



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

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

JACK EWING, Administrative Code Editor
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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2022

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
19	Friday, March 4, 2022	March 23, 2022
20	Friday, March 18, 2022	April 6, 2022
21	Friday, April 1, 2022	April 20, 2022

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 Monday, March 7, 2022, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Farm-to-school fund, ch 51 Filed **ARC 6217C**..... 2/23/22
 Record-keeping—exemption for tropical and ornamental fish, 67.6 Filed **ARC 6213C** 2/23/22
 Weights and measures, amendments to ch 85 Filed **ARC 6216C**..... 2/23/22

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Licensure, registration, or qualification—reinstatement, fees, amendments to chs 1,14,15, 25
Notice **ARC 6210C** 2/23/22

ECONOMIC DEVELOPMENT AUTHORITY[261]

Economic development programs—funding, 7.6(1), 42.2(2), 42.3(1)“b,” 81.3(3),
 220.4(1)“b,” 221.2, 221.4(1)“c” Notice **ARC 6202C**..... 2/23/22
 Removal of discontinued programs, rescind chs 9, 11, 25, 28 to 30, 33, 53, 57, 58, 61 to 64,
 67, 69, 74, 80, 103, 107, 109, 111, 311 to 314, 402 Notice **ARC 6203C** 2/23/22
 High quality jobs program, 68.1 to 68.5, 173.1(1), 174.2(1), 187.5(4)“e,” 188.2, 188.4, 188.5
Filed **ARC 6188C**..... 2/9/22
 Aggregate tax credit limit for certain economic development programs, 76.4(3), 76.5, 76.6,
 76.8 Filed **ARC 6189C**..... 2/9/22

EDUCATION DEPARTMENT[281]

High school programs; flexible student and school support program; accountability
 framework, amendments to ch 12 Notice **ARC 6182C** 2/9/22
 Open enrollment—criteria for failure to reasonably respond to a student’s failure to meet
 academic standards, 17.5(3) Notice **ARC 6184C** 2/9/22
 Standards for teacher intern preparation programs, 77.8(5)“a,” 77.10(7), 77.11(2) Notice **ARC 6183C** 2/9/22
 Supplementary weighting plan for operational function sharing—special education director,
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ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Public and nonpublic water supply, 9.4(3), 40.2, 43.3, 49.6(1) Filed **ARC 6190C**..... 2/9/22
 Wastewater, amendments to chs 60 to 64 Filed **ARC 6191C**..... 2/9/22
 Land application of sewage sludge, 67.1(1), 67.2(2), 67.4 to 67.8, 67.10, 67.11(2)“h” Filed **ARC 6192C**..... 2/9/22
 Operator certification—public water supply systems, wastewater treatment systems, 81.1,
 81.3, 81.5(1), 81.7(1), 81.7(3)“b”(2), 81.16(1) Filed **ARC 6193C** 2/9/22

HUMAN SERVICES DEPARTMENT[441]

Community mental health centers, amendments to ch 24 Notice **ARC 6211C** 2/23/22
 Mental health and disability services region incentive fund—application, approval, reporting,
 25.11, 25.22 Filed **ARC 6195C**..... 2/9/22
 Integrated health homes; chronic health homes, amendments to chs 77 to 79 Notice **ARC 6206C**..... 2/23/22
 Child care assistance—fee schedule, income guidelines, 170.2(1)“a,” 170.4 Notice **ARC 6209C** 2/23/22

INSPECTIONS AND APPEALS DEPARTMENT[481]

Administrative electronic document management system, ch 16 Notice **ARC 6176C**..... 2/9/22
 Social and charitable gambling—responsible party, raffles, 100.1, 100.3(7), 100.16
Notice **ARC 6214C** 2/23/22

IOWA FINANCE AUTHORITY[265]

Beginning farmer tax credit program, 44.2, 44.6 Filed Emergency After Notice **ARC 6167C** 2/9/22

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

Contribution rates; coverage for employees of regents institutions; suspected fraud in
 disability claims; final distribution to heirs who have filed claims; successor alternate
 payees; qualified domestic relations orders, amendments to chs 4, 5, 13, 14, 16 Filed **ARC 6215C** 2/23/22

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Penalties for occupational safety and health citations, 3.11(1) Notice **ARC 6204C** 2/23/22

Community right to know, rescind ch 110; amend chs 130, 140 Notice **ARC 6177C** 2/9/22
 Asbestos removal—ten-day notices, 155.5 Notice **ARC 6173C**..... 2/9/22

MANAGEMENT DEPARTMENT[541]

Calculating net general fund revenues, rescind ch 15 Filed **ARC 6186C** 2/9/22

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Class I dock permits—issuance, duration, 16.4(3), 16.17(1) Filed **ARC 6194C**..... 2/9/22

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Administrative and regulatory authority, ch 1 Filed **ARC 6196C**..... 2/23/22

Licensure to practice—registered nurse/licensed practical nurse, ch 3 Filed **ARC 6197C** 2/23/22

Discipline, ch 4 Filed **ARC 6198C** 2/23/22

Telehealth—standards of practice for registered nurses and licensed practical nurses, 6.1, 6.4

Notice **ARC 6208C** 2/23/22

Telehealth—standards of practice for advanced registered nurse practitioners, 7.1, 7.9

Notice **ARC 6205C** 2/23/22

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Security; delegation of dispensing; controlled substances, 6.7(5), 8.3(3)“e,” 10.14(2),

10.18(4), 10.19, 10.20, 10.21(5) Amended Notice **ARC 6179C** 2/9/22

Veterinary compounded preparations for office use—dispensing to owner of veterinary

patient to treat immediate medical need, 20.2, 20.15 Notice **ARC 6178C**..... 2/9/22

Collaborative pharmacy practice, 39.13 Filed **ARC 6174C**..... 2/9/22

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Respiratory care practitioners and polysomnographic technologists—polysomnography

licensure fees, 5.17 Notice **ARC 6180C** 2/9/22

Chiropractic physician preceptors, 42.5(1) Filed **ARC 6187C** 2/9/22

PUBLIC HEALTH DEPARTMENT[641]

Iowa care for yourself (IA CFY) program, 8.1, 8.2(2), 8.3, 8.5(1)“e,” 8.7(1)“a” Filed **ARC 6163C** 2/9/22

Radiation, 38.8(1), 41.6, 41.7 Filed **ARC 6164C**..... 2/9/22

Medical residency training matching grants program—liability costs, 108.1, 108.3 to 108.6

Filed **ARC 6165C**..... 2/9/22

Prescription drug donation repository program, 109.1, 109.5(3), 109.14(1) Filed **ARC 6166C** 2/9/22

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Gambling games taxes and fees; problem gambling; risk assessment; vendor licenses; trainer

and assistant trainer licenses; interstate simulcasting; advance deposit wagering; sports

wagering; fantasy sports; coupled entries; reserves; account operation, amendments to

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TRANSPORTATION DEPARTMENT[761]

Vehicle registration and certificate of title, amendments to ch 400 Notice **ARC 6175C** 2/9/22

Commercial driver licensing; adoption by reference of federal regulations, 520.1(1), 529.1,

605.25(8)“a,” 607.10(1)“d,” 607.16(2), 607.31 Notice **ARC 6207C** 2/23/22

Emergency contact information, 601.3, 630.2(2) Notice **ARC 6200C** 2/23/22

Commercial driver’s license skills test, 607.2(1), 607.28, 607.30(2)“a” Filed **ARC 6168C**..... 2/9/22

VETERINARY MEDICINE BOARD[811]

Principles of veterinary medical ethics, 10.6 Filed **ARC 6212C**..... 2/23/22

Veterinarian/client/patient relationship (VCPR)—physical examination, 12.1(1)“b” Filed **ARC 6171C**..... 2/9/22

VOTER REGISTRATION COMMISSION[821]

Voting—registration deadline, no-activity notices, notification of polling place change, 8.5, 10.1 to 10.4, 12.1 Filed **ARC 6199C**..... 2/23/22

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Unemployment insurance benefits, 24.22(3)“c” Notice **ARC 6201C** 2/23/22

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
2415 Highway 218
Osage, Iowa 50461

Representative Mike Boussetot
Ankeny, Iowa
House District 37

Senator Julian Garrett
P.O. Box 493
Indianola, Iowa 50125

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Senator Jesse Green
2344 360th Street
Harcourt, Iowa 50544

Representative Amy Nielsen
North Liberty, Iowa

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

Representative Rick Olson
3012 East 31st Court
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Senator Pam Jochum
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EDUCATION DEPARTMENT[281]

High school programs; flexible student and school support program; accountability framework, amendments to ch 12 IAB 2/9/22 ARC 6182C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: IDOE.zoom.us/j/95808248304?pwd=a3NOeEhtUXorTTBqTENZWdh6VEhWQT09	March 1, 2022 10 to 11 a.m.
Open enrollment—criteria for failure to reasonably respond to a student’s failure to meet academic standards, 17.5(3) IAB 2/9/22 ARC 6184C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: IDOE.zoom.us/j/95808248304?pwd=a3NOeEhtUXorTTBqTENZWdh6VEhWQT09	March 1, 2022 9 to 9:30 a.m.
Standards for teacher intern preparation programs, 77.8(5)“a,” 77.10(7), 77.11(2) IAB 2/9/22 ARC 6183C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: IDOE.zoom.us/j/95808248304?pwd=a3NOeEhtUXorTTBqTENZWdh6VEhWQT09	March 1, 2022 9:30 to 10 a.m.

