iowa energy center until a preapplication has been submitted to the Iowa energy center and the grant committee has approved submission of the application. The authority will review applications for completeness, eligibility, and technical and financial merit. The authority may engage an outside technical review panel to complete technical review of applications. The authority will prepare recommendations for the grant committee. The grant committee will review the applications and staff recommendations and make recommendations to the board. Upon review of the recommendations of the grant committee, the board shall approve, defer, or deny each application.

**261—404.7(15) Administration.**

**404.7(1)** *Notice of approval.* The authority will notify successful applicants in writing of an approved request for funding. Notification will include the terms or conditions under which approval is granted.

**404.7(2)** *Agreement.* After notifying the recipient of an award, the authority will issue an agreement. The agreement shall be between the recipient and the authority.

**404.7(3)** *Transmittal.* The recipient must execute and return the agreement to the authority within 45 days of the transmittal of the final agreement from the authority. Failure to do so may be cause for the board to terminate the award.

**404.7(4)** *Disbursement of funds.* Recipients shall submit requests for grant funds in the manner prescribed by the authority. Disbursements shall be made on a reimbursement basis. No advance disbursements shall be allowed. Disbursements may be withheld if applicable performance reports have not been received and approved. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

**404.7(5)** *Record keeping and retention.* Recipients shall retain all financial records, supporting documents and all other records pertinent to the grant for five years after agreement closeout.

**404.7(6)** *Performance reports and reviews.* Recipients shall submit performance reports to the authority as described in the policies and procedures handbook. The authority may perform annual project reviews and site inspections as necessary to ensure program compliance.

**404.7(7) Agreement amendments.**

*a.* Any substantive change to a funded IEC project, including time extensions, budget revisions, and alterations to proposed activities, will be considered an agreement amendment. The recipient shall request an amendment in writing. No amendment shall be valid until approved by the board, except as provided in paragraph 404.7(7)“*b*” and confirmed in writing by the authority.

*b.* Staff approvals.

(1) Staff may approve one no-cost extension provided that the extension complies with subrule 404.4(5). Additional no-cost extensions shall be presented to the board for approval.

(2) Budget modifications. Any substantial modification of a project budget shall require board approval. Staff may approve budget modifications that are not substantial. For purposes of this subparagraph, “substantial modification” means a budget modification of either \$10,000 or 10 percent of the total grant award, whichever is less.

**404.7(8)** *Agreement closeout.* Upon agreement expiration or project completion, the authority shall initiate project closeout procedures.

**404.7(9)** *Compliance with state and local laws and rules.* Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program, and with any applicable local rules.

**404.7(10)** *Noncompliance.* At any time during a project, the IEC may, for cause, find that a recipient is not in compliance with the requirements of this program. At the board’s discretion, remedies may include penalties up to and including the return of grant funds to the IEC. Findings of noncompliance may include the use of Iowa energy center funds for activities not described in the application; failure to complete approved activities in a timely manner; failure to comply with any applicable state or federal

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

rules, regulations, or laws; or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

These rules are intended to implement Iowa Code section 15.120.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4263C**

## **ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

### **Rule making related to the alternate energy revolving loan program**

The Iowa Energy Center Board hereby adopts new Chapter 405, "Alternate Energy Revolving Loan Program," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.120.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15.120 and 476.46.

#### *Purpose and Summary*

2017 Iowa Acts, chapter 169, amended Iowa Code section 476.46 and transferred the administration of the Alternate Energy Revolving Loan Program (AERLP) to the Iowa Energy Center created under Iowa Code section 15.120. Iowa Code section 15.120 requires the Iowa Energy Center Board to adopt rules for the administration of the Center's programs.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 5, 2018, as **ARC 4148C**. The Authority received one public comment on subrule 405.2(1). The commenter expressed that the minimum loan amount appeared to be too high and suggested a minimum loan amount of \$10,000 or \$15,000 so smaller projects would be able to apply. The Energy Center Board made the following changes to improve the clarity of the rule making. In subrule 405.6(5), two instances of "the" were changed to "each." In paragraph 405.7(9)"b," "action" was changed to "other action." In paragraph 405.7(9)"d," "collection" was changed to "debt collection."

#### *Adoption of Rule Making*

This rule making was adopted by the Board on January 9, 2019.

#### *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.

## ECONOMIC DEVELOPMENT AUTHORITY[261](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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 6, 2019.

The following rule-making action is adopted:

Adopt the following **new** 261—Chapter 405:

CHAPTER 405  
ALTERNATE ENERGY REVOLVING LOAN PROGRAM

**261—405.1(15) Definitions.**

*“Authority”* means the economic development authority created in Iowa Code section 15.105.

*“Board”* means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

*“Iowa energy center”* or *“IEC”* means the Iowa energy center created within the economic development authority pursuant to Iowa Code section 15.120.

*“Project”* means an alternate energy production facility as defined in Iowa Code section 476.42 or a small hydro facility as defined in Iowa Code section 476.42.

**261—405.2(15) Loan amounts and terms.**

**405.2(1)** The minimum loan amount is \$25,000 per project.

**405.2(2)** The board shall not lend more than 50 percent of eligible project costs as defined in rule 261—405.5(15).

**405.2(3)** A project shall be eligible for not more than \$1 million in loans outstanding at any time under this program.

**405.2(4)** A borrower shall be eligible for not more than \$1 million in loans outstanding at any time under this program.

**405.2(5)** The board shall not issue a loan that exceeds the value of the collateral provided.

**405.2(6)** Security for loans. The board will accept security for a loan. The following forms of collateral will be accepted:

- a. Real property;
- b. Dedicated certificate of deposit;
- c. Irrevocable letter of credit;
- d. Corporate guarantee;
- e. Other forms of collateral if approved by the board, and only if the forms of collateral listed in paragraphs 405.2(6) “a” to “d” are inadequate.

**405.2(7)** Term. The duration of the loan shall be for 20 years, the estimated useful life of the project that is financed by the loan, the terms of any other loans used to finance the project, or the estimated return on investment for the project, whichever is shortest.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**261—405.3(15) Borrowers.**

**405.3(1) *Eligible borrowers.*** The project shall be wholly owned by the borrower. Eligible borrowers include:

- a. Persons whose primary residence is in Iowa.
- b. Businesses registered and domiciled in Iowa. For businesses organized as limited liability companies, each member of the limited liability company must be domiciled in Iowa and be an eligible borrower.
- c. Water and wastewater utilities subject to Iowa Code chapter 388, rural water districts subject to Iowa Code chapters 357A and 504, and sanitary districts subject to Iowa Code chapter 358.

**405.3(2) *Ineligible borrowers.*** Ineligible borrowers include:

- a. An organization that is lending to a project and also owns the project or is a member of an organization that owns the project.
- b. An individual or an organization with a history of defaulted loans or compliance violations with other state programs or rules.
- c. Regents institutions.
- d. Community colleges.
- e. State agencies.
- f. Cities, but not water or wastewater utilities subject to Iowa Code chapter 388.
- g. Counties.
- h. School districts.
- i. Nonprofit organizations.
- j. Gas and electric utilities subject to Iowa Code chapter 388 or rural electric cooperatives subject to Iowa Code chapter 476.

**261—405.4(15) Eligible projects.** A proposed project must meet the following criteria to be eligible for a loan under this program:

**405.4(1)** The project shall be located in Iowa.

**405.4(2)** The project shall be an alternate energy production facility as defined in Iowa Code section 476.42 or a small hydro facility as defined in Iowa Code section 476.42.

**405.4(3)** The project shall be wholly owned by the borrower.

**405.4(4)** The borrower shall be the owner, contract purchaser or lessee of the real property where the project is located.

**261—405.5(15) Eligible and ineligible costs.**

**405.5(1) *Eligible costs.*** Examples of eligible costs include:

- a. Real and personal property comprising a project;
- b. Materials and equipment required for necessary site preparation, construction and installation of a project;
- c. Labor for site preparation, construction and installation of a project. Only labor that is performed by a third party such as an independent contractor will be considered an eligible cost.

**405.5(2) *Ineligible costs.*** Examples of ineligible costs include:

- a. Feasibility studies;
- b. Permits;
- c. Administrative costs not associated with site preparation, construction and installation of a project;
- d. Costs incurred prior to the board's approval of a loan;
- e. Interconnection costs;
- f. Costs associated with maintenance, operation or repair of a project; and
- g. Other costs that the board determines to be ineligible.

**261—405.6(15) Application process.**

**405.6(1)** Application forms shall be available at [iowagrants.gov](http://iowagrants.gov).

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**405.6(2)** Applications will be accepted during an established application period, as determined by the board from time to time and as funds are available.

**405.6(3)** If an applicant intends to finance more than one project, the applicant shall include all proposed projects in a single loan application.

**405.6(4)** Authority staff will review applications for completeness, eligibility, and whether the proposed project meets the financial and technical requirements of the Iowa energy center. The board may engage an outside technical review panel to complete technical reviews of applications.

**405.6(5)** Authority staff will recommend applications to the loan committee. The Iowa energy center may request additional information from applicants to process each loan application. The loan committee will review the applications and staff recommendations and then make recommendations to the board. The board will approve, defer, or deny applications for loans. Authority staff may negotiate the amount, term, and other conditions of each loan prior to award.

**405.6(6)** The board will accept loan applications on a rolling basis. The board will make funding decisions at least once each quarter.

**405.6(7)** If, during any application period determined by the board, the demand for loans exceeds the funding available, the following competitive scoring criteria will be used:

a. Applications for projects that employ novel, emerging or underutilized technology will be scored favorably.

b. Applications for projects that increase geographic diversity for the loan program portfolio will be scored favorably.

c. Applications for projects that provide a quicker return on investment and a shorter loan term will be scored favorably.

d. Applications for projects that produce more renewable energy relative to the amount of the loan will be scored favorably.

**261—405.7(15) Administration.**

**405.7(1)** *Notice of approval.* The authority will notify successful applicants in writing of an approved request for funding. Such a notification may include the terms or conditions under which approval is granted.

**405.7(2)** *Contract.* After notifying the borrower of an award, the authority will offer a contract to the borrower. The contract shall be between the Iowa energy center and the borrower. An award shall not constitute a binding contract.

**405.7(3)** *Transmittal.* The borrower must execute and return the contract to the authority within 45 days of the transmittal of the final contract from the authority. Failure to do so may be cause for the board to terminate the award.

**405.7(4)** *Disbursement of funds.* Borrowers shall submit requests for disbursement of funds on the forms provided by the authority.

**405.7(5)** *Amendment.* Any substantive change to a project shall require an amendment to the contract. A substantive change to a project includes but is not limited to a change in the loan amount, loan term, or scope of work. The borrower shall request the amendment in writing. No amendment shall be valid until approved by the board. The authority may execute nonsubstantive or corrective changes to the contract without board approval.

**405.7(6)** *Closeout.* Upon contract expiration or project completion, the authority shall initiate project closeout procedures.

**405.7(7)** *Record keeping and retention.* Borrowers shall retain all financial records, supporting documents and all other records pertinent to the loan for three years after the contract is closed or the loan is put in default and is not cured.

**405.7(8)** *Reporting and compliance.* A start-up report is due to the authority within 30 days of the date that the project is placed in service. The report shall include but is not limited to documentation of installed costs of the project, one or more photographs, a sample invoice, and a description of any unexpected problems encountered during construction or installation of the project. The authority reserves the right to conduct a site visit of all awarded projects to ensure the projects were built as

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

proposed and to provide verification of ongoing operation. The authority will monitor all loans to ensure that loan proceeds have been spent as identified in the contract and that all other sources of financing have been committed to the project. Borrowers shall be required to notify the authority of any change in ownership. Any loan made pursuant to this program shall become due for payment upon sale of the project for which the loan was made.

**405.7(9) Default.**

*a.* At any time during the construction of a project or the repayment of the loan, the authority may find that a borrower is in default under the terms of the loan contract. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by borrowers.

*b.* If the authority determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties as authorized pursuant to Iowa Code section 476.46, negotiate alternative payment schedules, suspend or discontinue collection efforts and take other action as the authority deems necessary.

*c.* The authority shall attempt to collect the amount owed. Any negotiated settlement, write-off, or discontinuance of collection efforts is subject to final review by and approval of the board.

*d.* If the authority refers a defaulted contract to outside counsel for debt collection, then the terms of the contract between the authority and the outside counsel regarding the scope of counsel's authorization to accept settlements shall apply.

These rules are intended to implement Iowa Code sections 15.120 and 476.46.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4264C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

**Rule making related to design and construction standards for nursing facilities**

The Inspections and Appeals Department hereby amends Chapter 61, "Minimum Physical Standards for Nursing Facilities," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 10A.104(5) and 135C.14.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104(5) and 135C.14.

*Purpose and Summary*

This rule making adopts the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, published by the Facility Guidelines Institute (FGI) as the minimum design and construction standards for nursing facilities licensed under Iowa Code chapter 135C. The design requirements and recommendations presented in the guidelines have moved away from institutional models to foster development of facilities offering person-centered living environments that support a variety of care models and add to the quality of life for residents. The guidelines help organizations and designers create homelike physical environments that support positive resident outcomes.

Currently, Chapter 61 refers to the 2010 edition of the guidelines for nursing facilities. Adoption of this rule making provides consistency in the design and construction standards of nursing facilities

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

licensed pursuant to Iowa Code chapter 135C. Additionally, most architects and engineers use the most current edition of the FGI Guidelines when designing new facilities.