LABOR SERVICES DIVISION[875]

Penalties for occupational safety and health citations, 3.11(1) IAB 2/23/22 ARC 6204C	150 Des Moines St. Des Moines, Iowa	March 15, 2022 9 a.m. (If requested)
Community right to know, rescind ch 110; amend chs 130, 140 IAB 2/9/22 ARC 6177C	150 Des Moines St. Des Moines, Iowa	March 2, 2022 9 a.m. (If requested)
Asbestos removal—ten-day notices, 155.5 IAB 2/9/22 ARC 6173C	150 Des Moines St. Des Moines, Iowa	March 2, 2022 10 a.m. (If requested)

NURSING BOARD[655]

Telehealth—standards of practice for registered nurses and licensed practical nurses, 6.1, 6.4 IAB 2/23/22 ARC 6208C	Board Office, Suite B 400 S.W. Eighth St. Des Moines, Iowa	March 15, 2022 9 to 10 a.m.
Telehealth—standards of practice for advanced registered nurse practitioners, 7.1, 7.9 IAB 2/23/22 ARC 6205C	Board Office, Suite B 400 S.W. Eighth St. Des Moines, Iowa	March 15, 2022 10 to 11 a.m.

PHARMACY BOARD[657]

Security; delegation of dispensing; controlled substances, 6.7(5), 8.3(3)“e,” 10.14(2), 10.18(4), 10.19, 10.20, 10.21(5) IAB 2/9/22 ARC 6179C	Health Professions Board Room 400 S.W. 8th Street, Suite H Des Moines, Iowa Via Zoom: Link available 24 hours in advance at pharmacy.iowa.gov/meetings	March 3, 2022 10 to 10:30 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Respiratory care practitioners and polysomnographic technologists—polysomnography licensure fees, 5.17 IAB 2/9/22 ARC 6180C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	March 2, 2022 9 to 10 a.m.
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TRANSPORTATION DEPARTMENT[761]

Vehicle registration and certificate of title, amendments to ch 400 IAB 2/9/22 ARC 6175C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	March 3, 2022 9 a.m. (If requested)
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Commercial driver licensing; adoption by reference of federal regulations, 520.1(1), 529.1, 605.25(8)“a,” 607.10(1)“d,” 607.16(2), 607.31 IAB 2/23/22 ARC 6207C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	March 17, 2022 1 p.m. (If requested)
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Emergency contact information, 601.3, 630.2(2) IAB 2/23/22 ARC 6200C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	March 17, 2022 10 a.m.
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The following list will be updated as changes occur.

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

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

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

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ARC 6210C**DENTAL BOARD[650]****Notice of Intended Action****Proposing rule making related to licensure fees and requirements and providing an opportunity for public comment**

The Dental Board hereby proposes to amend Chapter 1, “Administration,” Chapter 14, “Renewal and Reinstatement,” Chapter 15, “Fees,” and Chapter 25, “Continuing Education,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.10, 147.11 and 147.80.

Purpose and Summary

The proposed amendments reduce the requirements and fees necessary to reinstate a lapsed or inactive license, registration or qualification. The proposed amendments are intended to simplify the options related to renewal and streamline the process for reinstatement of a lapsed license, registration or qualification.

Fiscal Impact

This rule making will have minimal fiscal impact to the State of Iowa. Currently, the Board receives approximately \$10,000 in revenue from past due reinstatement fees per fiscal year. This amount would be reduced since the maximum past due renewal fees will be reduced to a single renewal fee as opposed to the currently allowed maximums.

Jobs Impact

After analysis and review of this rule making, there will be a positive impact on jobs in Iowa as the rule making lowers the fees and requirements for the purposes of reinstating a lapsed license, registration or qualification.

Waivers

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

The amendments to Chapter 15 are not subject to request for waiver.

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 March 15, 2022. Comments should be directed to:

DENTAL BOARD[650](cont'd)

Tiffany Allison
Iowa Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Phone: 515.281.3248
Fax: 515.281.7969
Email: Tiffany.Allison@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **650—1.1(153)**, definitions of “Board” and “Dental hygiene committee,” as follows:

“*Board*” means the dental board of ~~dental examiners~~.

“*Dental hygiene committee*,” as defined in Iowa Code section 153.33A, means the dental hygiene committee of the dental board of ~~dental examiners~~.

ITEM 2. Rescind the definition of “Inactive status” in rule **650—1.1(153)**.

ITEM 3. Amend rule 650—1.5(17A,153) as follows:

650—1.5(17A,153) Information. Members of the public may obtain information from or submit requests relating to the practice of dentistry, dental hygiene, or dental assisting, continuing education, or any other matter to the Executive Director, Iowa ~~Board of Dental Examiners~~ Board, 400 ~~SW~~ S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

ITEM 4. Amend rule 650—14.1(147,153,272C), introductory paragraph, as follows:

650—14.1(147,153,272C) Renewal of license to practice dentistry or dental hygiene. A license to practice dentistry or a license to practice dental hygiene must be renewed prior to the expiration date of the license. Dental hygiene licenses expire on August 31 of every odd-numbered year. Dental licenses expire August 31 of every even-numbered year. ~~A licensee who is not engaged in practice in the state of Iowa may place the license on inactive status by submitting a renewal form and paying the required renewal fee. No continuing education hours are required to renew a license on inactive status until application for reactivation is made. A request to place a license on inactive status shall also contain a statement that the applicant will not engage in the practice of the applicant’s profession in Iowa without first complying with all rules governing reactivation of inactive licenses.~~

ITEM 5. Amend rule 650—14.2(153), introductory paragraph, as follows:

650—14.2(153) Renewal of registration as a dental assistant. A certificate of registration as a registered dental assistant must be renewed biennially. Registration certificates shall expire on August 31 of every odd-numbered year. ~~A registrant who is not engaged in practice in the state of Iowa~~

DENTAL BOARD[650](cont'd)

may place the registration on inactive status by submitting a renewal form and paying the required renewal fee. No continuing education hours are required to renew a registration on inactive status until application for reactivation is made. A request to place a registration on inactive status shall also contain a statement that the applicant will not engage in the practice of the applicant's profession in Iowa without first complying with all rules governing reactivation of inactive registrations.

ITEM 6. Amend subrule 14.6(1) as follows:

14.6(1) A licensee or a registrant who allows a license or registration to lapse by failing to renew may have the license or registration reinstated at the discretion of the board by submitting the following:

a. A completed application for reinstatement of a lapsed license or registration to practice dentistry, dental hygiene or dental assisting, on forms provided by the board, ~~in addition to the required fee or application for reinstatement of a lapsed registration on the form provided by the board.~~

b. and *c.* No change.

~~*d.* Reasons for seeking reinstatement and why the license or registration was not maintained.~~

~~*e. d.* Payment of all a renewal fees past due fee, as specified in 650—Chapter 15, plus the reinstatement application fee as specified in 650—Chapter 15.~~

~~*f. e.* Evidence of completion of a total of 15 the hours of continuing education for each lapsed year or part thereof required for renewal of a license or registration in accordance with 650—Chapter 25 taken within the previous two-year period, up to a maximum of 75 hours. Dental assistants shall be required to submit evidence of completion of a total of 10 hours of continuing education for each lapsed year or part thereof in accordance with 650—Chapter 25, up to a maximum of 30 hours, or evidence of the full-time or part-time practice of the profession in another state of the United States or the District of Columbia, for a minimum of two years within the previous five-year period, and a statement verifying that continuing education requirements in that state of practice have been met.~~

~~*g. f.* If licensed or registered in another state, the licensee or registrant shall provide certification by the state board of dentistry or equivalent authority of such state that the licensee or registrant has not been the subject of final or pending disciplinary action.~~

~~*h. g.* A statement disclosing and explaining any disciplinary actions, investigations, claims, complaints, judgments, settlements, or criminal charges.~~

~~*i. h.* Evidence that the applicant possesses a current certificate in a nationally recognized course in cardiopulmonary resuscitation. The course must include a clinical component.~~

~~*j. i.* For reinstatement of a lapsed license, a completed fingerprint packet to facilitate a criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), including the fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and FBI, as specified in 650—Chapter 15.~~

ITEM 7. Amend subrules 14.7(4) and 14.7(5) as follows:

14.7(4) If the radiography qualification has been lapsed for less than ~~four~~ five years, proof of two hours of continuing education in the subject area of dental radiography, taken within the previous two-year period.

14.7(5) If the radiography qualification has been lapsed for more than ~~four~~ five years, the dental assistant shall be required to retake and successfully complete an examination in dental radiography. A dental assistant who presents proof of a current radiography qualification issued by another state and who has engaged in dental radiography in that state is exempt from the examination requirement.

ITEM 8. Rescind and reserve rule ~~650—14.8(153)~~.

ITEM 9. Amend subrules 15.4(7) and 15.4(8) as follows:

15.4(7) ~~Reactivation of an inactive license or~~ Reinstatement of a lapsed dental assistant registration. The fee for a ~~reactivation~~ reinstatement application for ~~inactive practitioners~~ a lapsed dental assistant registration is \$50.

15.4(8) ~~Reinstatement of an inactive a lapsed dental hygiene license or registration.~~ The fee for a reinstatement application for a lapsed dental hygiene license ~~or registration~~ is \$150 \$100.

DENTAL BOARD[650](cont'd)

ITEM 10. Renumber subrules **15.4(9)** to **15.4(17)** as **15.4(10)** to **15.4(18)**.

ITEM 11. Adopt the following **new** subrule 15.4(9):

15.4(9) Reinstatement of a lapsed dental license. The fee for a reinstatement application for a lapsed dental license is \$150.

ITEM 12. Amend subrules 15.5(1) and 15.5(2) as follows:

15.5(1) Dental license renewal. The fee for renewal of a license to practice dentistry for a biennial period is \$315 ~~for an active practitioner and \$315 for an inactive practitioner.~~

15.5(2) Dental hygiene license renewal. The fee for renewal of a license to practice dental hygiene for a biennial period is \$150 ~~for an active practitioner and \$150 for an inactive practitioner.~~

ITEM 13. Amend rule 650—15.7(147,153) as follows:

650—15.7(147,153) Reinstatement fees. If a license, registration or permit lapses ~~or is inactive~~, a licensee, registrant or permit holder may submit an application for reinstatement. Licensees, registrants or permit holders are subject to reinstatement fees as described in this rule.

15.7(1) Reinstatement of a dental license. In addition to the reinstatement application fee specified in subrule ~~15.4(8)~~ 15.4(9), the applicant must pay ~~all back a renewal fees (not to exceed \$750) fee as specified in subrule 15.5(1)~~ and the fee for evaluation of a fingerprint packet and criminal background check as specified in subrule 15.8(4).

15.7(2) Reinstatement of a dental hygiene license. In addition to the reinstatement application fee specified in subrule 15.4(8), the applicant must pay ~~all back a renewal fees (not to exceed \$750) fee as specified in subrule 15.5(2)~~ and the fee for evaluation of a fingerprint packet and criminal background check as specified in subrule 15.8(4).

15.7(3) Reinstatement of a dental assistant registration. In addition to the reinstatement application fee specified in subrule ~~15.4(8)~~ 15.4(7), the applicant must pay ~~all back a renewal fees (not to exceed \$115) fee as specified in subrule 15.5(6)~~ to reinstate a registration as a registered dental assistant.

15.7(4) Combined reinstatement application—dental assistant registration and qualification in radiography. In addition to the reinstatement application fee specified in subrule ~~15.4(8)~~ 15.4(7), the applicant must pay ~~all back a renewal fees (not to exceed \$175) fee as specified in subrule 15.5(7)~~ for a combined application to reinstate both a registration as a registered dental assistant and a radiography qualification.

15.7(5) Reinstatement of qualification in radiography. In addition to the reinstatement application fee of \$40, the applicant must pay ~~all back a renewal fees (not to exceed \$60) fee as specified in subrule 15.5(8)~~ to reinstate a qualification in dental radiography without registration as a dental assistant.

ITEM 14. Amend rule 650—15.14(147,153,272C) as follows:

650—15.14(147,153,272C) Copies of the laws and rules. Copies of laws and rules pertaining to the practice of dentistry, dental hygiene, or dental assisting are available from the board office for the following fees.

1. Iowa Code and Iowa Administrative Code access, no fee, available at ~~www.state.ia.us/dentalboard~~ dentalboard.iowa.gov.

2. Printed copies of the Iowa Code chapters that pertain to the practice of dentistry, \$10.

3. Printed copies of dental board rules in the Iowa Administrative Code, \$15.

ITEM 15. Rescind rule **650—25.11(153)**.

ITEM 16. Renumber rules **650—25.12(153)** to **650—25.15(153)** as **650—25.11(153)** to **650—25.14(153)**.

ITEM 17. Amend renumbered rule 650—25.12(153) as follows:

650—25.12(153) Review of programs or sponsors. The board on its own motion or at the recommendation of the advisory committee on continuing education may monitor or review any continuing education program or sponsors already approved by the board. Upon evidence of a failure to

DENTAL BOARD[650](cont'd)

meet the requirements of rule ~~650—25.12(153)~~ 650—25.11(153), the board may revoke the approval status of the sponsor. Upon evidence of significant variation in the program presented from the program approved, the board may deny all or any part of the approved hours granted to the program. A provider that wishes to appeal the board's decision regarding revocation of approval status or denial of continuing education credit shall file an appeal within 30 days of the board's decision. A timely appeal shall initiate a contested case proceeding. The contested case shall be conducted pursuant to Iowa Code chapter 17A and 650—Chapter 51. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

ITEM 18. Amend renumbered rule 650—25.14(153) as follows:

650—25.14(153) Dental hygiene continuing education. The dental hygiene committee, in its discretion, shall make recommendations to the board for approval or denial of requests pertaining to dental hygiene education. The dental hygiene committee may utilize the continuing education advisory committee as needed. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1. The following items pertaining to dental hygiene shall be forwarded to the dental hygiene committee for review.

1. Dental hygiene continuing education requirements and requests for approval of programs, activities and sponsors.
2. Requests by dental hygienists for waivers, extensions and exemptions of the continuing education requirements.
- ~~3. Requests for exemptions from inactive dental hygiene practitioners.~~
4. 3. Requests for reinstatement from ~~inactive~~ lapsed dental hygiene practitioners.
- ~~5. 4.~~ Appeals of denial of dental hygiene continuing education and conduct of hearings as necessary.

ARC 6202C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action****Proposing rule making related to program funding and requirements and providing an opportunity for public comment**

The Economic Development Authority (IEDA) hereby proposes to amend Chapter 7, "Iowa Jobs Training Program," Chapter 42, "Iowa Tourism Grant Program," Chapter 81, "Renewable Chemical Production Tax Credit Program," Chapter 220, "Rural Housing Needs Assessment Grant Program," and Chapter 221, "Rural Innovation Grant Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 260F; Iowa Code sections 15.108 and 15.320; 2021 Iowa Acts, House File 699; and 2019 Iowa Acts, Senate File 608.

Purpose and Summary

The IEDA proposes the following corrective and clarifying amendments:

- Amend subrule 7.6(1) relating to the Iowa Jobs Training Program to be consistent with Iowa Code section 260F.6.
- Amend subrule 42.2(2) relating to the Iowa Tourism Grant Program to allow the IEDA to set a maximum and minimum award level based on funding available in each fiscal year.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

- Clarify in paragraph 42.3(1)“b” that other state sources of funds cannot be considered local match for the Iowa Tourism Grant Program.
- Amend subrule 81.3(3) relating to the Renewable Chemical Production Tax Credit Program to be consistent with Iowa Code section 15.317.
- Replace the phrase “20,000 or fewer” with “20,000 or less” in Chapters 220 and 221. These chapters relate to the Rural Housing Needs Assessment Grant Program (Chapter 220) and the Rural Innovation Grant Program (Chapter 221).

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

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 IEDA no later than 4:30 p.m. on March 15, 2022. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 7.6(1) as follows:

7.6(1) A community college consortium of two or more businesses as defined in 261—7.3(260F) is eligible for a maximum award of ~~\$50,000~~ \$100,000 per training project.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 2. Amend subrule 42.2(2) as follows:

42.2(2) The authority will establish a maximum grant award is \$5,000 per application and a minimum grant award per application for each fiscal year in which funding is available. ~~The minimum grant award is \$500 per application.~~

ITEM 3. Amend paragraph **42.3(1)“b”** as follows:

b. The applicant shall demonstrate an amount of local match equal to at least 25 percent of the amount of grant funds to be received by the applicant under the program. The local match shall be in the form of cash. Other state sources of funds shall not qualify as local match. The local match must be spent on eligible expenses as described in rule 261—42.6(15).

ITEM 4. Amend subrule 81.3(3) as follows:

81.3(3) *Type of business.* The business may not be an entity providing professional services, health care services, or medical treatments ~~or~~ and may not be an entity engaged primarily in retail operations.

ITEM 5. Amend paragraph **220.4(1)“b”** as follows:

b. An applicant that is an incorporated city must have a population of 20,000 or ~~fewer~~ less and shall not be contiguous to a city with a population of 40,000 or greater. An applicant that is a county shall be one of the 88 least populous counties in the state. An applicant that is a community designee shall have entered an agreement pursuant to Iowa Code chapter 28E with an incorporated city or county meeting the population criteria in this paragraph.