The Facility Guidelines Institute is an independent, not-for-profit organization dedicated to developing guidance for the planning, design, and construction of hospitals, outpatient facilities, and residential health, care, and support facilities. The FGI updates its guidelines every four years to reflect the changing needs of residents being cared for in nursing facilities.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 5, 2018, as **ARC 4162C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

The State Board of Health reviewed the proposed amendments at its November 14, 2018, meeting, and subsequently approved this rule making at its January 9, 2019, meeting. This rule making was adopted by the Department on January 9, 2019.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

*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 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 61.2(3) as follows:

**61.2(3)** Construction shall be in accordance with the standards set forth in ~~Part 4.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition~~ the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facility Guidelines Institute.

ITEM 2. Amend paragraph **61.6(1)“c”** as follows:

c. Projects shall be constructed in compliance with the standards set forth in ~~Part 4.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010~~

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

~~edition~~ the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facility Guidelines Institute.

ITEM 3. Amend subrule 61.6(6) as follows:

**61.6(6) Lighting requirements.** Light shall be provided in the areas of the building as required in ~~Table 4.1-3 of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition~~ the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facilities Guidelines Institute.

ITEM 4. Amend rule 481—61.9(135C), introductory paragraph, as follows:

**481—61.9(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility).** A CCDI unit or facility shall be designed in accordance with ~~Section 4.2-2.2.3.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition~~ the standards set forth in the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, ~~produced by~~ published by the Facility Guidelines Institute. The following provisions shall also apply:

[Filed 1/9/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4265C**

## **IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

### **Rule making related to military service member home ownership assistance program**

The Iowa Finance Authority hereby amends Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 16.5.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 16.54.

#### *Purpose and Summary*

This rule making amends Chapter 27 by adding the definition of “manufactured home” and amending the definition of “qualified home” to exclude requirements that the manufactured home be attached to a permanent foundation and be taxed as real estate.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 26, 2018, as **ARC 4028C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Authority on January 9, 2019.

IOWA FINANCE AUTHORITY[265](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 Authority 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 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of "Manufactured home" in rule **265—27.2(16)**:

"*Manufactured home*" means the same as defined in Iowa Code section 435.1.

ITEM 2. Amend rule **265—27.2(16)**, definition of "Qualified home," as follows:

"*Qualified home*" means a home located in the state of Iowa that an eligible service member purchases, occupies, and uses as the service member's primary residence. The home must fall into one of the following categories:

1. Single-family residence, including "stick-built" homes, modular homes, or manufactured homes, ~~provided the home is attached to a permanent foundation and is taxed as real estate;~~
2. Condominium;
3. Townhome;
4. A property containing two to four residential units, where one unit is to be occupied by the eligible service member as the service member's primary residence.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4266C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to supervision of pharmacist-interns**

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

*Legal Authority for Rule Making*

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

PHARMACY BOARD[657](cont'd)

*State or Federal Law Implemented*

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

*Purpose and Summary*

The amendment clarifies that a pharmacist, when supervising a pharmacist-intern for the purpose of internship, shall supervise no more than two pharmacist-interns concurrently.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 24, 2018, as **ARC 4091C**. The Board received comments from the Iowa Pharmacy Association as well as from members of the Administrative Rules Review Committee. Both expressed the same concerns of potential misuse of pharmacist-interns if there were no limit on the number of pharmacist-interns under pharmacist supervision.

In response to the concerns, the Board changed the amendment to retain the limit of supervising no more than two pharmacist-interns and added language to clarify that the limit relates to when the pharmacist-intern is engaged in the activities of a pharmacist-intern for the purpose of internship.

*Adoption of Rule Making*

This rule making was adopted by the Board on January 9, 2019.

*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 can be determined.

*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 6, 2019.

The following rule-making action is adopted:

Amend rule 657—4.9(155A) as follows:

**657—4.9(155A) Preceptor requirements.**

**4.9(1)** and **4.9(2)** No change.

**4.9(3) Number of interns.** A For the purpose of internship, a preceptor may supervise no more than two pharmacist-interns concurrently.

## PHARMACY BOARD[657](cont'd)

**4.9(4) Responsibility.** A preceptor shall be responsible for all functions performed by a pharmacist-intern.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4267C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to pharmacy operations**

The Board of Pharmacy hereby amends Chapter 5, "Pharmacy Support Persons," Chapter 7, "Hospital Pharmacy Practice," and Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 124.301 and 147.76.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 124.301, 124.303, 124.306, 124.308, 126.10, 126.11, 155A.6A to 155A.7, 155A.13, 155A.15, 155A.27, 155A.28, 155A.31 to 155A.36, 155A.38, 155A.41, 155A.43 and 155A.44.

*Purpose and Summary*

Pursuant to Iowa Code section 17A.7(2), the Board conducted an overall review of Chapter 7 of its administrative rules. The amendments update requirements for references to be consistent with recent Board action for other practice settings, provide clarification where needed, reorganize where appropriate, remove the requirement that the hospital's approved drug formulary be included in the pharmacy's policies and procedures, add documentation requirements related to the pharmacy's accountability of stock supplies of controlled substances previously required in Chapter 10, update language relating to outpatient automated dispensing systems to use a general term rather than a specific industry brand product, clarify that outpatient automated dispensing systems do not qualify for a unique pharmacy license, and update storage requirements for records to be consistent with recent Board action for other practice settings. The amendments also update cross references in Chapters 7 and 8 where needed.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 26, 2018, as **ARC 4029C**.

The Board received comments from the National Association of Chain Drug Stores (NACDS) and the Iowa Pharmacy Association (IPA). NACDS, while overall supportive and appreciative of the "common sense updates," requested that the Board consider extending the deadline by which a pharmacy must retrieve records from an offsite location from 48 hours to 72 hours. Since the Board has four other administrative rules that require the production of records within 48 hours after a Board request, the Board determined that the suggestion should be considered in relation to all applicable rules at a later time. The comments from IPA included two suggested changes. It was suggested to remove the clarifier "long-acting antipsychotic" as it relates to the use of samples in the hospital setting. The Board declined to make this change. The second suggestion was to slightly modify the language relating to the use of

## PHARMACY BOARD[657](cont'd)

medications stocked into an outpatient point-of-care automated dispensing system, which modification the Board agreed with.

The only change from the Notice is found in subrule 7.12(4), where the phrase “prepackaged, pharmacist-verified medications” was changed to “prepackaged medications verified by authorized pharmacy personnel.”

*Adoption of Rule Making*

This rule making was adopted by the Board on January 9, 2019.

*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 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—5.22(155A) as follows:

**657—5.22(155A) Delegation of nontechnical functions.** A pharmacist may delegate nontechnical functions to an appropriately trained and registered pharmacy support person, but only if the pharmacist is present to supervise the pharmacy support person when delegated functions are performed, except as provided in ~~657—subrule 6.7(2)~~ rule 657—6.7(124,155A) or ~~657—subrule 7.6(2)~~ 657—7.6(155A), as appropriate.

ITEM 2. Amend rule 657—7.3(155A) as follows:

**657—7.3(155A) Reference library.** ~~References may be printed or computer-accessed. A pharmacy shall maintain a reference library shall be maintained which includes, at a minimum, one current reference from each of the following categories, including access to current periodic updates is either printed or computer-accessed and which adequately meets the needs of the services provided and patients served. Examples of such references include:~~

1. A reference including all pertinent Iowa laws, rules, and regulations that impact the pharmacy’s practice.
2. A patient information reference that includes or provides patient information in compliance with rule 657—6.14(155A).
3. A reference on drug interactions.

## PHARMACY BOARD[657](cont'd)

4. A general drug information reference.
5. A drug equivalency reference.
6. An injectable-drug compatibility reference.
7. A drug identification reference to enable identification of drugs brought into the facility by patients.
8. The readily accessible telephone number of a poison control center that serves the area.
9. ~~Additional references as may be necessary for the pharmacist to adequately meet the needs of the patients served relating to specific patient populations served, such as pediatrics or geriatrics, or disease states treated, such as oncology or infectious disease. For example, the treatment of pediatric patients and oncology patients would require additional references unique to those specialties.~~

ITEM 3. Renumber rule ~~657—7.6(124,155A)~~ as ~~657—7.5(124,155A)~~.

ITEM 4. Amend renumbered rule ~~657—7.5(124,155A)~~ as follows:

**~~657—7.5(124,155A) Security.~~** The pharmacy shall be located in an area or areas that facilitate the provision of services to patients and shall be integrated with the facility's communication and transportation systems. The following conditions must be met to ensure appropriate control over drugs and chemicals in and under the control of the pharmacy:

~~7.5(1) Pharmacist responsibility Pharmacy department security. Each pharmacist, while on duty, shall be responsible for Policies and procedures shall identify measures to ensure the security of the pharmacy area department, including provisions for effective control against theft of, diversion of, or unauthorized access to drugs or devices, controlled substances, records for such drugs, and patient records as provided in 657—Chapter 21, including when the pharmacist is absent from the pharmacy department or absent from the facility pursuant to rule 657—7.6(155A). Policies and procedures shall identify the minimum amount of time that a pharmacist is available at the hospital pharmacy.~~

~~7.5(2) Access when pharmacist absent. When the pharmacist is absent from the facility, the pharmacy is closed and shall be secured from public access. Policies and procedures shall be established that identify who will have access to the pharmacy when the pharmacy is closed and the procedures to be followed for obtaining drugs, devices, and chemicals to fill an emergent need during the pharmacist's absence.~~

~~a.—The pharmacist in charge may designate pharmacy technicians or pharmacy support persons who may be present in the pharmacy to perform technical or nontechnical functions, respectively, designated by the pharmacist in charge. Activities identified in paragraph "d" of this subrule may not be performed when the pharmacy is closed.~~

~~b.—If the pharmacist in charge has authorized the presence in the pharmacy of a pharmacy technician or a pharmacy support person to perform designated functions when the pharmacy is closed, only a certified pharmacy technician may assist another authorized, licensed health care professional to locate a drug or device pursuant to an emergent need. The pharmacy technician or the pharmacy support person may not dispense or deliver the drug, chemical, or device to the licensed health care professional. The licensed health care professional shall comply with established policies and procedures for obtaining drugs, devices, and chemicals when the pharmacy is closed. The licensed health care professional shall not ask or expect the pharmacy technician or the pharmacy support person to verify that the appropriate drug, chemical, or device has been obtained from the pharmacy.~~

~~c.—A pharmacy technician or a pharmacy support person who is present in the pharmacy when the pharmacy is closed shall prepare and maintain in the pharmacy a log identifying each period of time that the pharmacy technician or pharmacy support person worked in the pharmacy while the pharmacy was closed and identifying each activity performed during that time period. Each entry shall be dated and each daily record shall be signed by the pharmacy technician or pharmacy support person who prepared the record. The log shall be periodically reviewed by the pharmacist in charge.~~

~~d.—Activities which shall not be performed by a pharmacy technician or a pharmacy support person when the pharmacist is absent from the facility include:~~

## PHARMACY BOARD[657](cont'd)

~~(1) Dispensing, delivering, or distributing any prescription drugs or devices to patients or others, including health care professionals, prior to pharmacist verification. Verification by a nurse or other licensed health care professional shall not supplant verification by a pharmacist.~~

~~(2) Providing the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order.~~

~~(3) Conducting prospective drug use review or evaluating a patient's medication record for purposes identified in rule 657—8.21(155A).~~

~~(4) Providing patient counseling, consultation, or drug information.~~

~~(5) Making decisions that require a pharmacist's professional judgment such as interpreting or applying information.~~

~~(6) Preparing compounded drug products for immediate administration by other hospital staff or health care professionals without verification by a pharmacist.~~

~~7.5(3) Locked areas. All pharmacy areas where drugs or devices are maintained or stored and where a pharmacist is not continually present shall be locked.~~

~~7.5(4) Verification by pharmacist. When the pharmacy is open, patient-specific drugs or devices shall not be distributed prior to the pharmacist's final verification and approval.~~

~~7.5(5) 7.5(2) Drugs or devices in patient care areas Security outside the pharmacy department. Drugs or devices maintained or stored in patient care areas shall be in locked storage unless the patient care unit is staffed by health care personnel and the medication area is visible to staff at all times. Policies and procedures shall identify measures to ensure security in areas outside the pharmacy department where drugs, including controlled substances, devices, drug records, and patient records are maintained or stored, including provisions for effective control against theft of, diversion of, or unauthorized access to such drugs and records.~~

~~7.5(6) 7.5(3) Authorized collection program. Receptacles that are located in the hospital for the authorized collection of controlled substances shall be secured pursuant to 657—Chapter 10 and federal regulations for disposal of controlled substances. Federal regulations regarding disposal of controlled substances can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).~~

~~7.5(4) System security. Electronic systems shall be secured to prevent unauthorized access. System login or access credentials issued to an authorized system user shall not be shared with or disclosed to any other individual.~~

ITEM 5. Adopt the following **new** rule 657—7.6(155A):

**657—7.6(155A) Pharmacist absence.**

**7.6(1) Pharmacist absent from the pharmacy department.** A pharmacy's policies and procedures shall identify how the pharmacy will operate and be secured to prevent unauthorized access during times when the pharmacist may be absent from the pharmacy department but not absent from the facility. The policies and procedures shall also identify authorized activities of pharmacy staff in the pharmacy department during the absence of the pharmacist from the department in compliance with rules of the board.