ITEM 6. Amend rule **261—221.2(88GA,SF608)**, definition of “Project,” as follows:

“*Project*” means a program or activity undertaken in and for the benefit of a community in Iowa with a population of 20,000 or ~~fewer~~ less and not contiguous to a city with a population of 40,000 or greater.

ITEM 7. Amend paragraph **221.4(1)“c”** as follows:

c. The applicant must serve a city that has a population of 20,000 or ~~fewer~~ less and that is not contiguous to a city with a population of 40,000 or greater.

ARC 6203C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

**Proposing rule making related to discontinued programs
and providing an opportunity for public comment**

The Economic Development Authority (IEDA) hereby proposes to rescind Chapter 9, “Workforce Training and Economic Development Funds,” Chapter 11, “Certified School to Career Program,” Chapter 25, “Housing Fund,” Chapter 28, “Local Housing Assistance Program,” Chapter 29, “Homeless Shelter Operation Grants Program,” Chapter 30, “Job Opportunities for Persons with Disabilities Program,” Chapter 33, “Iowa Wine and Beer Promotion Grant Program,” Chapter 53, “Community Economic Betterment Account (CEBA) Program,” Chapter 57, “Value-Added Agricultural Products and Processes Financial Assistance Program (VAAPFAP),” Chapter 58, “New Jobs and Income Program,” Chapter 61, “Physical Infrastructure Assistance Program (PIAP),” Chapter 62, “Cogeneration Pilot Program,” Chapter 63, “University-Based Research Utilization Program,” Chapter 64, “New Capital Investment Program,” Chapter 67, “Life Science Enterprises,” Chapter 69, “Loan and Credit Guarantee Program,” Chapter 74, “Grow Iowa Values Financial Assistance Program,” Chapter 80, “Iowa Small Business Loan Program,” Chapter 103, “Information Technology Training Program,” Chapter 107, “Targeted Industries Networking Fund,” Chapter 109, “Targeted Industries Career Awareness Fund,” Chapter 111, “Supply Chain Development Program,” Chapter 311, “Renewable Fuel Infrastructure Board—Organization,” Chapter 312, “Renewable Fuel Infrastructure Program for Retail Motor Fuel Sites,” Chapter 313, “Renewable Fuel Infrastructure Program for Biodiesel Terminal Grants,” Chapter

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

314, “Renewable Fuel Infrastructure Program Administration,” and Chapter 402, “Energy Efficiency Community Grant Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, 1998 Iowa Acts, Senate File 2296; 2003 Iowa Acts, House Files 391 and 692; 2005 Iowa Acts, House Files 868 and 882; 2008 Iowa Acts, Senate File 2136; 2009 Iowa Acts, Senate File 344; 2011 Iowa Acts, House Files 590 and 648; 2012 Iowa Acts, House File 2473; 2013 Iowa Acts, House File 604; and 2020 Iowa Acts, House File 2536.

Purpose and Summary

The IEDA proposes to rescind rule chapters relating to programs that have been repealed, transferred to other agencies, or otherwise discontinued.

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

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 IEDA no later than 4:30 p.m. on March 15, 2022. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

- ITEM 1. Rescind and reserve **261—Chapter 9.**
- ITEM 2. Rescind and reserve **261—Chapter 11.**
- ITEM 3. Rescind and reserve **261—Chapter 25.**
- ITEM 4. Rescind and reserve **261—Chapter 28.**
- ITEM 5. Rescind and reserve **261—Chapter 29.**
- ITEM 6. Rescind and reserve **261—Chapter 30.**
- ITEM 7. Rescind and reserve **261—Chapter 33.**
- ITEM 8. Rescind and reserve **261—Chapter 53.**
- ITEM 9. Rescind and reserve **261—Chapter 57.**
- ITEM 10. Rescind and reserve **261—Chapter 58.**
- ITEM 11. Rescind and reserve **261—Chapter 61.**
- ITEM 12. Rescind and reserve **261—Chapter 62.**
- ITEM 13. Rescind and reserve **261—Chapter 63.**
- ITEM 14. Rescind and reserve **261—Chapter 64.**
- ITEM 15. Rescind and reserve **261—Chapter 67.**
- ITEM 16. Rescind and reserve **261—Chapter 69.**
- ITEM 17. Rescind and reserve **261—Chapter 74.**
- ITEM 18. Rescind and reserve **261—Chapter 80.**
- ITEM 19. Rescind and reserve **261—Chapter 103.**
- ITEM 20. Rescind and reserve **261—Chapter 107.**
- ITEM 21. Rescind and reserve **261—Chapter 109.**
- ITEM 22. Rescind and reserve **261—Chapter 111.**
- ITEM 23. Rescind and reserve **261—Chapter 311.**
- ITEM 24. Rescind and reserve **261—Chapter 312.**
- ITEM 25. Rescind and reserve **261—Chapter 313.**
- ITEM 26. Rescind and reserve **261—Chapter 314.**
- ITEM 27. Rescind and reserve **261—Chapter 402.**

ARC 6211C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to community mental health centers and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 24, “Accreditation of Providers of Services to Persons with Mental Illness, Intellectual Disabilities, or Developmental Disabilities,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 230A.101 and 230A.105.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 230A.

Purpose and Summary

The purpose of these proposed amendments is to establish a set of standards to be met by all designated community mental health centers (CMHCs). These amendments also define the process that the Department will use to designate at least one CMHC for addressing the mental health needs of the county or counties comprising a catchment area in accordance with Iowa Code chapter 230A, identify the target populations and core services to be served by CMHCs, and identify a formal accreditation review process for CMHCs.

These proposed amendments update language in Division I to reflect current practices and add a new Division III specific to CMHCs.

Fiscal Impact

Some CMHCs may have increased expenditures in adding required services, but the extent to which that may occur is unknown. It is possible that, as a result of this rule making, some providers currently designated as CMHCs may not continue to be designated, either by choice or due to inability to meet the CMHC requirements. It is also possible that new providers will apply and be designated for areas of the state currently not served by a CMHC and be allowed to bill using the CMHC fee schedule for fee-for-service clients. Although this could potentially change the amount CMHCs are reimbursed through the Medicaid program, the overall impact is not expected to be significant.

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 411—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 March 15, 2022. Comments should be directed to:

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

Public Hearing

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

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 actions are proposed:

ITEM 1. Amend rule ~~441—24.1(225C)~~, definitions of “Accreditation,” “Commission,” “Community mental health center,” “Deemed status” and “Division,” as follows:

“*Accreditation*” means the decision made by the ~~commission~~ division that the organization has met the applicable standards.

“*Commission*” means the mental health and disability services commission (~~MH/DS~~ MHDS commission) as established and defined in Iowa Code section 225C.5.

“*Community mental health center*” or “*CMHC*” means an organization providing mental health services that is established pursuant to Iowa Code chapters 225C and 230A and accredited in accordance with Division III of this chapter.

“*Deemed status*” means acceptance by the ~~commission~~ division of accreditation or licensure of a program or service by another accrediting body in lieu of accreditation based on review and evaluation by the division.

“*Division*” means the division of ~~behavioral, developmental, and protective services for families, adults, and children~~ mental health and disability services, community, of the department of human services.

ITEM 2. Amend subparagraph ~~24.3(2)“b”(2)~~ as follows:

(2) The annual and long-range budgeting process involves appropriate governing and managing levels of leadership and reflects the organization's mission and values. An independent auditor or other person as provided by law performs an annual financial audit. Designated CMHCs shall submit their annual financial audit to the department.

ITEM 3. Amend paragraph ~~24.4(14)“b”~~ as follows:

b. Performance indicators.

(1) Individuals using the service are prepared for their role as partners in the therapeutic process at intake where they define their situations and evaluate those factors that affect their situations.

(2) Individuals using the service establish desired problem resolution at intake during the initial assessment.

(3) Psychiatric services other than psychopharmacological services are available from the organization as needed by the individual using the service.

(4) Psychopharmacological services are available from the organization as needed.

~~(5) Staff document mutually agreed-upon treatment goals during or after each session. A distinct service plan document is not required.~~

~~(6) Staff document mutually agreed-upon supports and interventions during or after each session. A distinct service plan document is not required.~~

~~(7) Staff document in the progress notes the individual's status at each visit and the reasons for continuing or discontinuing services. A distinct discharge summary document is not required.~~

~~(8) (5)~~ Any assignment of activities to occur between sessions is documented in the following session's documentation.

~~(9) (6)~~ Individuals using the service who have a chronic mental illness participate in developing a detailed psychiatric crisis intervention plan that includes natural supports and self-help methods.

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~~(10)~~ (7) The record documents that the organization follows up on individuals who miss appointments.

(8) Treatment planning is based on the assessment.

(9) Individuals using the service participate with the organizational staff in identifying the assessed needs to be addressed.

(10) The treatment plan identifies measurable goals, desired outcomes and time frames for achieving them.

(11) The treatment plan includes interventions and supports to be provided.

(12) Individuals using the service review their progress in resolving problems and achieving goals on a frequent and regular basis with organizational staff. The treatment plan is revised as appropriate to the individual's needs and priorities.

(13) Individuals using the service participate in transition/discharge planning that includes linkages to family, provider, and community resources and services.

(14) Significantly involved others of individuals using the service are involved in the planning and provision of services, as appropriate and as desired by the individual.

ITEM 4. Amend rule 441—24.5(225C) as follows:

441—24.5(225C) Accreditation. The ~~commission~~ division administrator shall make all decisions involving issuance, denial, or revocation of accreditation. This accreditation shall delineate all categories of service the organization is accredited to provide. Although an organization may have more than one facility or service site, the ~~commission~~ division administrator shall issue only one accreditation notice to the organization, except as provided in paragraph 24.5(5)“f.”

24.5(1) Organizations eligible for accreditation. The ~~commission~~ division administrator accredits the following organizations:

- a. Case management providers.
- b. Community mental health centers.
- c. Supported community living providers.
- d. Mental health service providers.
- e. Crisis response providers.

24.5(2) Application and renewal procedures. An applicant for accreditation shall submit Form 470-3005, Application for Accreditation, to the ~~Division of Behavioral, Developmental, and Protective Services~~ Division of Mental Health and Disability Services, Community, Department of Human Services, Fifth Floor, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319-0114.

a. to c. No change.

24.5(3) Application review. Upon receipt of an application, Form 470-3005, the division shall review the materials submitted to determine whether the application is complete and request any additional material as needed. Survey reviews shall commence only after the organization has submitted all application material.

a. to j. No change.

k. Quality assurance staff shall review and approve the corrective action and improvement plan before making an accreditation recommendation to the ~~commission~~ division administrator.

l. The division shall offer technical assistance to organizations applying for first-time accreditation. Following accreditation, any organization may request technical assistance from the division to bring into conformity those areas found in noncompliance with this chapter's requirements. If multiple deficiencies are noted during a survey, ~~the commission may also require that~~ technical assistance may be provided to an organization, as staff time permits, to assist in implementation of an organization's corrective action plan. Renewal applicants may be provided technical assistance as needed, if staff time permits.

24.5(4) Performance outcome determinations. There are three major areas addressed in these standards: policies and procedures, organizational activities, and services, as set forth in rules 441—24.2(225C), 441—24.3(225C), and 441—24.4(225C). Each rule contains standards, with a

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performance benchmark and performance indicators for each standard. Each of the applicable standards for the three areas (policy and procedures, organizational activities, and services) shall be reviewed.

a. No change.

b. In the overall rating, the performance rating for policy and procedures shall count as 15 percent of the total, organizational activities as 15 percent of the total, and services as 70 percent of the total.

(1) and (2) No change.

(3) Each service has a separate weighting according to the total number of indicators applicable for that service, with a possible score of 70, as follows:

Service	Number of indicators	Value of each indicator
Case management	51 50	1.37 1.4
Day treatment	48 47	1.46 1.49
Intensive psychiatric rehabilitation	51 50	1.37 1.4
Supported community living	45 44	1.55 1.59
Partial hospitalization	48 47	1.46 1.49
Outpatient psychotherapy and counseling	35 38	2.00 1.84
Emergency	8	8.75
Evaluation	4	17.50

c. No change.

24.5(5) Accreditation decisions. The division shall prepare all documents with a final recommendation regarding accreditation to be presented at the commission meeting the division administrator. The division shall mail to all commission members summary reports of the on-site service review or desk review and a final recommendation concerning accreditation on each application to be processed at the next commission meeting.

If the commission division administrator approves accreditation, Form 470-3006, Notice of Action-Approval, shall be issued which states the duration of the accreditation and the services that the organization is accredited to provide. If the commission division administrator denies or revokes accreditation, Form 470-3008, Notice of Action-Denial, shall be issued which states the reasons for the denial.

a. *Initial 270-day accreditation.* This type of accreditation may be granted to a new organization. The commission division administrator shall base the accreditation decision on a report by the division that:

- (1) The organization has an approved policies and procedures manual that includes job descriptions.
- (2) Staff assigned to the positions meet the qualifications in the standards and the policies and procedures of the organization.

b. *Three-year accreditation.* An organization or service is eligible for this type of accreditation if it has achieved an 80 percent or higher performance compliance level. The organization may be required to develop and submit a plan of corrective action and improvement that may be monitored either by written report or an on-site review.

c. *One-year accreditation.* An organization is eligible for this type of accreditation when multiple and substantial deficiencies exist in specific areas causing compliance levels with performance benchmarks and indicators to fall between 70 percent and 79 percent, or when previously required corrective action plans have not been implemented or completed. The organization must submit a corrective action plan to correct and improve specific deficiencies and overall levels of functioning. Quality assurance staff shall monitor this plan through on-site reviews, written reports and the provision of technical assistance.

d. *Probational 180-day accreditation.* An organization is eligible for probational 180-day accreditation instead of denial when the overall compliance level is from 60 to 69 percent, and pervasive and serious deficiencies exist; or when corrective action plans previously required as a result of a one-year accreditation have not been implemented or completed. The commission

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division administrator may downgrade organizations with a one-year or three-year accreditation to the probational 180-day accreditation when one or more complaints are founded.

All deficiencies must be corrected by the time of the follow-up on-site survey at the conclusion of the provisional period. After this survey, the organization shall meet the standards for accreditation for a one-year accreditation, or the ~~commission~~ division administrator shall deny accreditation.

e. Add-on service accreditation. When the on-site review of the add-on service results in a score comparable to the overall organization's score at the time of the most recent accreditation, the organization shall have the add-on accreditation date coincide with the overall accreditation date of the organization. If the add-on service on-site review results in a lower score and lower accreditation decision, division staff shall conduct another on-site review for that add-on service when the add-on service accreditation expires.

f. Special terms.

(1) When an organization subcontracts with more than one agency, the length of accreditation shall be determined individually.

(2) The accreditation period for services that have deemed status according to rule ~~441—24.6(225C)~~ shall coincide with the period awarded by the national accrediting body or the certification for ~~home- and home- and~~ community-based services.

(3) New or add-on services that meet the requirements for accreditation shall receive an initial 270-day accreditation for that individual service. The term of accreditation shall be determined individually. At the time of recertification of the new add-on service, recommendation may be made to coincide with the term of accreditation for the other services of that organization that are accredited by the ~~commission~~ division administrator.

(4) An organization must notify the division when there are changes in its ownership, structure, management, or service delivery.

g. Extensions. The division may grant an extension to the period of accreditation if there has been a delay in the accreditation process that is beyond the control of the organization, ~~or the division, or the commission;~~ or the organization has requested an extension to permit the organization to prepare and obtain approval of a corrective action plan. The division shall establish the length of the extension on a case-by-case basis.

h. Denial of accreditation or revocation. ~~An emergency commission meeting may be called to consider denial or revocation of accreditation.~~

(1) Accreditation shall be denied when there are pervasive and serious deficiencies that put individuals at immediate risk or when the overall compliance level falls to 59 percent or below. Under such circumstances no corrective action report shall be required.

(2) When one or more complaints are received, quality assurance staff shall complete an investigation and submit a report to the ~~commission~~ division administrator. If any of the complaints are substantiated and the ~~commission~~ division administrator determines that there is a pervasive or serious deficiency, the ~~commission~~ division administrator may deny accreditation.

(3) An organization whose accreditation has been denied or revoked shall not be approved for any service for at least six months from the notice of decision denying or revoking accreditation.

(4) If the organization disagrees with any action or failure to act in regard to the notice of decision to deny accreditation to the organization, the organization has the right to appeal in accordance with 441—Chapter 7.

24.5(6) and 24.5(7) No change.

ITEM 5. Amend rule 441—24.6(225C) as follows:

441—24.6(225C) Deemed status (all services). The ~~commission~~ division shall grant deemed status to organizations accredited by a recognized national, not-for-profit, accrediting body when the ~~commission~~ division determines the accreditation is for similar services. The ~~commission~~ division may also grant deemed status for supported community living services to organizations that are certified under the Medicaid home- and community-based services (HCBS) ~~mental-retardation~~ intellectual disability waiver.