*a. Remote pharmacy services.* Pursuant to rule 657—7.7(155A), the pharmacy may utilize the services of a remote pharmacist or pharmacy to provide pharmacist services to assist the pharmacy department while the on-site pharmacist is absent from the pharmacy department, such as when participating in clinical activities with facility staff and patients.

*b. Certified pharmacy technicians.* Pursuant to the pharmacy's policies and procedures, a certified pharmacy technician may be granted access to the pharmacy department to perform authorized technical functions. In the absence of a pharmacist, a certified pharmacy technician may only dispense, deliver, or distribute a drug, including a compounded preparation and controlled substance, when the drug is verified by a pharmacist, including by a remote pharmacist, except as authorized in an approved tech-check-tech program. A certified pharmacy technician may assist a licensed health care professional in locating a drug to meet the emergent needs of a patient but shall not provide final verification of the accuracy of the drug product obtained.

## PHARMACY BOARD[657](cont'd)

*c. Pharmacy support persons.* Pursuant to the pharmacy's policies and procedures, a pharmacy support person may be granted access to the pharmacy department to perform authorized nontechnical functions.

*d. Licensed health care professionals.* Pursuant to the pharmacy's policies and procedures, a licensed health care professional may be granted access to the pharmacy department to meet the emergent needs of a patient. A licensed health care professional may utilize the assistance of a certified pharmacy technician to locate a drug but shall not rely on the technician to verify the accuracy of the drug product obtained.

**7.6(2) Pharmacy department closed.** When the pharmacist is absent from the facility, the pharmacy department shall be closed and secured to prevent unauthorized access. The pharmacist in charge shall identify in policies and procedures the facility and pharmacy staff, by title or designation, who are authorized access to the pharmacy department and the specific activities that are authorized.

*a. Remote pharmacy services.* Pursuant to rule 657—7.7(155A), the pharmacy may utilize the services of a remote pharmacist or pharmacy to provide pharmacist services to the facility when the pharmacy is closed.

*b. Certified pharmacy technicians.* Pursuant to the pharmacy's policies and procedures, a certified pharmacy technician may be granted access to the pharmacy department to perform authorized technical functions. In the absence of a pharmacist, a certified pharmacy technician may only dispense, deliver, or distribute a drug, including a compounded preparation and controlled substance, when the drug is verified by a pharmacist, including by a remote pharmacist. During each period of time the certified pharmacy technician is working in the pharmacy without pharmacist supervision, the technician shall document the time worked and activities performed. The documentation shall be periodically reviewed by the pharmacist in charge. A certified pharmacy technician may assist a licensed health care professional in locating a drug to meet the emergent needs of a patient but shall not provide the final verification of the accuracy of the drug obtained.

*c. Pharmacy support persons.* Pursuant to the pharmacy's policies and procedures, a pharmacy support person may be granted access to the pharmacy department to perform authorized nontechnical functions. During each period of time the pharmacy support person is working in the pharmacy without pharmacist supervision, the support person shall document the time worked and activities performed. The documentation shall be periodically reviewed by the pharmacist in charge.

*d. Licensed health care professionals.* Pursuant to the pharmacy's policies and procedures, a licensed health care professional may be granted access to the pharmacy department to meet the emergent needs of a patient. A licensed health care professional may utilize the assistance of a certified pharmacy technician to locate a drug but shall not rely on the technician to verify the accuracy of the drug product obtained. The pharmacy shall maintain documentation of such access and activities.

This rule is intended to implement Iowa Code sections 124.301, 147.76, 147.107, and 155A.33.

ITEM 6. Amend rule 657—7.7(155A) as follows:

**657—7.7(155A) Verification by remote pharmacist.** A hospital pharmacy may contract with another an Iowa-licensed pharmacy or pharmacist for remote pharmacist ~~review and verification of patient-specific drugs or devices ordered for a patient. Contracted services may include pharmacist order entry pursuant to subrule 7.8(3) services, including medication order entry and review, final product verification, and provision of drug information.~~ Pharmacies and pharmacists entering into a contract or agreement pursuant to this rule shall comply with the following requirements:

**7.7(1) Nonsupplanting service.** A contract or agreement for remote pharmacist services shall not relieve the hospital pharmacy from employing or contracting with a pharmacist to provide routine pharmacy services within the facility. The activities authorized by this rule are intended to supplement on-site hospital pharmacy services and are not intended to eliminate the need for an on-site hospital pharmacy or pharmacist. The activities authorized by this rule are intended to increase the availability of the pharmacist for involvement in cognitive and clinical patient care activities when the pharmacy is open or to continue the provision of pharmacy services when the pharmacy is closed. The hospital pharmacy shall maintain records that demonstrate the directing of pharmacist activities to additional

## PHARMACY BOARD[657](cont'd)

~~cognitive and clinical patient care activities, and those records shall be available for inspection by the board or an its authorized agent of the board.~~

~~7.7(2) Hospital-staff pharmacist.~~ Nothing in this rule shall prohibit a pharmacist employed by or contracting with a hospital pharmacy for on-site services from also providing remote ~~preview and verification of patient specific drugs or devices ordered for a patient when the hospital pharmacy is closed~~ pharmacist services identified in this chapter in compliance with this rule. ~~A pharmacist previewing and verifying drug or device orders from a remote location shall have access to patient information pursuant to subrule 7.7(4) or 7.7(5), shall have access to the prescriber as provided in subrule 7.7(6), and shall be identified on the drug or device order as provided in subrule 7.7(7).~~

~~7.7(3) Licenses required.~~ A pharmacy or pharmacist contracting with a hospital pharmacy to provide services pursuant to this rule shall maintain with the board a current Iowa pharmacy license or pharmacist license, respectively. A remote pharmacist providing pharmacy services as an employee or agent of a contracting pharmacy pursuant to this rule shall be licensed to practice pharmacy in Iowa.

~~7.7(4) Electronic access to patient information Remote access requirements.~~ The remote pharmacist shall have secure electronic access to the hospital pharmacy's patient information system and to all other electronic systems that the on-site pharmacist has access to when the pharmacy is open. The remote pharmacist shall receive training in the use of the hospital's electronic systems. A pharmacist providing services from a remote location shall:

a. Have secure electronic access to the hospital's patient information system on which the pharmacist has been adequately trained,

b. Have access to the patient's health care team to discuss any concerns identified during the pharmacist's review of the patient's information or medication order,

c. Have secure access to any other electronic systems the pharmacist would otherwise have access to in the facility,

d. Have access to sufficient references to adequately meet the needs of the patients served, and

e. When involved in review or verification, be identified, by name or unique identifier and function performed, on the drug or device order.

~~7.7(5) Nonelectronic patient information.~~ If a hospital's patient information is not maintained in an electronic data system or if the hospital pharmacy is not able to provide remote electronic access to the patient information system, the hospital pharmacy may petition for a waiver of subrule 7.7(4) pursuant to 657—Chapter 34 and this subrule. In addition to the information required pursuant to 657—Chapter 34, the petition for waiver shall identify the hospital pharmacy's alternative to the electronic sharing of patient information, shall explain in detail how the alternative method will ensure timely provision of patient information necessary for the remote pharmacist to effectively review the patient's drug regimen and history, and shall detail the processes involved in the alternative proposal including identification of all individuals involved in each of those processes.

~~7.7(6) Access to prescriber.~~ The remote pharmacist shall be able to contact the prescriber to discuss any concerns identified during the pharmacist's review of the patient's information.

~~7.7(7) Pharmacist identified.~~ The record of each patient-specific drug or device order processed pursuant to this rule shall identify, by name or other unique identifier, each pharmacist involved in the preview and verification of the order. The record of each patient-specific drug or device visually verified pursuant to this rule shall identify, by name or other unique identifier, each pharmacist involved in the visual verification of the product.

ITEM 7. Amend rule 657—7.8(124,126,155A) as follows:

**657—7.8(124,126,155A) Drug distribution and control.** Policies and procedures governing drug distribution and control shall be established pursuant to rule 657—8.3(155A) with input from other involved hospital staff such as physicians and nurses, from committees such as the pharmacy and therapeutics committee or its equivalent, and from any related patient care committee. It is essential that the pharmacist in charge or designee routinely be available to or on all patient care areas to establish rapport with the personnel and to become familiar with and contribute to medical and nursing procedures relating to drugs.

## PHARMACY BOARD[657](cont'd)

**7.8(1) Drug preparation.** Control and adequate quality assurance procedures needed to ensure that patients receive the correct drugs at the proper times shall be established pursuant to rule 657—8.3(155A).

*a.* Hospitals shall utilize a unit dose dispensing system pursuant to rule 657—22.1(155A). All drugs dispensed by the pharmacy for administration to patients shall be in single unit or unit dose packages if practicable unless the dosage form or drug delivery device makes it impracticable to package the drug in a unit dose or single unit package.

(1) Established policies and procedures shall identify situations when drugs may be dispensed in other than unit dose or single unit packages outside the unit dose dispensing system.

(2) The need for nurses to manipulate drugs prior to their administration shall be minimized.

*b.* ~~Pharmacy personnel shall, except as specified in policies and procedures, prepare all~~ All sterile and nonsterile compounded products shall be prepared in conformance with 657—Chapter 20.

~~*c.* Pharmacy personnel shall compound or prepare drug formulations, strengths, dosage forms, and packages useful in the care of patients.~~

~~**7.8(2) Drug formulary.** Established policies and procedures shall include a current formulary of drug products approved for use in the institution and shall include specifications for those drug products.~~

~~**7.8(3) 7.8(2) Medication orders.** Except as provided in subrule 7.8(14) or this subrule, a pharmacist shall receive a copy of an original written medication order for review except when the prescriber directly enters the medication order into an electronic medical record system or when the prescriber issues a verbal medication order directly to a registered nurse or pharmacist who then enters the order into an electronic medical record system. Except to meet the emergent needs of a patient, no drug or device shall be dispensed or made available for patient administration prior to the issuance of a valid medication order and appropriate pharmacist review.~~

~~*a. Verbal order.* The use of verbal orders shall be minimized. All verbal orders shall be read back to the prescriber, and the read back shall be documented with or on the order.~~

~~*b. Written order not entered by prescriber.* If an individual other than the prescriber enters a medication order into an electronic medical record system from an original written medication order, ~~the~~ a pharmacist shall review and verify the entry against the original written order before the drug is dispensed or made available for administration except for emergency use, when the pharmacy is closed, or as provided in rule 657—7.7(155A).~~

~~*c. Order entered when pharmacy closed.* When the pharmacy is closed and remote pharmacist services are not available, a registered nurse or pharmacist may enter a medication order into an electronic medical record system for the purpose of creating an electronic medication administration record and, except when a pharmacist entered the order, a pharmacist shall verify the entry against the original written medication order, if such written order exists, as soon as practicable.~~

~~*d. System security.* Hospitalwide and pharmacy stand-alone computer systems shall be secure against unauthorized entry. System login or access credentials issued to an authorized system user shall not be shared or disclosed to any other individual.~~

~~*e. d. Abbreviations and chemical symbols on orders.* The use of abbreviations and chemical symbols on medication orders shall be discouraged but, if used, shall be limited to abbreviations and chemical symbols approved by the appropriate patient care committee.~~

~~**7.8(4) 7.8(3) Stop order.** A written policy or other system concerning stop orders shall be established to ensure that medication orders are not inappropriately continued.~~

~~**7.8(5) 7.8(4) Emergency drug supplies and floor stock.** Supplies Pursuant to policies and procedures, supplies of drugs for use in medical emergencies shall be immediately available at each nursing unit or service area as specified in policies and procedures. Authorized stocks shall be periodically reviewed in a multidisciplinary manner. All drug storage areas within the hospital facility shall be routinely inspected to ensure that no outdated or unusable items are present available for administration and that all stock items are properly labeled and stored.~~

~~**7.8(6) 7.8(5) Disaster services.** The pharmacy shall be prepared to provide drugs and pharmaceutical services in the event of a disaster affecting the availability of drugs or internal access to drugs or access to the pharmacy.~~

## PHARMACY BOARD[657](cont'd)

~~7.8(7)~~ **7.8(6)** *Drugs brought into the institution facility.* Established policies and procedures shall determine those circumstances when patient-owned drugs brought into the institution facility may be administered to a ~~hospital~~ the patient and shall identify procedures governing the use and security of drugs brought into the institution facility. Procedures shall address identification of the drug and methods for ensuring the integrity of the product prior to permitting its use ~~by the patient~~. The use of patient-owned drugs shall be minimized to the greatest extent possible.

~~7.8(8)~~ **7.8(7)** *Samples.* The use of drug samples within the institution shall be eliminated to the extent possible. Sample use is prohibited for hospital inpatient use. ~~If the use of drug samples is permitted for hospital outpatients, that use of samples shall be controlled and the samples shall be distributed through the pharmacy or through a process developed in cooperation with the pharmacy and the institution's appropriate patient care committee, subject to oversight by the pharmacy. For the purposes of this subrule, "samples" shall not include initiation doses provided by a manufacturer's long-acting antipsychotic medication initiation program.~~

~~7.8(9)~~ **7.8(8)** *Investigational drugs.* If investigational drugs are used in the institution facility:

a. A pharmacist shall be a member of the institutional review board or its equivalent.  
b. The pharmacy shall be responsible, in cooperation with the principal investigator, for providing information about investigational drugs used in the institution facility and for the distribution and control of those drugs.

~~7.8(10)~~ **7.8(9)** *Hazardous drugs and chemicals.* Policies and procedures for handling drugs and chemicals that are known occupational hazards shall be established pursuant to rule 657—8.3(155A). The procedures shall maintain the integrity of the drug or chemical and protect ~~hospital~~ facility personnel.

~~7.8(11)~~ **7.8(10)** *Leave and discharge meds.* Labeling of ~~prescription drugs~~ medications for a patient on leave from the facility for a period in excess of 24 hours or being discharged from the facility shall comply with 657—subrule 6.10(1). ~~The dispensing pharmacist shall be responsible for packaging and labeling leave meds in compliance with this subrule.~~

~~7.8(12)~~ **7.8(11)** *Discharge meds.* Drugs authorized for a patient being discharged from the facility shall be labeled in compliance with 657—subrule 6.10(1) before the patient removes those drugs from the facility premises. ~~The dispensing pharmacist shall be responsible for packaging and labeling discharge meds in compliance with this subrule.~~

~~7.8(13)~~ **7.8(11)** *Own-use outpatient prescriptions.* If the hospital pharmacy dispenses own-use outpatient prescriptions, the pharmacist shall comply with all requirements of 657—Chapter 6 except rule 657—6.1(155A).

~~7.8(14)~~ **7.8(12)** *Influenza and pneumococcal vaccines.* As authorized by federal law, a ~~written or verbal~~ patient-specific medication ~~administration~~ order shall not be required prior to administration to an adult patient of influenza and pneumococcal vaccines pursuant to physician-approved ~~hospital~~ facility policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient's medical record.

**7.8(13)** *Accountability of stock supply.* An individual who administers a controlled substance from a non-patient-specific stock supply in a facility shall personally document on a separate readily retrievable record system each dose administered, wasted, or returned to the pharmacy. Such documentation shall not be delegated to another individual. Wastage documentation shall include the signature or unique electronic signature or identification of a witnessing licensed health care practitioner. Distribution records for non-patient-specific floor-stocked controlled substances shall include the following information:

- a. Patient's name;
- b. Prescriber who ordered the drug;
- c. Drug name, strength, dosage form, and quantity;
- d. Date and time of administration;
- e. Signature or unique electronic signature of the individual administering the controlled substance;
- f. Returns to the pharmacy;

## PHARMACY BOARD[657](cont'd)

g. Waste, which is required to be witnessed and cosigned by another licensed health care practitioner.

ITEM 8. Amend rule 657—7.9(124,155A) as follows:

**657—7.9(124,155A) Drug information.** Established policies and procedures shall include the provision to the institution's facility's staff and patients of accurate, comprehensive information about drugs and their use. The pharmacy shall serve as the institution's facility's center for drug information.

~~7.9(1) Staff education.~~ The pharmacist shall keep the institution's staff well informed about the drugs used in the institution and their various dosage forms and packagings.

~~7.9(2) Patient education.~~ The pharmacist shall help ensure that all patients are given adequate information about the drugs that they receive. This is particularly important for ambulatory, home care, and discharged patients. These patient education activities shall be coordinated with the nursing and medical staffs and patient education department, if any.

ITEM 9. Amend rule 657—7.10(124,155A) as follows:

**657—7.10(124,155A) Ensuring rational drug therapy.** An important aspect of pharmaceutical services is that of maximizing rational drug use. Policies and procedures for ensuring the quality of drug therapy shall be established pursuant to rule 657—8.3(155A). For the purpose of this rule, "professional pharmacy staff" means the professional employees of the pharmacy, including pharmacists, pharmacy technicians, and pharmacist-interns.

~~7.10(1) Patient profile.~~ Sufficient patient information shall be collected, maintained, and reviewed by the pharmacist to ensure meaningful and effective participation in patient care. This requires that a drug profile be maintained for each patient receiving care at the hospital. A pharmacist-conducted drug history from patients may be useful in this regard. The pharmacy shall maintain for each patient receiving care at the hospital a patient profile, to include but not be limited to drug history. Sufficient patient information to ensure meaningful and effective patient care shall be collected, maintained, and reviewed by professional pharmacy staff pursuant to policies and procedures.

~~a.~~ Appropriate clinical information about patients shall be available and accessible to the pharmacist for use in daily practice.

~~b.~~ The pharmacist shall Upon review each of a patient's current drug regimen and clinical profile, the pharmacist shall directly communicate any suggested changes to the prescriber patient's health care team.

**7.10(2) Adverse drug events.** Established policies and procedures shall include a mechanism for the reporting and review, ~~by the committee or other appropriate medical group,~~ of adverse drug events that occur in the facility which events are reviewed by the facility's established quality control committee. The pharmacist shall be informed of all reported adverse drug events occurring in the facility. Adverse drug events include but ~~need are~~ are not be limited to adverse drug reactions and medication errors.

ITEM 10. Amend rule 657—7.11(124,126,155A) as follows:

**657—7.11(124,126,155A) Outpatient services.** No prescription drugs shall be dispensed from the hospital pharmacy to patients treated in a hospital outpatient setting. If a need is established for the dispensing of a prescription drug to an outpatient, a prescription drug ~~order~~ shall be provided to the patient issued to be filled at a pharmacy of the patient's choice.

**7.11(1) Definitions.** For the purposes of this rule, the following definitions shall apply:

"Emergency department patient" means an individual a patient who is examined and evaluated in the emergency department.

"Outpatient" means an individual a patient who was examined and evaluated by a prescriber who determined the ~~individual's~~ patient's need for the administration of a drug or device, ~~which individual~~ when the patient presents to the hospital outpatient setting with a prescription or order for administration of a drug or device. "Outpatient" does not include an emergency department patient.

## PHARMACY BOARD[657](cont'd)

*“Outpatient medication order”* means ~~a written an order from~~ issued by a prescriber or an oral or electronic order from a prescriber or the prescriber’s authorized agent pursuant to rules of the board for administration of a drug or device. An outpatient medication order may authorize continued or periodic administration of a drug or device for a period of time and frequency determined by the prescriber or by hospital policy, not to exceed legal limits for the refilling of a prescription drug order.

**7.11(2) Administration in the outpatient setting.** Drugs shall be administered only to outpatients who have been examined and evaluated by a prescriber who determined the patient’s need for the drug therapy ordered.

*a. Accountability.* Established policies and procedures shall include a system of drug control and accountability in the outpatient setting. The system shall ensure accountability of drugs incidental to outpatient nonemergency therapy or treatment. Drugs shall be administered only in accordance with the system.

*b. Controlled substances.* Controlled substances maintained in the outpatient setting are kept for use by or at the direction of prescribers for the nonemergency therapy or treatment of outpatients. In order to ~~receive~~ have a controlled substance administered, a patient shall be examined in the outpatient setting or in an alternate practice setting or office by a prescriber who shall determine the patient’s need for the drug. If the patient is examined in a setting outside other than the outpatient setting, the prescriber shall ~~provide the patient with issue~~ a written prescription or order to be presented at for administration of the drug in the hospital outpatient setting.

*c. Outpatient medication orders.* A prescriber may authorize, by outpatient medication order, the periodic administration of a drug to an outpatient.

(1) Schedule II controlled substance. An outpatient medication order for administration of a Schedule II controlled substance shall be ~~written~~ issued pursuant to federal regulation and board rules and, except as provided in rule 657—10.29(124) regarding the issuance of multiple Schedule II prescriptions, may authorize the administration of an appropriate amount of the prescribed substance for a period not to exceed 90 days from the date ordered.

(2) Schedule III, IV, or V controlled substance. An outpatient medication order for administration of a Schedule III, IV, or V controlled substance shall be ~~written~~ issued pursuant to federal regulation and board rules and may be authorized for a period not to exceed six months from the date ordered.

(3) Noncontrolled substance. An outpatient medication order for administration of a noncontrolled prescription drug may be authorized for a period not to exceed 18 months from the date ordered.

**7.11(3) Samples.** If the use of drug samples is permitted for hospital outpatients, that use of samples shall be controlled and the samples shall be distributed through the pharmacy or through a process developed in cooperation with the pharmacy and the facility’s appropriate patient care committee, subject to oversight by the pharmacy.

ITEM 11. Amend rule 657—7.12(124,126,155A) as follows:

**657—7.12(124,126,155A) Drugs in the emergency department.** Drugs maintained in the emergency department are kept for use by or at the direction of prescribers in the emergency department. Drugs shall be administered or dispensed only to emergency department patients. For the purposes of this rule, “emergency department patient” means ~~an individual~~ a patient who is examined and evaluated in the emergency department.

**7.12(1) Accountability.** Established policies and procedures shall include a system of drug control and accountability in the emergency department. The system shall identify drugs of the nature and type to meet the ~~immediate~~ emergency needs of ~~emergency department~~ patients. Drugs shall be administered or dispensed only in accordance with the system.

**7.12(2) Controlled substances.** Controlled substances maintained in the emergency department are kept for use by or at the direction of prescribers in the emergency department.

*a. to c.* No change.

*d.* In an emergency situation when a health care practitioner authorized to prescribe controlled substances examines a patient in the prescriber’s office and determines a need for the administration of a controlled substance, and regardless of the provisions of paragraph 7.12(2)“a,” the prescriber may

## PHARMACY BOARD[657](cont'd)

direct the patient to present to the emergency department, ~~with a valid written prescription or order for the administration of the a controlled substance for which the prescriber has issued a prescription in compliance with federal regulation and board rules.~~ As soon as possible, the prescriber shall examine the patient in the emergency department and determine the patient's further treatment needs.

~~7.12(3) Drug dispensing. In those facilities with 24-hour pharmacy services, only~~ Only a pharmacist or prescriber may dispense any drugs to an emergency department patient. ~~In those facilities located in an area of the state where 24-hour outpatient or 24-hour on-call pharmacy services are not available within 15 miles of the hospital, and which facilities are without 24-hour outpatient pharmacy services, pursuant to the provisions of this rule shall apply.~~

~~a. Responsibility.~~ Pursuant to rule 657—8.3(155A), policies and procedures shall be established to ensure the accuracy and labeling of prepackaged drugs shall be ensured and accurate records of dispensing of drugs from the emergency department shall be maintained.

~~(1) Prepackaging.~~ Except as provided in subrule 7.12(4), drugs dispensed to an emergency department patient in ~~greater than a 24-hour supply~~ may be dispensed only in prepackaged quantities not to exceed a 72-hour supply or the minimum prepackaged quantity in suitable containers, except that ~~a seven-day~~ an authorized supply of doxycycline a drug provided through the department of public health pursuant to the crime victim compensation program of the Iowa department of justice may be dispensed for the treatment of a victim of sexual assault. Prepackaged drugs shall be prepared pursuant to the requirements of rule 657—22.3(126).

~~(2) Labeling.~~ Drugs dispensed pursuant to this paragraph shall be appropriately labeled as required in paragraph 7.12(3) "b," including necessary auxiliary labels.

~~b. Prescriber responsibility.~~ Except as provided in subrule 7.12(4), a prescriber who authorizes the dispensing of a prescription drug to an emergency department patient is responsible for the accuracy of the dispensed drug and for the accurate completion of label information pursuant to this paragraph, including when any portion of the dispensing process is delegated to a licensed nurse under the supervision of the prescriber.

~~(1) Labeling.~~ Except as provided in subrule 7.12(4), at the time of delivery of the drug the prescriber shall appropriately complete the label such be responsible for ensuring that the dispensing container bears a label with at least the following information:

1. Name and address of the hospital;
2. Date dispensed;
3. Name of prescriber;
4. Name of patient;
5. Directions for use;
6. Name, quantity, and strength of drug.

~~(2) Delivery of drug to patient.~~ Except as provided in subrule 7.12(4), the prescriber, or a licensed nurse under the supervision of the prescriber, shall give the appropriately labeled, ~~prepackaged packaged~~ drug to the patient or patient's caregiver. The prescriber, or a licensed nurse under the supervision of the prescriber, shall explain the correct use of the drug and shall explain to the patient that the dispensing is for an emergency or starter supply of the drug. If additional quantities of the drug are required to complete the needed course of treatment, the prescriber shall ~~provide the patient with~~ issue a prescription for the additional quantities to be filled at a pharmacy of the patient's choice.

~~7.12(4) Use of InstyMeds~~ an outpatient point-of-care automated dispensing system (OPCADS). A hospital located in an area of the state where 24-hour outpatient pharmacy services are not available within 15 miles of the hospital may ~~implement the InstyMeds~~ utilize an outpatient point-of-care automated dispensing system (OPCADS) in the hospital emergency department only as provided by this subrule. For the purpose of this rule, an OPCADS is a secure dispensing system which contains prepackaged medications verified by authorized pharmacy personnel for dispensing to a patient upon issuance of a valid prescription by a prescriber. The OPCADS shall be owned by the facility, shall be operated under the facility's hospital pharmacy license, shall not be issued a separate general or limited use pharmacy license, and shall not provide any financial incentive for use to any prescriber employed or under contract with the emergency department.