24.6(1) *National accrediting bodies.*

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a. The national accrediting bodies currently recognized as meeting division criteria for possible deeming are:

1. ~~(1)~~ The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) (TJC).
2. ~~(2)~~ The Commission on Accreditation of Rehabilitation Facilities (CARF).
3. ~~(3)~~ The Council on Quality and Leadership in Supports for People with Disabilities (The Council).
4. ~~(4)~~ The Council on Accreditation of Services for Families and Children (COA).

b. The accreditation credentials of these national bodies must specify the type of organization, programs, and services that these bodies accredit and include targeted population groups, if appropriate.

c. Deemed status means that the division is accepting an outside body's review, assessment, and accreditation of an organization's functioning and services. Therefore, the accrediting body doing the review must be assessing categories of organizations and types of programs and services corresponding to those described under this chapter. An organization that has deemed status must adhere to and be accountable for the rules in this chapter.

d. When an organization that is nationally accredited requests deemed status for services not covered by the national body's standards but covered under this chapter, the division shall accredit those services. Division staff shall provide technical assistance to organizations with deemed status as ~~time permits.~~

24.6(2) Application for deemed status.

a. To apply for deemed status, the organization shall submit Form 470-3332, Application and Letter of Agreement, ~~and copies;~~ copy of the latest survey report ~~and;~~ documentation related to any corrective action required; accreditation certificate; documentation of specific programming policies and procedures for populations being served; and credentials for staff providing services to populations served.

b. The division shall not accept an application for deemed status once the division has begun an on-site visit. The organization shall complete the accreditation process.

24.6(3) Requirements for deemed status. To be eligible for deemed status, the organization shall:

- a. Be currently accredited:
 - (1) ~~by~~ By a recognized national accrediting body for services as defined in subrule 24.6(1); or
 - ~~b. (2) Be currently accredited for~~ For supported community living under the Medicaid HCBS ~~mental retardation~~ intellectual disability waiver pursuant to 441—subrule 77.37(14). If individuals with mental illness are served, the organization must submit verification of the training and ~~credentials~~ experience of the staff to show that its staff can meet the needs of the individuals served.

~~e. Require the supported community living staff to have the same supervisor as the HCBS/MR program.~~

~~d. b.~~ Require staff for the program being deemed to have the necessary training and ~~credentials~~ needed to meet the needs of the person ~~experience to meet the needs of the population served.~~

~~e. c.~~ Require staff to meet the incident reporting requirements in subrule 24.4(5).

24.6(4) Granting of deemed status. When the ~~commission~~ division grants deemed status, the accreditation period shall coincide with the period awarded by the national accrediting body or the certification for home- and community-based services. However, under no circumstances shall the ~~commission~~ division award accreditation for longer than ~~three~~ five years.

24.6(5) Reservations. When deemed status is granted, the ~~commission and the division~~ division reserves rights to the following:

a. to d. No change.

24.6(6) Continuation of deemed status.

- a. No change.
- b. HCBS staff shall furnish to the division copies of the letter notifying a provider of a forthcoming recertification for organizations deemed for supported community living under the HCBS ~~mental retardation~~ intellectual disability waiver.

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c. and *d.* No change.

ITEM 6. Amend rule 441—24.7(225C) as follows:

441—24.7(225C) Complaint process (all services). The division shall receive and record complaints by individuals using the services, employees, any interested people, and the public relating to or alleging violations of applicable requirements of the Iowa Code or administrative rules.

24.7(1) Submittal of complaint. The complaint may be ~~delivered personally~~ submitted in person; or by mail to the Division of ~~Behavioral, Developmental, and Protective Services~~ Mental Health and Disability Services, Community, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut, Des Moines, Iowa 50319-0114; electronically through the department's website; by email to division staff; or by telephone (515)281-5874.

a. The division shall assist individuals in making a complaint as needed or requested.

b. The information received should specifically state the basis of the complaint. The division shall keep the name of the complainant confidential to the extent allowed by law.

24.7(2) Review of complaint. Upon receipt of a complaint, the division shall make a preliminary desk review of the complaint to determine an appropriate response. That response may include notifying the person who submitted the complaint that there is no basis for a review, referring the complaint to another investigative body, or making a determination to do a full investigation. The complainant may submit a written request for a report of the findings and actions taken by the division as a result of the complaint.

24.7(3) Investigation of complaint. If the division concludes that the complaint is reasonable, has merit, and is based on a violation of rules in this chapter, it may make an investigation of the organization. The division may investigate complaints by an office desk audit or by an on-site investigation. The division shall give priority for on-site investigations to instances when individuals using the service are in immediate jeopardy.

a. If a decision is made to conduct an on-site investigation, the on-site review does not require advance notice to the organization. The division shall notify the chief executive officer and board chairperson of the organization involved before or at the commencement of the on-site investigation that the division has received a complaint.

b. The division shall give the organization an opportunity to informally present a position regarding allegations in the complaint. The organization may submit the position in writing within five working days following the on-site visit or present it in a personal conference with division staff.

c. The division shall submit a written report by certified mail to the chief ~~administrative~~ executive officer of the organization and the chairperson of the board of directors within 20 working days after completion of the investigation.

d. The report shall indicate whether the complaint was or was not substantiated, the basis for the substantiation or nonsubstantiation, decision and the specific rules violated, and a recommendation for corrective action with time lines specified in the report.

e. If the complaint is substantiated, the division may take actions deemed appropriate, which may include requiring a corrective action plan, shortening the term of accreditation or suspending or revoking an organization's accreditation, depending on the severity of the substantiated complaint.

f. When the division suspends, shortens or revokes an organization's accreditation as the result of a substantiated complaint, the organization will be notified by certified mail of the findings and actions taken by the division.

e.g. The date of delivery shown by the certified mail stub shall constitute the date of official notice.

~~**24.7(4) Review by commission.** When individuals receiving services are in immediate jeopardy, the commission may call an emergency meeting to make a decision on possible revocation or denial of accreditation.~~

~~*a.* To the extent allowed by Iowa Code section 21.5, the commission may review the complaint and investigation report in a closed meeting. The action taken by the commission shall be voted upon in the reconvened public meeting and entered into the official record of commission minutes.~~

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~~b.—If the complaint is substantiated, the commission make take actions deemed appropriate, which may include shortening the term of accreditation, requiring a corrective action plan, or suspending or revoking an organization's accreditation, depending on the severity of the substantiated complaint.~~

~~c.—The division shall inform the complainant and the organization by certified mail of the findings and actions taken by the commission. The date of delivery shown by the certified mail stub shall constitute the date of official notice.~~

~~24.7(5)~~ **24.7(4)** *Corrective action plan.* When the ~~commission~~ division acts to suspend or revoke accreditation, there will be no corrective action plan. In other instances, if the complaint is substantiated, the organization shall submit a corrective action plan to the division within 20 calendar days after receiving the ~~commission's~~ division's decision. This plan must respond to violations cited and ~~commission~~ the division's requirements and include time lines, internal monitoring systems, and performance improvement planning.

Failure of the organization to respond within 20 calendar days with an acceptable corrective action plan that addresses the organization's plan of correction following a substantiated investigation or complaint may of itself constitute the basis for revocation or suspension of accreditation. The ~~commission~~ division shall determine the appropriate action based on the information submitted. The division shall notify the organization in writing of any action ~~the commission takes~~ taken.

ITEM 7. Amend rule ~~441—24.40(225C)~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 331.397 and ~~2014 Iowa Acts, House File 2379~~ 225C.19A and chapter 230A.

ITEM 8. Reserve rules ~~441—24.41~~ to ~~441—24.49~~.

ITEM 9. Adopt the following new 441—Chapter 24 Division III heading:

DIVISION III
COMMUNITY MENTAL HEALTH CENTERS

ITEM 10. Adopt the following new 441—Chapter 24 Division III preamble:

PREAMBLE

The department of human services in consultation with the mental health and disability services commission has established this set of standards to be met by all designated community mental health centers (CMHCs). CMHCs are to provide an organized set of services to adequately meet the mental health needs of individuals in their catchment area. It is the department's responsibility to designate at least one community mental health center for addressing the mental health needs of the county or counties comprising a catchment area in accordance with Iowa Code chapter 230A.

ITEM 11. Adopt the following new rules 441—24.50(230A) to 441—24.55(230A):

441—24.50(230A) Definitions.

"*Catchment area*" means the same as defined in Iowa Code section 230A.102(2).

"*Community mental health center self-assessment*" means the form completed and submitted to the department by a new organization as part of the initial application to be designated as a CMHC. Designated CMHCs complete the form annually and submit it to the department as part of the accreditation and CMHC monitoring process.

"*Community support services*" or "*CSS*" means services that support individuals with a mental illness and functional impairment to live and work in the community of their choice through assisting with:

1. Monitoring of mental health symptoms and functioning/reality orientation;
2. Transportation;
3. Supportive relationship;
4. Communication with other providers;
5. Ensuring individual attends appointments/obtains medications;
6. Crisis intervention/developing crisis plan; and
7. Coordination and development of natural support systems for mental health support.

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“Psychosocial rehabilitation services” means services that promote recovery, full community integration, and improved quality of life for persons who have been diagnosed with any mental health condition that seriously impairs their ability to lead meaningful lives. Psychosocial rehabilitation services are collaborative, person-directed and individualized. The service focuses on helping individuals develop skills and access resources needed to increase their capacity to be successful and satisfied in the living, working, learning, and social environments of their choice.

“Target population” means the same as defined in Iowa Code section 230A.105.

441—24.51(230A) Community mental health center designation.