## PHARMACY BOARD[657](cont'd)

a. Persons with access to the ~~dispensing machine~~ OPCADS for the purposes of stocking, inventory, and monitoring shall be limited to pharmacists, pharmacy technicians, and pharmacist-interns.

b. The ~~InstyMeds dispensing system~~ OPCADS shall be used only in the ~~hospital~~ emergency department for the benefit of patients examined or treated in the emergency department when the benefit to the patient outweighs the burden on the patient to obtain the medication elsewhere.

c. The ~~dispensing machine~~ OPCADS shall be located in a secure and professionally appropriate environment.

d. The stock of drugs maintained and dispensed utilizing the ~~InstyMeds dispensing system~~ OPCADS shall be limited to acute care drugs provided in appropriate quantities for a 72-hour supply or the minimum commercially available package size, except that antimicrobials may be dispensed in a quantity to provide the full course of therapy.

e. Drugs dispensed utilizing the ~~InstyMeds dispensing system~~ OPCADS shall be appropriately labeled as provided in ~~657—subrule 6.10(1), paragraphs “a” through “g.”~~ 657—paragraphs 6.10(1) “a” through “g.”

f. Prior to authorizing the dispensing of a drug utilizing the ~~InstyMeds dispensing system~~ OPCADS, the prescriber shall offer to issue the patient the option of being provided a prescription that may be filled at the a pharmacy of the patient’s choice.

g. ~~When appropriate for an acute condition, the prescriber shall provide to the patient or the patient’s caregiver a prescription for the remainder of drug therapy beyond the supply available utilizing the InstyMeds dispensing system. During consultation with the patient or the patient’s caregiver, the prescriber or licensed nurse under the supervision of the prescriber shall clearly explain the appropriate use of the drug supplied, the need to have a prescription for any additional supply of the drug filled at a pharmacy of the patient’s choice, and the need to complete the full course of drug therapy. If additional quantities of the drug are required to complete the needed course of treatment, the prescriber shall issue a prescription for the additional quantity to be filled at a pharmacy of the patient’s choice.~~

h. The pharmacy shall, in conjunction with the ~~hospital~~ emergency department, implement policies and procedures to ensure that a patient utilizing the ~~InstyMeds dispensing system~~ OPCADS has been positively identified.

i. ~~The hospital pharmacist shall review the printout of drugs provided utilizing the InstyMeds dispensing system within 24 hours unless the pharmacy is closed, in which case the printout shall be reviewed during the first day the pharmacy is open following the provision of the drugs. The purpose of the review is to identify any dispensing errors, to determine dosage appropriateness, and to complete a retrospective drug use review of any antimicrobials dispensed in a quantity greater than a 72-hour supply. Any discrepancies found shall be addressed by the pharmacy’s continuous quality improvement program.~~

ITEM 12. Amend rule 657—7.13(124,155A) as follows:

**657—7.13(124,155A) Records.** Every ~~inventory or other~~ record required to be kept under this chapter or other board rules or under Iowa Code chapters 124 and 155A shall be kept by the pharmacy and be available for inspection and copying by the board or its ~~representative~~ authorized agent for at least two years from the date of such ~~inventory or~~ record unless a longer retention period is specified for the particular ~~inventory or~~ record.

**7.13(1) Medication order information.** Each original medication order contained in inpatient records shall ~~bear~~ include the following information:

- a. Patient name and identification number;
- b. Drug name, strength, and dosage form;
- c. Directions for use;
- d. Date ordered;
- e. ~~Practitioner’s~~ Prescriber’s signature or electronic signature or that of the ~~practitioner’s~~ prescriber’s authorized agent.

**7.13(2) and 7.13(3)** No change.

## PHARMACY BOARD[657](cont'd)

**7.13(4) Storage of records.** Original hard-copy records shall be maintained by the pharmacy for a minimum of two years from the date of the record in accordance with this subrule.

*a.* Records shall be maintained within the pharmacy department for a minimum of 12 months, except as provided herein. Pharmacy records less than 12 months old may be stored in a secure storage area outside the pharmacy department, including at a remote location, if the pharmacy has retained an electronic copy of the records in the pharmacy that is immediately available and if the original records are available within 48 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

*b.* Records more than 12 months old may be maintained in a secure storage area outside the pharmacy department, including at a remote location, if the records are retrievable within 48 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

ITEM 13. Amend **657—Chapter 7**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 124.301, 124.303, 124.306, 124.308, 126.10, 126.11, ~~455A.6~~, 155A.6A, 155A.6B, 155A.7, 155A.13, 155A.15, 155A.27, 155A.28, 155A.31, ~~and 155A.33~~ through 155A.36, 155A.38, 155A.41, 155A.43, and 155A.44.

ITEM 14. Amend subrule 8.5(3) as follows:

**8.5(3) Secure barrier.** A pharmacy department shall be closed and secured in the absence of the pharmacist except as provided in rule 657—6.7(124,155A) or ~~657—7.6(124,155A)~~ 657—7.5(124,155A). To ensure that secure closure, the pharmacy department shall be surrounded by a physical barrier capable of being securely locked to prevent entry when the department is closed. A secure barrier may be constructed of other than a solid material with a continuous surface if the openings in the material are not large enough to permit removal of items from the pharmacy department by any means. Any material used in the construction of the barrier shall be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4268C**

## **PHARMACY BOARD[657]**

**Adopted and Filed**

### **Rule making related to pharmacy practice standards**

The Board of Pharmacy hereby amends Chapter 8, “Universal Practice Standards,” and Chapter 13, “Telepharmacy Practice,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 147.80 and 155A.13.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 147.80, 155A.13 and 155A.26.

#### *Purpose and Summary*

These amendments provide clearer language relating to the required distance between a proposed telepharmacy site and a currently licensed pharmacy that provides prescription drugs to outpatients, consistent with language found in the Iowa Code, which pharmacy may be another licensed telepharmacy; require a pharmacy which intends to change license type to submit an application and

## PHARMACY BOARD[657](cont'd)

establish that the pharmacy may be subject to an inspection by a Board compliance officer prior to issuance of the new license; implement a late penalty fee for late submission of a license change application; and authorize the Board to collect a fee for a written verification of a pharmacy license.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 24, 2018, as **ARC 4092C**. The Board received comments from one pharmacist as well as from the Iowa Pharmacy Association (IPA). The pharmacist suggested that the Board additionally require a telepharmacy applicant to identify on its application the name of the nearest pharmacy that provides prescription home delivery to the town in which the telepharmacy is proposed. The Board declined this suggestion because telepharmacy applications are considered by the Board in open session during which any affected party is welcome to provide comment about the proposed telepharmacy location. IPA requested that the Board adopt language that would eliminate the distance requirement for two telepharmacies. The Board declined this suggestion, because the Iowa Code sets the distance requirement for the operation of telepharmacy locations. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on January 9, 2019.

*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 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 8.35(4) as follows:

**8.35(4) Inspection of ~~new~~ pharmacy location.**

*a.* A new pharmacy location in Iowa shall require an on-site inspection by an authorized agent of the board. Application for a pharmacy license and other required registrations shall be submitted to the board at least 14 days prior to the anticipated inspection. Any deficiencies identified during the inspection shall be corrected and verified by an authorized agent of the board prior to the issuance of the pharmacy license. Prescription drugs, including controlled substances, may not be delivered to a new pharmacy location prior to the delivery of the pharmacy license and registration certificates.

## PHARMACY BOARD[657](cont'd)

*b.* A pharmacy location in Iowa which is applying for a different license type than previously held may be subject to an inspection prior to the issuance of the new license.

ITEM 2. Amend subrule 8.35(6) as follows:

**8.35(6) Pharmacy license changes.** When a pharmacy changes its name, location, ownership, ~~or pharmacist in charge,~~ or license type, a completed pharmacy license application with a nonrefundable \$135 fee shall be submitted to the board pursuant to subrule 8.35(2). Upon receipt of the completed application and fee, the board shall issue an updated pharmacy license certificate, pending any necessary inspection pursuant to paragraph 8.35(4)“b,” unless the board identifies any ground for denial of the license. Any restrictions or disciplinary history associated with the previous pharmacy shall remain unchanged. A pharmacy wishing to disassociate itself from the previously licensed pharmacy restrictions or disciplinary history may petition the board for such disassociation. The burden is on the pharmacy to demonstrate that the current pharmacy is not associated with or responsible for the pharmacy as it previously existed. The old license certificate shall be returned to the board within ten days of receiving the updated license certificate.

*a. to d.* No change.

*e.* License type. A change in pharmacy license type shall require submission of a pharmacy license application and appropriate fee prior to the change in license type. A pharmacy changing license type shall notify the pharmacist in charge and patients of the change in accordance with subrule 8.35(7).

*f.* License change application submission. An application for license change shall be timely submitted pursuant to this subrule. A licensed pharmacy that has timely submitted an application for license change and fee may continue to service Iowa patients while the license change is pending final approval. An applicant who has submitted an application for license change after the required date of submission pursuant to this subrule but within 30 days of the required date of submission shall be assessed a nonrefundable late penalty fee of \$135 in addition to the license fee. An applicant who has submitted an application for license change 31 days or later following the required date of submission pursuant to this subrule shall be assessed a nonrefundable late penalty fee of \$540.

ITEM 3. Adopt the following **new** subrule 8.35(9):

**8.35(9) License verification fee.** The board may require a nonrefundable fee of \$15 for completion of a request for written license verification of any pharmacy license.

ITEM 4. Amend rule 657—13.16(124,155A) as follows:

**657—13.16(124,155A) Telepharmacy site—initial application.**

**13.16(1) License application.** A telepharmacy site shall complete and submit to the board a limited use/telepharmacy license application and nonrefundable fee as provided in rule 657—8.35(155A). In addition to the application and fee, the telepharmacy site shall include the additional information identified in this rule.

**13.16(2) CSA registration application.** If controlled substances will be dispensed from the telepharmacy site, the telepharmacy site shall complete and submit, with the limited use/telepharmacy license application and fee, the CSA registration application and nonrefundable fee as provided in rule 657—10.1(124) 657—10.5(124).

**13.16(3)** No change.

**13.16(4) Distance to nearest ~~general~~ pharmacy that dispenses prescription drugs to outpatients.** The telepharmacy site application shall identify the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients and shall provide evidence identifying the total driving distance between the proposed telepharmacy site and the nearest currently licensed ~~general~~ pharmacy that dispenses prescription drugs to outpatients.

*a.* If the distance between the proposed telepharmacy site and the nearest currently licensed general pharmacy that dispenses prescription drugs to outpatients is less than ten miles, the telepharmacy site shall submit a request for waiver of the distance requirement. The process and requirements for a request for waiver are identified in subrule 13.16(8).

*b.* No change.

## PHARMACY BOARD[657](cont'd)

**13.16(5) to 13.16(7)** No change.

**13.16(8) Request for distance waiver.** The board shall consider a request for waiver of the distance requirement between the proposed telepharmacy site and the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients if the petitioner can demonstrate to the board that the proposed telepharmacy site is located in an area where there is limited access to pharmacy services and that there exist compelling circumstances that justify waiving the distance requirement.

*a.* No change.

*b.* In addition to the requirements of 657—Chapter 34, the request for waiver shall include evidence and specific information regarding each of the following, if applicable. If an item identified below does not apply to the proposed telepharmacy site, the request for waiver shall specifically state that the item does not apply.

(1) and (2) No change.

(3) That access to the nearest currently licensed ~~general~~ pharmacy that dispenses prescription drugs to outpatients is limited. A description of how the proposed telepharmacy site will improve patient access to pharmacy services shall be included.

(4) to (7) No change.

*c.* The board shall consider a request for waiver of the distance requirement during any open session of a meeting of the board. One or more representatives of the parties to the waiver request, including representatives of the proposed telepharmacy site, the managing pharmacy, and the nearest currently licensed ~~general~~ pharmacy that dispenses prescription drugs to outpatients, shall be invited and encouraged to attend the meeting at which the waiver request is scheduled for consideration to be available to respond to any questions.

*d.* No change.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4269C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

**Rule making related to temporary scheduling of cannabidiol drug products**

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 sections 124.201 and 124.201A.

*State or Federal Law Implemented*

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

*Purpose and Summary*

This rule making temporarily places into Schedule V of the Iowa Uniform Controlled Substances Act any drugs approved by the U.S. Food and Drug Administration (FDA) which contain cannabidiol (CBD) derived from cannabis and no more than 0.1 percent tetrahydrocannabinols (THC).

PHARMACY BOARD[657](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 24, 2018, as **ARC 4086C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 4085C** on the same date. 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 9, 2019.

*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 6, 2019, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following rule-making action is adopted:

Adopt the following **new** subrule 10.39(4):

**10.39(4)** Amend Iowa Code section 124.212 by adding the following new subsection "6":

6. *Approved cannabidiol drugs.* A drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4270C****PHARMACY BOARD[657]****Adopted and Filed****Rule making related to statewide protocols**

The Board of Pharmacy hereby amends Chapter 39, “Expanded Practice Standards,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 155A.46.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 155A.46 and 2018 Iowa Acts, Senate File 2322, section 8.

*Purpose and Summary*

These amendments establish that a pharmacist may participate in a statewide protocol developed by the Board in consultation with the Department of Public Health; establish the minimum requirements for participation in statewide protocols, including required pharmacist training and education and required notification to the patient’s primary care provider of the product dispensed pursuant to the statewide protocol; require that the continuing education for immunization administration be approved by the Accreditation Council for Pharmacy Education (ACPE) with the specific topic designator of “06” for pharmacists; and identify a repeal date for vaccine administration by pharmacists via a physician-signed protocol in compliance with 2018 Iowa Acts, Senate File 2322, section 8.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 24, 2018, as **ARC 4096C**.

The Board received three comments from the public. The Iowa Pharmacy Association (IPA) strongly encouraged the Board to be less prescriptive of requirements in rule and to instead include such requirements, such as minimum training and education for participation, in a statewide protocol directly. The Board appreciates the concern related to potential delays in implementing new statewide protocols as they become legislatively authorized due to rule making but also appreciates the input and feedback that comes through the rule-making review process, including from the Governor’s office, the Administrative Rules Review Committee, and the general public, particularly since these statewide protocols are being newly implemented in Iowa. The Health & Safety Institute (HSI) requested that the Board consider amended language that includes basic life support training provided by HSI for the minimum requirement of CPR training of pharmacists providing immunizations. The Board agreed to amend language that does not specify particular training providers but instead identifies the general minimum components of an acceptable training program. A third comment was received from an Iowa pharmacist who stated that pharmacists should be required to report the administration of influenza vaccines to the statewide immunization registry. The Board declined to make any changes from the proposed amendments in response to that comment since Iowa Code section 155A.44, which provides for the affected rule (relating to immunizations pursuant to a physician-signed protocol), will be repealed July 1, 2019, and the rule does not prohibit a pharmacist from voluntarily reporting influenza administrations to the statewide registry if one so chooses. The pharmacist also recommended that the continuing education requirement for participation in the naloxone statewide protocol be expanded to require repeat education each renewal period. The Board declined this suggestion to maintain

## PHARMACY BOARD[657](cont'd)

consistency with current rules relating to a pharmacist's participation in the statewide standing order to dispense naloxone.

As noted, the Board amended language relating to the training programs for basic life support to provide the core required elements of a program rather than identify specific providers.

*Adoption of Rule Making*

This rule making was adopted by the Board on January 9, 2019.

*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 can be determined.

*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 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** rule 657—39.6(155A):

**657—39.6(155A) Statewide protocols.** A pharmacist may, pursuant to statewide protocols developed by the board in consultation with the department of public health and available on the board's website at [pharmacy.iowa.gov](http://pharmacy.iowa.gov), prescribe and dispense medications pursuant to rules 657—39.8(155A), 657—39.9(155A), and 657—39.11(155A).

ITEM 2. Adopt the following **new** rule 657—39.8(155A):

**657—39.8(155A) Statewide protocol—naloxone.** An authorized pharmacist may prescribe and dispense naloxone to patients 18 years and older pursuant to a statewide protocol developed pursuant to rule 657—39.6(155A) and in compliance with this rule. An authorized pharmacist may only delegate the dispensing of naloxone to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist.

**39.8(1) Definitions.** For the purposes of this rule, the following definitions shall apply:

“ACPE” means the Accreditation Council for Pharmacy Education.

“Authorized pharmacist” means an Iowa-licensed pharmacist who has completed the training requirements of this rule. “Authorized pharmacist” also includes an Iowa-registered pharmacist-intern who has completed the training requirements of this rule and is working under the direct supervision of an authorized pharmacist.

## PHARMACY BOARD[657](cont'd)

“*Authorized pharmacist-intern*” means an Iowa-registered pharmacist-intern who has completed the training requirements for an authorized pharmacist pursuant to this rule.

“*Board*” means the Iowa board of pharmacy.

“*Patient*” means an individual consulting with a pharmacist for drug therapy and may include an individual in a position to assist someone at risk of an opioid-related overdose.

**39.8(2) *Authorized pharmacist training.*** An authorized pharmacist shall document successful completion of an ACPE-approved continuing education program of at least one-hour duration related to naloxone utilization prior to dispensing naloxone pursuant to the statewide protocol.

**39.8(3) *Assessment.*** An authorized pharmacist shall assess a patient for eligibility to receive naloxone using criteria identified in the statewide protocol.

**39.8(4) *Patient education.*** Upon assessment and determination that a patient is eligible to receive and possess naloxone pursuant to the statewide protocol, an authorized pharmacist shall, prior to dispensing naloxone pursuant to the statewide protocol, provide training and education to the patient including, but not limited to, the information identified in this subrule. An authorized pharmacist may provide to the patient written materials that include, but may not be limited to, the information identified in this subrule, but the written materials shall not be in lieu of direct pharmacist consultation with the patient.

- a. The signs and symptoms of opioid-related overdose as described in the statewide protocol.
- b. The importance of calling 911 as soon as possible and the potential need for rescue breathing.
- c. The appropriate use and directions for administration of the naloxone to be dispensed pursuant to the statewide protocol.
- d. Adverse reactions of naloxone as well as reactions resulting from opioid withdrawal following administration.
- e. The proper storage conditions, including temperature excursions, of the naloxone product being dispensed.
- f. The expiration date of the naloxone product being dispensed and the appropriate disposal of the naloxone product upon expiration.
- g. Information about substance abuse or behavioral health treatment programs, if applicable.

**39.8(5) *Labeling.*** Naloxone dispensed pursuant to this rule shall be labeled in accordance with rule 657—6.10(126,155A), and the labeling shall not render the expiration date of the product illegible.

**39.8(6) *Reporting.*** As soon as reasonably possible, the authorized pharmacist shall notify the patient’s primary health care provider of the naloxone product provided to the patient. If the patient does not have a primary health care provider, the authorized pharmacist shall provide the patient with a written record of the naloxone product provided to the patient and shall advise the patient to consult a physician.

**39.8(7) *Records.*** An authorized pharmacist shall maintain records of naloxone prescribed and dispensed pursuant to the statewide protocol.

ITEM 3. Adopt the following **new** rule 657—39.9(155A):

**657—39.9(155A) Statewide protocol—nicotine replacement tobacco cessation products.** An authorized pharmacist may prescribe and dispense nicotine replacement tobacco cessation products to patients 18 years and older pursuant to a statewide protocol developed pursuant to rule 657—39.6(155A) and in compliance with this rule. An authorized pharmacist may only delegate the dispensing of a nicotine replacement tobacco cessation product to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist.

**39.9(1) *Definitions.*** For the purposes of this rule, the following definitions shall apply:

“*ACPE*” means the Accreditation Council for Pharmacy Education.

“*Authorized pharmacist*” means an Iowa-licensed pharmacist who has completed the training requirements of this rule. “*Authorized pharmacist*” also includes an Iowa-registered pharmacist-intern who has completed the training requirements of this rule and is working under the direct supervision of an authorized pharmacist.

## PHARMACY BOARD[657](cont'd)

“*Authorized pharmacist-intern*” means an Iowa-registered pharmacist-intern who has completed the training requirements for an authorized pharmacist pursuant to this rule.

“*Board*” means the Iowa board of pharmacy.

**39.9(2) *Authorized pharmacist training.*** An authorized pharmacist shall document successful completion of an ACPE-approved continuing education program of at least one-hour duration related to nicotine replacement tobacco cessation product utilization prior to dispensing such products under the statewide protocol.

**39.9(3) *Assessment.*** An authorized pharmacist shall assess a patient for appropriateness of receiving a nicotine replacement tobacco cessation product pursuant to the statewide protocol.

**39.9(4) *Patient counseling and instructions.*** Upon assessment and determination that provision of the nicotine replacement tobacco cessation product is appropriate pursuant to the statewide protocol, an authorized pharmacist shall, prior to dispensing such product, provide counseling and instructions to the patient pursuant to rule 657—6.14(155A).

**39.9(5) *Labeling.*** Nicotine replacement tobacco cessation products dispensed pursuant to this rule shall be labeled in accordance with rule 657—6.10(126,155A), and the labeling shall not render the expiration date of the product illegible.

**39.9(6) *Reporting.*** As soon as reasonably possible, the authorized pharmacist shall notify the patient’s primary health care provider of the nicotine replacement tobacco cessation product provided to the patient. If the patient does not have a primary health care provider, the authorized pharmacist shall provide the patient with a written record of the nicotine replacement tobacco cessation product provided to the patient and shall advise the patient to consult a physician.

**39.9(7) *Records.*** An authorized pharmacist shall maintain records of nicotine replacement tobacco cessation products prescribed and dispensed pursuant to the statewide protocol.

ITEM 4. Amend rule 657—39.10(155A) as follows:

**657—39.10(155A) Vaccine administration by pharmacists—physician-approved protocol.** ~~An~~ Through June 30, 2019, an authorized pharmacist may administer vaccines pursuant to protocols established by the CDC in compliance with the requirements of this rule. An authorized pharmacist may only delegate the administration of a vaccine to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

**39.10(1)** No change.

**39.10(2) *Authorized pharmacist training and continuing education.*** An authorized pharmacist shall document successful completion of the requirements in paragraph 39.10(2)“a” and shall maintain competency by completing and maintaining documentation of the continuing education requirements in paragraph 39.10(2)“b.”

*a. Initial qualification.* An authorized pharmacist shall have successfully completed an organized course of study in a college or school of pharmacy or an ACPE-accredited continuing education program on vaccine administration that:

(1) Requires documentation by the pharmacist of current certification in ~~the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol~~ basic cardiac life support through a training program designated for health care providers that includes hands-on training.

(2) No change.

*b. Continuing education.* During any pharmacist license renewal period, an authorized pharmacist who engages in the administration of vaccines shall complete and document at least one hour of ACPE-approved continuing education related to vaccines. ~~with the ACPE topic designator “06” followed by the letter “P.”~~

*c. Certification maintained.* During any period within which the pharmacist may engage in the administration of vaccines, the pharmacist shall maintain current certification in ~~the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol~~ basic cardiac life support through a training program designated for health care providers that includes hands-on training.

**39.10(3) to 39.10(6)** No change.

## PHARMACY BOARD[657](cont'd)

**39.10(7) Verification and reporting.** The requirements of this subrule do not apply to influenza and other emergency vaccines administered via protocol pursuant to subrule 39.10(4). An authorized pharmacist shall:

- a. No change.
- b. ~~Within 30 days~~ As soon as reasonably possible following administration of a vaccine identified in subrule 39.10(5) or 39.10(6), report the vaccine administration to the statewide immunization registry or health information network and to the patient's primary health care provider, if known.

ITEM 5. Adopt the following new rule 657—39.11(155A):

**657—39.11(155A) Vaccine administration by pharmacists—statewide protocol.** An authorized pharmacist may prescribe and administer vaccines and immunizations pursuant to a statewide protocol developed pursuant to rule 657—39.6(155A) and in compliance with this rule. An authorized pharmacist may only delegate the prescribing and administration of a vaccine to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist.

**39.11(1) Definitions.** For the purposes of this rule, the following definitions shall apply:

“ACIP” means the CDC Advisory Committee on Immunization Practices.

“ACPE” means the Accreditation Council for Pharmacy Education.

“Authorized pharmacist” means an Iowa-licensed pharmacist who has met the requirements identified in subrule 39.11(3).

“Authorized pharmacist-intern” means an Iowa-registered pharmacist-intern who has met the requirements for an authorized pharmacist identified in subrule 39.11(3).

“Board” means the Iowa board of pharmacy.

“CDC” means the United States Centers for Disease Control and Prevention.

“Immunization” shall have the same meaning as, and shall be interchangeable with, the term “vaccine.”

“Vaccine” means a specially prepared antigen administered to a person for the purpose of providing immunity.

**39.11(2) Vaccines authorized by statewide protocol.** The vaccines authorized to be prescribed and administered pursuant to the statewide protocol shall include:

- a. To patients ages 18 years and older:
  - (1) An immunization or vaccination recommended by ACIP in its approved vaccination schedule for adults.
  - (2) An immunization or vaccination recommended by CDC for international travel.
  - (3) A Tdap (tetanus, diphtheria, acellular pertussis) vaccination in a booster application.
  - (4) Other emergency immunizations or vaccinations in response to a public health emergency.
- b. To patients ages six months and older:
  - (1) A vaccine or immunization for influenza.
  - (2) Other emergency immunizations or vaccines in response to a public health emergency.
- c. To patients ages 11 years and older:
  - (1) The final two doses in a course of vaccinations for human papillomavirus (HPV).
  - (2) Reserved.

**39.11(3) Authorized pharmacist training and continuing education.** An authorized pharmacist shall document successful completion of the requirements in paragraph 39.11(3) “a” and shall maintain competency by completing and maintaining documentation of the continuing education requirements in paragraph 39.11(3) “b.”

a. *Initial qualification.* An authorized pharmacist shall have successfully completed an organized course of study in a college or school of pharmacy or an ACPE-accredited continuing education program on vaccine administration that:

- (1) Requires documentation by the pharmacist of current certification in basic cardiac life support through a training program designated for health care providers that includes hands-on training.

## PHARMACY BOARD[657](cont'd)

(2) Is an evidence-based course that includes study material and hands-on training and techniques for administering vaccines, requires testing with a passing score, complies with current CDC guidelines, and provides instruction and experiential training in the following content areas:

1. Standards for immunization practices;
2. Basic immunology and vaccine protection;
3. Vaccine-preventable diseases;
4. Recommended immunization schedules;
5. Vaccine storage and management;
6. Informed consent;
7. Physiology and techniques for vaccine administration;
8. Pre- and post-vaccine assessment, counseling, and identification of contraindications to the vaccine;
9. Immunization record management; and
10. Management of adverse events, including identification, appropriate response, documentation, and reporting.