24.51(1) Application. An organization seeking designation as a community mental health center or a designated community mental health center seeking to expand its designated catchment area shall submit the following to the department:

- a. Form 470-3005, Accreditation Application, if requesting accreditation for a CMHC core service(s) other than outpatient psychotherapy and evaluation.
- b. Form 470-5691, Community Mental Health Center Designation, signed by the organization’s chief executive officer and the chairperson of the governing body.
- c. Form 470-5692, Community Mental Health Center Self-Assessment.

24.51(2) Exceptional circumstances. Designation for more than one CMHC in a county shall require a determination of exceptional circumstances by the department.

a. Applicants requesting designation for a county that is part of another CMHC’s catchment area shall submit information supporting their designation request including, but not limited to, the following:

- (1) Evidence that the target population does not have access to the required core services with minimal or no service denials.
- (2) Ability to staff core services within the capacity of the catchment area’s workforce.
- (3) Mental health and disability services (MHDS) region(s) letter of support that includes the catchment area’s ability to financially support more than one CMHC.
- (4) Notification to the existing CMHC of intention to apply for designation.
- (5) Evidence of collaboration and coordination with existing CMHC.

b. Paragraph 24.51(2)“a” and numbered paragraph “2” in rule 441—24.52(230A) do not apply to CMHCs designated as described in Iowa Code section 230A.104(2)“c.”

24.51(3) Designation. The department shall review information submitted by the applicant in accordance with subrule 24.51(1), subrule 24.51(2), and paragraph 24.51(3)“a” as well as input from MHDS regions, neighboring CMHCs, and mental health service providers to determine if there will be a recommendation for designation. Recommendations for designation shall be submitted by the department to the MHDS commission for approval.

- a. Applicants shall submit the following:
- (1) MHDS region(s) letter of support.
 - (2) Evidence of active three-year accreditation for outpatient and evaluation services under this chapter.
 - (3) Formal agreement with appropriately accredited provider if the applicant is not directly providing the service for the following:
 1. Day treatment, partial hospitalization, or psychosocial rehabilitation services, and
 2. Emergency or 24-hour crisis response.
 - (4) Form 470-5692, Community Mental Health Center Self-Assessment, that demonstrates the applicant’s ability to:
 1. Provide core services in accordance with rule 441—24.54(230A).
 2. Meet service access standards according to 441—subparagraph 25.4(2)“a”(1) and 441—paragraphs 25.4(3)“a” and “c.”
 3. Serve all ages of the target population with minimal to no service denials.
 4. Make referrals for services provided outside the organization.

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b. The department shall notify the applicant in writing of the result of the review. If the department recommends designation, the applicant shall attend the MHDS commission meeting at which the department presents the request to the commission.

c. CMHCs designated in accordance with Iowa Code chapter 230A prior to January 1, 2021, or designated as a CMHC by a county prior to October 1, 2010, will maintain their designation provided they meet the requirements set forth in rule 441—24.55(230A).

d. Non-CMHC agencies designated as described in Iowa Code section 230A.107(2) may apply to be designated as a CMHC. The organization shall submit all required application materials in this subrule at least six months prior to the expiration of the organization's current accreditation under this chapter.

24.51(4) *Withdrawal of designation.* Community mental health centers seeking to withdraw their designation for part or all of their catchment area shall submit to the department Form 470-5691, Community Mental Health Center Designation, signed by the organization's chief executive officer and the chairperson of the governing body. The form shall include:

- a. Current catchment area and catchment area requesting withdrawal of designation.
- b. Reason for withdrawal request.
- c. Date withdrawal is to occur.
- d. Continuity of care plan including but not limited to communication and coordination with:
 - (1) Individuals served.
 - (2) Community mental health centers and mental health service providers serving neighboring and current catchment area.
 - (3) MHDS region(s).
 - (4) General public.

24.51(5) *Agreement.* The board of directors of a designated CMHC shall enter into an agreement with the department in accordance with Iowa Code section 230A.103(3).

24.51(6) *Appeal procedure.* An appeal to a designation determination may be filed in accordance with rule 441—24.8(225C).

24.51(7) *Exception to policy.* Requests for exceptions to policy shall be submitted in accordance with rule 441—24.9(225C).

24.51(8) *Denial of designation or revocation.* The department may deny or revoke the provider's designation at any time for any of the following reasons:

- a. The provider has failed to provide information requested pursuant to subrule 24.51(1).
- b. The provider does not meet criteria pursuant to subrule 24.51(3).
- c. The provider refuses to allow the department to conduct a site visit pursuant to subrule 24.5(3).
- d. The provider has failed to implement the corrective actions submitted and approved by the department pursuant to subrule 24.55(2).
- e. The provider's accreditation was discontinued or revoked pursuant to paragraph 24.5(5) "h."

441—24.52(230A) Standards for policies and procedures. Policies and procedures manuals shall include policy guidelines and administrative procedures for:

1. Core services and supports,
2. Serving the target population with minimal to no service denials,
3. Addressing the standards in rule 441—24.2(225), and
4. Ensuring an individual's ability to access services regardless of ability to pay. The CMHC shall assist individuals with applying for health insurance and MHDS regional assistance when necessary to ensure access to services.

441—24.53(230A) Standards for organizational activities. The organization shall meet all requirements in rule 441—24.3(225C) and the standards identified in this rule.

24.53(1) A CMHC organized as a nonprofit corporation shall be governed by a board of directors consistent with the requirements identified in Iowa Code section 230A.110(3) "b."

24.53(2) A CMHC organized as a for-profit corporation shall have a policy structure that incorporates the representation identified in Iowa Code section 230A.110(3) "b."

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441—24.54(230A) Standards for core services and supports.

24.54(1) *Outpatient services.* Outpatient services include outpatient psychotherapy and counseling services and evaluation. These services are to be provided directly by the CMHC.

a. Outpatient psychotherapy and counseling services shall be provided in accordance with subrule 24.4(14) and shall include treatment modalities and evidence-based practices for children, adults, older adults, individuals with co-occurring conditions, and individuals discharged from inpatient settings. Clinical eligibility is determined at the time of initial assessment and annually thereafter in accordance with subrule 24.4(2).

b. Evaluation services shall be provided in accordance with subrule 24.4(16).

24.54(2) *Twenty-four-hour emergency services.* The organization shall provide or enter into a formal agreement with an accredited provider for at least one of the following:

a. Emergency services provided in accordance with subrule 24.4(15).

b. Twenty-four-hour crisis response provided in accordance with rule 441—24.33(225C).

24.54(3) *Day treatment, partial hospitalization, or psychosocial rehabilitation services.* The organization shall provide or enter into a formal agreement with an accredited provider for at least one of the following:

a. Day treatment provided in accordance with subrule 24.4(10), or

b. Partial hospitalization provided in accordance with subrule 24.4(13), or

c. Psychosocial rehabilitation services. This shall include at least one of the following:

(1) Assertive community treatment (ACT) provided in accordance with 441—subrule 25.6(2) and rule 441—77.38(249A).

(2) Intensive psychiatric rehabilitation services provided in accordance with subrule 24.4(11).

24.54(4) *Admission screening for voluntary patients to a state mental health institute.*

a. Screening and evaluation shall be made available to individuals requesting admission to a state mental health institute.

b. The organization shall have policies and procedures that define the process to assist an individual seeking voluntary admission to a state mental health institute and to refer the individual to other services if treatment at the mental health institute is not immediately available.

24.54(5) *Community support services (CSS).* The purpose of CSS is to support individuals as they live and work in the community and address mental health symptoms and functional impairments that negatively affect integration and stability in the community.

a. *Performance benchmark.*

(1) Qualified staff provide CSS.

(2) CSS is provided to individuals in the target population with a mental illness and functional impairment.

b. *Performance indicators.*

(1) The following staff qualifications shall be met:

1. Have knowledge and experience in working with the target population.

2. Have the ability to create relationships with the individuals served that balance support of the mental illness and allow for maximum individual independence.

3. Have a bachelor's degree with 30 semester hours or equivalent quarter hours in a human services field, including but not limited to psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy.

4. Complete a minimum of 12 hours of training within the first year of employment and annually in mental health conditions, including but not limited to the following topics:

• Mental health diagnoses, symptomology, and treatment;

• Crisis management, intervention, and de-escalation;

• Psychiatric medications, common medications, and potential side effects;

• Other diagnoses or conditions present in the population served; and

• Individual person-centered service plan, crisis plan, and behavioral support plan implementation.

(2) The following service components are provided:

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1. Monitoring of mental health symptoms and functioning/reality orientation.
2. Transportation.
3. Supportive relationship.
4. Communication with other providers.
5. Ensuring individuals attend appointments and obtain medications.
6. Crisis intervention and developing a crisis plan.
7. Coordination and development of natural support systems for mental health support.

24.54(6) Consultation services. Consultation services shall be provided in accordance with Iowa Code section 230A.106(2)“f.”

24.54(7) Education services. Education services shall be provided in accordance with Iowa Code section 230A.106(2)“g.”