*b. Continuing education.* During any pharmacist license renewal period, an authorized pharmacist who engages in the administration of vaccines shall complete and document at least one hour of ACPE-approved continuing education with the ACPE topic designator "06" followed by the letter "P."

*c. Certification maintained.* During any period within which the pharmacist may engage in the administration of vaccines, the pharmacist shall maintain current certification in basic cardiac life support through a training program designated for health care providers that includes hands-on training.

**39.11(4) Assessment.** An authorized pharmacist shall assess a patient for appropriateness of receiving a vaccine pursuant to the statewide protocol.

**39.11(5) Verification and reporting.** Prior to the prescribing and administration of an immunization pursuant to the statewide protocol, the authorized pharmacist shall consult and review the statewide immunization registry or health information network. As soon as reasonably possible following administration of a vaccine, the pharmacist shall report such administration to the patient's primary health care provider, primary physician, and a statewide immunization registry or health information network. If the patient does not have a primary health care provider, the pharmacist shall provide the patient with a written record of the vaccine administered to the patient and shall advise the patient to consult a physician.

ITEM 6. Amend **657—Chapter 39**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 135.190, 147.76, 147A.18, 155A.2, 155A.3, 155A.13, 155A.33, and 155A.44; 2018 Iowa Acts, Senate File 2322; and 2011 Iowa Acts, chapter 63, section 36, as amended by 2012 Iowa Acts, chapter 1113, section 31, and by 2013 Iowa Acts, chapter 138, section 128.

[Filed 1/10/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4271C**

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

**Rule making related to minors' school licenses**

The Department of Transportation hereby amends Chapter 602, "Classes of Driver's Licenses," Iowa Administrative Code.

TRANSPORTATION DEPARTMENT[761](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.194.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 321.194.

*Purpose and Summary*

This rule making updates Chapter 602 to align with existing legal authority and Department practice. The amendments conform the rules with 2018 Iowa Acts, House File 2494, sections 5 to 7, which amended Iowa Code section 321.194 and concern the requirements for obtaining a minor's school license, most notably for students who attend an accredited nonpublic school (i.e., private school).

Prior to July 1, 2018, Iowa Code section 321.194, which governs minors' school licenses, was directed toward students attending public schools and did not address minors' school license issuance for students attending private schools. Specifically, the language that previously existed in Iowa Code section 321.194 tied the distance a student using a minor's school license could drive to school district boundaries and required approval for the license by certain public school officials. Because private schools do not have a traditional school district like public schools and do not necessarily have the same types of school officials as public schools (for example, a private school may employ a school president rather than a principal), the 2018 legislative changes were made to address these disparities by establishing a geographic boundary that applies to private school students and accounting for private school officials that differ from public school officials. The legislative changes provide that a student attending a private school is limited to driving no more than a 25-mile driving distance between the student's residence and school and that the appropriate private school official has the responsibility to sign the certificate of necessity for the minor's school license, and the amendments reflect the statutory requirements.

Iowa Code section 321.194 provides that a student must take and complete an approved driver education course before obtaining a minor's school license, unless the student qualifies for a hardship exemption, and authorizes the Department to establish rules specifically defining hardship and establishing procedures for demonstrating hardship. The hardship exemption is found in subrule 602.26(3), and the amendment allows the exemption to be signed by an appropriate school official of the school district of residence or of the applicant's school, depending on whether the applicant attends a public school or an accredited nonpublic school. Subrule 602.26(3) has always applied to both public and private school students; however, prior to this amendment, only a public school official could sign the hardship exemption. This process created an extra step for private school students by causing the student to have to request assistance from a school which was not necessarily familiar with the student.

The amendments also incorporate the 25-mile driving distance restriction for a private school student who drives from multiple residences if the student's parents are divorced or separated. Public school students may drive from multiple residences only if the primary and secondary residences are located within the public school district of enrollment or a contiguous public school district. The amendments similarly allow a private school student to drive from multiple residences provided the student's primary and secondary residences are no more than a 25-mile driving distance from the school of enrollment.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 5, 2018, as **ARC 4161C**. No public comments or requests for oral presentations were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 9, 2019.

TRANSPORTATION DEPARTMENT[761](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 person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 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 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—602.2(321) as follows:

**761—602.2(321) Information and forms.** Applications, forms and information about driver's licensing are available at any driver's license examination station or on the department's Web site at [www.iowadot.gov](http://www.iowadot.gov) service center. Assistance is also available at the address in rule 761—600.2(17A) by mail from Driver and Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at [www.iowadot.gov](http://www.iowadot.gov).

**602.2(1) Certificate of completion.** Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education, except that proof of successful completion of an Iowa-approved course in driver education may instead be submitted through an online reporting system used by participating Iowa-approved driver education schools.

*a.* If a student completed a course in another state, a public or licensed commercial or private provider of the Iowa-approved course may issue the form or online completion, if applicable, for the student if the provider determines that the out-of-state course is comparable to the Iowa-approved course.

*b.* If the out-of-state course is comparable but lacks certain components of the Iowa-approved course, the provider may issue the form or online completion, if applicable, after the student completes the missing components.

**602.2(2)** No change.

**602.2(3) Waiver of accompanying driver for intermediate licensee.** Form 431170 is the waiver described in Iowa Code subsection 321.180B(2). This form allows an intermediate licensee to drive unaccompanied between the hours of 12:30 a.m. and 5 a.m. and must be in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

*a.* No change.

*b.* If the licensee attends a public school and the waiver is for school-related extracurricular activities, the form must be signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent. If the licensee attends an accredited nonpublic school and the waiver is for school-related extracurricular activities, the form

## TRANSPORTATION DEPARTMENT[761](cont'd)

must be signed by an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority.

*c.* No change.

**602.2(4)** No change.

This rule is intended to implement Iowa Code sections 321.8, 321.178, 321.180B, 321.184, 321.189, and 321.194.

ITEM 2. Amend rule **761—602.14(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 321.196 ~~and 2013 Iowa Acts, chapter 104, section 2.~~

ITEM 3. Amend rule 761—602.26(321) as follows:

**761—602.26(321) Minor's school license.**

**602.26(1)** *Validity and issuance.*

*a.* No change.

*b.* The license is valid during the times and for the purposes set forth in Iowa Code ~~subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194~~ and at any time when the licensee is accompanied in accordance with Iowa Code ~~subsection~~ section 321.180B(1).

*c.* and *d.* No change.

**602.26(2)** *Requirements.*

*a.* No change.

*b.* An applicant who attends a public school shall submit a statement of necessity signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent. An applicant who attends an accredited nonpublic school shall submit a statement of necessity signed by an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority. The statement shall be on Form 430021.

*c.* and *d.* No change.

**602.26(3)** *Exemption.*

*a.* An applicant is not required to have completed an approved driver education course if the applicant demonstrates to the satisfaction of the department that completion of the course would impose a hardship upon the applicant; however, the applicant must meet all other requirements for a school license. "Hardship" means:

(1) to (3) No change.

(4) That the applicant is ~~permanently handicapped~~ a person with a disability. In this rule, ~~"handicapped"~~ "person with a disability" means that, because of a disability or impairment, the applicant is unable to walk in excess of 200 feet unassisted or cannot walk without causing serious detriment or injury to the applicant's health.

*b.* "Demonstrates to the satisfaction of the department" means that the department has received written proof that a hardship exists; An applicant who attends a public school shall submit written proof of hardship signed by the applicant's parent, custodian or guardian and by the superintendent of the applicant's school, the chairperson of the school board, or the principal, of the applicant's school if authorized by the superintendent, of the applicant's school or school district of residence. An applicant who attends an accredited nonpublic school shall submit written proof of hardship signed by the applicant's parent, custodian or guardian and by either an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority, or by the superintendent, the chairperson of the school board, or the principal, if authorized by the superintendent, of the applicant's school district of residence.

**602.26(4)** *Multiple residences.*

*a.* An applicant whose parents are divorced or separated and who as a result of shared custody maintains more than one residence may be authorized to operate a motor vehicle from either residence during the times and for the purposes set forth in Iowa Code ~~subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, provided that~~ section 321.194 if one of the following applies:

TRANSPORTATION DEPARTMENT[761](cont'd)

(1) If the applicant attends a public school, the statement of necessity provided to the department certifies that a need exists to drive from each residence, that the school of enrollment identified in the statement of necessity meets the geographic requirements for an applicant attending a public school set forth in Iowa Code subsection 321.194(3) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194 as determined by the primary residence identified in the statement of necessity, and that the secondary residence identified in the statement of necessity is either within the school district that includes the applicant's school of enrollment or is within an Iowa school district contiguous to the applicant's school of enrollment.

(2) If the applicant attends an accredited nonpublic school, the statement of necessity provided to the department certifies that a need exists to drive from each residence, that the school of enrollment identified in the statement of necessity meets the geographic requirements for an applicant attending an accredited nonpublic school set forth in Iowa Code section 321.194 as determined by the primary residence identified in the statement of necessity, and that the secondary residence identified in the statement of necessity is no more than 25 miles driving distance from the school of enrollment.

b. The fact that either residence is less than one mile from the applicant's school of enrollment shall not preclude travel to and from each residence at the times and for the purposes set forth in Iowa Code subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194 provided that need is otherwise demonstrated.

b. c. A minor's school license approved for travel to and from two residences for the purposes set forth in Iowa Code subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194 shall not be valid for travel directly between each residence unless the licensee is accompanied in accordance with Iowa Code ~~subsection~~ section 321.180B(1).

e. d. The primary residential address listed in the statement of necessity shall appear on the face of the license. A minor's school license approved for travel to and from two residences shall include a "J" restriction on the face of the license, and the secondary address listed in the statement of necessity shall be listed on the reverse side of the license as part of the "J" restriction, with the following notation: "Also valid to drive to and from [secondary residential address] in compliance with 321.194."

This rule is intended to implement Iowa Code sections 321.177, 321.180B, 321.189, 321.194 and 321.196.

[Filed 1/9/19, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4272C**

## **UTILITIES DIVISION[199]**

### **Adopted and Filed**

#### **Rule making related to civil penalties**

The Utilities Board hereby amends Chapter 8, "Civil Penalties," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 474.5 and 476.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.51, 476.103, 476A.14, 478.29, 479.31 and 479B.21.

UTILITIES DIVISION[199](cont'd)

### *Purpose and Summary*

The purpose of this rule making is to update and amend the Board's rules establishing procedures for assessing civil penalties. Specifically, the Board has revised the rules to reference the statutory sections that authorize the Board to assess civil penalties; clarify that the Board may assess civil penalties for willful and nonwillful violations of the statutes, Board rules, or Board orders; require filing a request for civil penalties electronically in the Board's electronic filing system; and provide that the Board will schedule a hearing based upon the circumstances of the violation.

The Board issued an order on December 28, 2018, adopting amendments. The order provides a full discussion of the proposed amendments and is available on the Board's electronic filing system, [efs.iowa.gov](http://efs.iowa.gov), under Docket No. RMU-2016-0023.

### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 20, 2018, as **ARC 3851C**. An oral presentation was held on July 24, 2018, at 2:30 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); MidAmerican Energy Company; Black Hills Energy; and Board staff participated in the oral presentation. Comments were received concerning proposed subrule 8.1(1); OCA stated it was no longer suggesting any changes to the definition of "willful" other than what was currently proposed in the Notice of Intended Action. OCA stated it would oppose extending the definition of "willful" in 8.1(1) to the other subrules. IPL stated it would like the last sentence in subrule 8.1(1) to be removed and a definition of "willful" to be added that would apply to rule 199—8.1(476,476A,478,479,479B). Board staff stated that the specific definition of "willful" was added to subrule 8.1(1) because the definition is specifically discussed in Iowa Code section 476.51 and not in the other civil penalty statutes. OCA stated that the word "rule" should be changed to "chapter" in rule 199—8.5(476,476A,478,479,479B). No other changes suggested by the parties were made.

The Board changed the word "rule" to "chapter" in rule 199—8.5(476,476A,478,479,479B). No other changes from the Notice have been made.

### *Adoption of Rule Making*

This rule making was adopted by the Board on December 28, 2018.

### *Fiscal Impact*

These amendments update and amend existing rules that are required to be followed for requests for civil penalties. No additional actions having a fiscal impact are being adopted.

### *Jobs Impact*

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

### *Waivers*

No waiver provision is included in these amendments since the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 8.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's

## UTILITIES DIVISION[199](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 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 199—8.1(476) as follows:

**199—8.1(476,476A,478,479,479B) Civil penalty for willful violation.** The board may assess a penalty against a public utility upon finding that the utility willfully violated a provision of Iowa Code chapter 476, a board rule, or a provision of an order lawfully issued by the board. civil penalties pursuant to the following statutes:

A willful violation exists where the evidence shows that the utility intentionally or knowingly violated a board rule, a provision of an order lawfully issued by the board in a proceeding involving the same utility, or a provision of Iowa Code chapter 476.

This rule is intended to implement Iowa Code sections 476.20 and 476.51.

8.1(1) Pursuant to Iowa Code section 476.51 for a violation of a provision of Iowa Code chapter 476, a rule adopted by the board, or a provision of an order issued by the board. For a continuing violation, the board may specify a time for curing the violation before assessing a penalty. The time specified for curing the violation is a case-by-case determination based upon the factors of the violation. A “willful” violation means knowing and deliberate action taken with a specific intent to violate.

8.1(2) Pursuant to Iowa Code section 476.103 for an unauthorized change in communications service.

8.1(3) Pursuant to Iowa Code section 476A.14 for unauthorized construction, operation, or maintenance of a facility as defined in Iowa Code chapter 476A without first obtaining a certificate issued by the board or a waiver of the certificate requirement.

8.1(4) Pursuant to Iowa Code section 478.29 for a violation of electric transmission line franchise requirements.

8.1(5) Pursuant to Iowa Code section 479.31 for a violation of the permit requirements for a pipeline or underground gas storage facility.

8.1(6) Pursuant to Iowa Code section 479B.21 for a violation of the permit requirements for a hazardous liquid pipeline or any order issued in accordance with Iowa Code chapter 479B.

ITEM 2. Amend rule 199—8.2(476) as follows:

**199—8.2(476,476A,478,479,479B) Procedure.** A request for imposition of civil penalties must be made within 180 days of the date the party filing the request knew or should have known of the alleged violation. The request shall be considered as filed on the date of the United States Postal Service postmark or the date personal service is made filed in the board’s electronic filing system, [efs.iowa.gov/efs/](https://efs.iowa.gov/efs/). The request shall be in writing and must be delivered by United States Postal Service or personal service. The 180-day limit is tolled by commencing an informal complaint proceeding in accordance with Iowa Administrative Code 199—Chapter 6. If the board determines that a formal proceeding is required to consider a request for civil penalties, the board will establish a procedural schedule, which shall include notice and an opportunity for a hearing.

~~8.2(1) Request by nonboard party.~~ As a part of a request for a formal proceeding in accordance with Iowa Administrative Code 199—6.5(476) or as part of any other contested case proceeding, the consumer advocate or any other person may request the board to impose civil penalties against a utility for a willful violation of a provision of Iowa Code chapter 476, a board rule, or an order lawfully issued by the board in a proceeding involving the same utility.

In a complaint proceeding, the request for imposition of civil penalties must appear on the face of a request for formal proceeding filed in accordance with the provisions of Iowa Administrative Code

## UTILITIES DIVISION[199](cont'd)

~~199—Chapter 6. Upon receiving approval from the board, a party may amend its request for a formal proceeding to request the board to impose civil penalties at any time prior to the close of the submission of evidence. In any other contested case proceeding, the request must be made by written motion prior to the close of the submission of evidence.~~

~~**8.2(2) Board request.** On its own motion, the board may raise the issue of imposing civil penalties against a utility for a willful violation of Iowa Code chapter 476, a board rule, or a provision of an order lawfully issued by the board in a proceeding involving the same utility, as part of a contested case proceeding with adequate notice or by commencing a formal complaint proceeding in accordance with the provisions of Iowa Administrative Code 199—Chapter 6.~~

~~**8.2(3) Hearing.** If necessary, a hearing shall be held in accordance with the provisions of Iowa Administrative Code 199—Chapter 6 where there is an issue of adjudicative fact. The utility may waive its right to a hearing. A separate hearing on an adjudicative fact is not required if the same issue of adjudicative fact has been fully litigated by the identical parties with adequate notice as part of a contested case proceeding.~~

~~This rule is intended to implement Iowa Code sections 476.20 and 476.51.~~

ITEM 3. Amend rule 199—8.3(476) as follows:

**199—8.3(476,476A,478,479,479B) Penalties assessed.** The board, in its discretion, may levy penalties of not more than \$100 per violation or \$1000 per day of a continuing violation, whichever is greater. Each violation is a separate offense. In the case of a continuing violation, each day a violation continues is a separate and distinct offense. Any civil penalty may be compromised by the board.

~~In determining the amount of penalty to be imposed for a willful violation, the board may consider the following factors in exercising its statutory discretion to impose civil penalties up to the maximum amount:~~

- ~~1.—Gravity of the offense;~~
  - ~~2.—The utility's prior record of Code, rule, and order violations;~~
  - ~~3.—The actual or potential harm or injury to an individual or the public resulting from the violation.~~
- ~~This rule is intended to implement Iowa Code sections 476.20 and 476.51.~~

ITEM 4. Amend rule 199—8.4(476) as follows:

**199—8.4(476,476A,478,479,479B) Payment of penalty.** Civil penalties collected shall be paid in accordance with Iowa Code section 476.51, 476.103, 476A.14, 478.29, 479.31, or 479B.21, and any other applicable provision. The remittance shall be made payable to the Iowa Utilities Board and forwarded to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. Remittance must be made within 35 days after final agency action assessment of the penalty unless otherwise ordered by the board.

~~This rule is intended to implement Iowa Code sections 476.20 and 476.51.~~

ITEM 5. Amend rule 199—8.5(476) as follows:

**199—8.5(476,476A,478,479,479B) Rate-regulated utilities.** A penalty assessed by the board pursuant to this rule chapter against a rate-regulated utility must be recorded by the utility as a below-the-line, miscellaneous deduction from the income account shall be excluded from the utility's costs when determining the utility's revenue requirement and shall not be included directly or indirectly in the utility's rates or charges to customers.

~~This rule is intended to implement Iowa Code sections 476.20 and 476.51.~~

UTILITIES DIVISION[199](cont'd)

ITEM 6. Adopt the following **new** implementation sentence in **199—Chapter 8**:  
These rules are intended to implement Iowa Code sections 476.51, 476.103, 476A.14, 478.29, 479.31 and 479B.21.

[Filed 12/28/18, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4273C**

## **UTILITIES DIVISION[199]**

**Adopted and Filed**

### **Rule making related to utility records**

The Utilities Board hereby amends Chapter 18, "Utility Records," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 17A.4, 476.2 and 476.9.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.9, 476.31 and 546.7.

#### *Purpose and Summary*

The purpose of this rule making is to update and amend the Board's rules regarding access and retention of utility records. The amendments are designed to update references to utility record standards and update the scope of utilities subject to the provisions of the chapter. The dates of federal regulations are updated so that whatever a regulated utility files with a federal agency is also filed with the Board. On December 28, 2018, the Board issued an order adopting amendments. The order is available on the Board's electronic filing system, [efs.iowa.gov](http://efs.iowa.gov), under Docket No. RMU-2016-0034.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3913C**. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); and the Iowa Communications Alliance (ICA) filed comments addressing the Notice of Intended Action. OCA indicated it had no objection to the Notice of Intended Action. IPL indicated it had no further suggested revisions to the rules. ICA noted it did not object to the scope of proposed rule 199—18.8(476) but questioned why a new rule was needed to enforce a federal records preservation requirement. ICA urged the Board to avoid using the rule to adopt any new obligations to affirmatively make new filings or certifications to certify compliance with the rule.

After review, the Board found that the revisions to Iowa Code section 476.9 made by 2018 Iowa Acts, House File 2446, which was signed into law on May 17, 2018, exempt telecommunications service providers, including those that have to file tariffs with the Board, from record keeping prescribed by the Board. Accordingly, the Board has modified the amendment proposed in Item 10 of the Notice of Intended Action by rescinding rule 199—18.8(476) without adopting new language for the rule. No other changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Board on December 28, 2018.

UTILITIES DIVISION[199](cont'd)

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. These amendments update and amend existing rules that are required to be followed for retention and access to utility records.

*Jobs Impact*

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

*Waivers*

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 18.

*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 6, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 199—18.2(476) as follows:

**199—18.2(476) Location of records.** All records required by any rules of the board, or necessary for the administration thereof, shall be kept or made accessible within this state unless otherwise authorized by the board. Any transfer of records from a location outside this state to another location outside this state shall also require prior board authorization, but a transfer from outside this state to a locale within this state may be made with only prior notification to the board.

The board is to be notified by each rate-regulated gas utility and electric utility within 30 days of any change in the address, telephone number, or business hours of the utility's principal office for Iowa operations. A utility providing gas and electric service may designate one principal office for both types of utility operations or a separate principal office for each type of utility operation. Notwithstanding any other provision of these rules, the following books, accounts, papers, and records, or current copies thereof, are required to be maintained or made accessible at the utility's principal office for Iowa operations:

**18.2(1)** The utility's tariffs.

**18.2(2)** A record of the number and business location of the utility's administrative, technical, and operating personnel within the state.

**18.2(3)** The most recent inspection report.

**18.2(4)** The most recent rate case filing.

**18.2(5)** Annual reports for the past five years.

**18.2(6)** Shareholder's reports for the past five years.

**18.2(7)** Form IG-1 (gas utilities).

**18.2(8)** Form IE-1 (electric utilities).

**18.2(9)** Information regarding the location of other books, records, and accounts required by the board to be maintained by the board or made accessible pursuant to statute or rule.

## UTILITIES DIVISION[199](cont'd)

ITEM 2. Amend subrule 18.4(1) as follows:

**18.4(1) *Units of property.*** Electric utilities subject to rate regulation shall maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Electric Plant in accordance with 199—16.2(476), ~~which adopts the 2000 FERC rules, 18 CFR Part 101, Electric Plant Instructions.~~

ITEM 3. Amend subrule 18.4(2) as follows:

**18.4(2) *Preservation of records.*** All electric utilities subject to regulation by the board shall preserve the records of their operations in accordance with the provisions of Part 125 of the FERC rules, 18 CFR Part 125, Preservation of Records of Public Utilities and Licensees, as issued on ~~April 1, 2000~~ August 15, 2000. Rate-regulated companies shall further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

ITEM 4. Amend subrule 18.5(1) as follows:

**18.5(1) *Units of property.*** Rural electric cooperatives (RECs) subject to rate regulation by the board shall adopt the RUS rules contained in RUS 7 CFR Part 1767 ~~issued January 1, 2002~~ published May 27, 2008. The REC shall maintain sufficient records to support additions to plant, retirement units, and replacements of electric plant, in accordance with 7 CFR Part 1767.10, Definitions, 7 CFR Part 1767.15, General Instructions, 7 CFR Part 1767.16, Electric Plant Instructions, and 7 CFR Part 1767.20, Plant Accounts.

ITEM 5. Amend subrule 18.5(2) as follows:

**18.5(2) *Preservation of records.*** Rural electric cooperatives shall preserve the records of their operations in accordance with the provisions of the RUS rules contained in RUS Bulletin 180-2, ~~Manual for Preservation of Borrowers Records (Electric)~~ Record Retention Recommendations for RUS Electric Borrowers, issued June 6, 1972 issued June 26, 2003.

ITEM 6. Amend subrule 18.6(1) as follows:

**18.6(1) *Units of property.*** Gas utilities subject to rate regulation shall maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Gas Plant in accordance with 199—16.3(476), ~~which adopts the 2000 FERC rules, 18 CFR Part 201, Gas Plant Instructions.~~

ITEM 7. Amend subrule 18.6(2) as follows:

**18.6(2) *Preservation of records.*** All gas utilities subject to regulation by the board shall preserve the records of their operations in accordance with the provisions of FERC rules, 18 CFR Part 225, Preservation of Records of Natural Gas Companies, as issued ~~April 1, 2000~~ August 15, 2000. Rate-regulated companies shall further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

ITEM 8. Amend subrule 18.7(1) as follows:

**18.7(1) *Units of property.*** Water, sanitary sewage, and storm water drainage utilities subject to rate regulation shall maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Water Plant in accordance with 199—16.4(476) ~~which adopts the 1996 NARUC uniform systems of accounts for Class A, B, and C water utilities.~~

ITEM 9. Amend subrule 18.7(2) as follows:

**18.7(2) *Preservation of records.*** All water, sanitary sewage, and storm water drainage utilities subject to regulation by the board shall preserve the records of their operations in accordance with the provisions of the NARUC guidelines: Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, revised ~~May 1985~~ October 2007 edition. Regulated water, sanitary sewage, and storm water drainage utilities shall further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

UTILITIES DIVISION[199](cont'd)

ITEM 10. Rescind and reserve rule **199—18.8(476)**.

[Filed 12/28/18, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.

**ARC 4274C**

## **UTILITIES DIVISION[199]**

**Adopted and Filed**

### **Rule making related to energy efficiency of nonregulated utilities**

The Utilities Board hereby rescinds Chapter 36, "Energy Efficiency Planning and Reporting for Natural Gas and Electric Utilities Not Required to Be Rate-Regulated," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 474.5 and 476.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2018 Iowa Acts, chapter 1135, sections 4, 5, and 11.

#### *Purpose and Summary*

The purpose of this rule making is to rescind the Board's rules regarding energy efficiency filing requirements for natural gas and electric utilities not required to be rate-regulated. The requirements were repealed effective July 1, 2018, in 2018 Iowa Acts, chapter 1135, sections 4, 5, and 11. On December 28, 2018, the Board issued an order adopting rescission and reservation. The order is available on the Board's electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2018-0001.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 12, 2018, as **ARC 3990C**. There were no adverse comments. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Board on December 28, 2018.

#### *Fiscal Impact*

The rescission removes energy efficiency requirements in the existing rules as mandated by state law. No additional actions having a fiscal impact are being adopted.

#### *Jobs Impact*

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

#### *Waivers*

No waiver provision is included in the amendment because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the Board's rules.

UTILITIES DIVISION[199](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 6, 2019.

The following rule-making action is adopted:

Rescind and reserve **199—Chapter 36**.

[Filed 12/17/18, effective 3/6/19]

[Published 1/30/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/19.