24.54(8) Coordination with unaffiliated agencies. Coordination shall be provided in accordance with Iowa Code section 230A.106(3).

441—24.55(230A) Accreditation of community mental health centers.

24.55(1) The provider shall be accredited as a provider of outpatient psychotherapy and counseling pursuant to subrule 24.4(14) and evaluation pursuant to subrule 24.4(16) and meet the standards of rule 441—24.3(225C).

24.55(2) The provider shall meet the standards in rules 441—24.52(230A), 441—24.53(230A), and 441—24.54(230A). Corrective action is required when any indicator under community mental health designation standards is not met.

24.55(3) The provider shall annually submit Form 470-5692, Community Mental Health Center Self-Assessment, to the department.

ARC 6206C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to integrated and chronic health homes
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The Department is proposing to update rules for Integrated Health Homes and for Chronic Health Homes based on the deficiencies identified in the audit completed in 2019 by the Office of Inspector General (OIG) for the Health Home (HH) programs for the state fiscal years 2013 through 2016.

The proposed amendments clarify the standards and requirements for the delivery of Health Home services. The audit recommended the Department improve its monitoring of the HH programs to ensure that HH providers comply with federal and state requirements for maintaining documentation to support the services for which the providers billed and received payments. The audit also recommended the Department revise the state plan to define the documentation requirements that HH providers must

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follow to bill and receive higher in-home health payments for intensive services and educate providers on these requirements. Recommendations were also made that the state plan be revised to define the documentation requirements the HH providers must follow to bill and receive payments for outreach services and also educate providers on these requirements.

State plan amendments have now been submitted and approved. The Department developed an ongoing audit process to be completed by Iowa Medicaid and the managed care organizations that ensure the HH services are appropriately documented. Iowa Medicaid hosted a face-to-face training and plans additional opportunities for training providers on core services and documentation. Monthly webinars, biannual face-to-face training and individual technical assistance based on provider needs have been implemented.

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 March 15, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

- ITEM 1. Adopt the following **new** implementation sentence in rule **441—77.1(249A)**:
This rule is intended to implement Iowa Code section 249A.4.

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- ITEM 2. Adopt the following **new** implementation sentence in rule **441—77.2(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 3. Adopt the following **new** implementation sentence in rule **441—77.4(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 4. Adopt the following **new** implementation sentence in rule **441—77.5(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 5. Adopt the following **new** implementation sentence in rule **441—77.6(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 6. Adopt the following **new** implementation sentence in rule **441—77.7(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 7. Adopt the following **new** implementation sentence in rule **441—77.8(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 8. Adopt the following **new** implementation sentence in rule **441—77.9(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 9. Adopt the following **new** implementation sentence in rule **441—77.10(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 10. Adopt the following **new** implementation sentence in rule **441—77.11(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 11. Amend rule **441—77.12(249A)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code section 249A.4 ~~and 2010 Iowa Acts, chapter 1192, section 31.~~
- ITEM 12. Adopt the following **new** implementation sentence in rule **441—77.21(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 13. Adopt the following **new** implementation sentence in rule **441—77.24(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 14. Adopt the following **new** implementation sentence in rule **441—77.29(249A)**:
This rule is intended to implement Iowa Code section 249A.4.
- ITEM 15. Rescind rule 441—77.47(249A) and adopt the following **new** rule in lieu thereof:

441—77.47(249A) Health home services providers. Subject to the requirements of this rule, a provider may participate in the medical assistance program as a provider of health home services.

77.47(1) Definitions.

“*Chronic condition*” means, for purposes of this rule, one of the conditions outlined in 441—subparagraph 78.53(3)“a”(1).

“*Chronic condition health home*” means a provider enrolled to deliver personalized, coordinated care for members with one chronic condition and at risk of developing another.

“*Functional impairment*” means the loss of functional capacity that (1) is episodic, recurrent, or continuous; (2) substantially interferes with or limits the achievement of or maintenance of one or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills; and (3) substantially interferes with or limits the individual’s functional capacity with family, employment, school or community. “Functional impairment” does not include difficulties resulting from temporary and expected responses to stressful events in a person’s environment. The level of functional impairment must be identified by the assessment completed by a mental health professional as defined in rule 441—24.1(225C).

“*Health home*” means a chronic condition health home or an integrated health home.

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“*Integrated health home*” means a provider enrolled to integrate medical, social, and behavioral health care needs for adults with a serious mental illness and children with a serious emotional disturbance.

“*Lead entity*” means a managed care organization that supports and oversees the chronic condition health home and the integrated health home network.

“*Managed care organization*” means an entity that (1) is under contract with the department to provide services to Medicaid recipients and (2) meets the definition of “health maintenance organization” as defined in Iowa Code section 514B.1.

“*Serious emotional disturbance*” means the same as defined in rule 441—83.121(249A).

“*Serious mental illness*” means, for an adult, a persistent or chronic mental health, behavioral, or emotional disorder that (1) is specified within the most current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or its most recent International Classification of Diseases, and (2) causes serious functional impairment and substantially interferes with or limits one or more major life activities, including functioning in the family, school, employment or community. “Serious mental illness” may co-occur with substance use disorder, developmental disabilities, neurodevelopmental disabilities or intellectual disabilities, but those diagnoses may not be the clinical focus for health home services.

77.47(2) Chronic condition health home provider qualifications.

a. A chronic condition health home must be one of the following:

- (1) Physician(s).
- (2) Clinical practice or clinical group practice.
- (3) Rural health clinic.
- (4) Community health center.
- (5) Community mental health center accredited under 441—Chapter 24.
- (6) Federally qualified health clinic.

b. A chronic condition health home may include multiple sites when those sites are identified as a single organization or medical group that shares policies, procedures, and electronic systems across all of the single organization’s or medical group’s practice sites.

c. A chronic condition health home must achieve accreditation, recognition, or certification as a patient-centered medical home (PCMH) through a national accreditation or certification entity recognized by the department within the first year of operation and maintain the accreditation, recognition, or certification for the duration of enrollment as a health home. A chronic condition health home that fails to achieve accreditation, recognition, or certification within the first year of enrollment will have the chronic condition health home enrollment terminated unless granted an extension by the department.

d. A chronic condition health home must complete a self-assessment when enrolling as a new health home and annually thereafter.

e. A chronic condition health home must meet the requirements, qualifications, and standards outlined in the chronic condition health home state plan amendment.

f. A chronic condition health home must participate in monthly, quarterly, and annual outcomes data collection and reporting.

g. At a minimum, a chronic condition health home must fill the following roles:

(1) Designated practitioner. The chronic condition health home must have at least one physician with an active Iowa license and credentialed with at least one managed care organization. If a chronic condition health home has multiple sites, a specific site may have a nurse practitioner or physician’s assistant, so long as the chronic condition health home has at least one physician.

(2) Dedicated care manager. The chronic condition health home must have at least one nurse care manager who is a registered nurse or has a bachelor of science in nursing with an active Iowa nursing license in accordance with rule 655—3.3(17A,147,152,272C).

(3) Health coach. The chronic condition health home must have at least one trained health coach.

77.47(3) Integrated health home provider qualifications.

a. An integrated health home must be one of the following:

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- (1) Community mental health center accredited under 441—Chapter 24.
 - (2) Licensed mental health service provider.
 - (3) Licensed residential group care setting.
 - (4) Licensed psychiatric medical institution for children (PMIC).
 - (5) Provider accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) to provide behavioral health services.
 - (6) Provider accredited by the Council on Accreditation for behavioral health or child, youth and family services.
 - (7) Provider accredited by the Joint Commission for behavioral health care services.
- b.* An integrated health home may include multiple sites when those sites are identified as a single organization or medical group that shares policies, procedures, and electronic systems across all of the single organization's or medical group's practice sites.
- c.* An integrated health home must complete a self-assessment when enrolling as a new health home and annually thereafter.
- d.* An integrated health home must meet the requirements, qualifications, and standards outlined in the integrated health home state plan amendment.
- e.* An integrated health home must participate in monthly, quarterly, and annual outcomes data collection and reporting.
- f.* At a minimum, an integrated health home must fill the following roles:
- (1) If serving adults:
 1. Nurse care manager. The integrated health home must have a nurse care manager who is a registered nurse or has a bachelor of science in nursing with an active Iowa nursing license in accordance with rule 655—3.3(17A,147,152,272C).
 2. Care coordinator. The integrated health home must have a care coordinator who has a bachelor of science in social work or a bachelor of science or bachelor of arts degree in a related field.
 3. Trained peer support specialist. The integrated health home must have a peer support specialist who has completed a department-recognized training program and passed the competency examination within six months of hire.
 - (2) If serving children:
 1. Nurse care manager. The integrated health home must have a nurse care manager who is a registered nurse or has a bachelor of science in nursing with an active Iowa nursing license in accordance with rule 655—3.3(17A,147,152,272C).
 2. Care coordinator. The integrated health home must have a care coordinator who has a bachelor of science in social work or a bachelor of science or bachelor of arts degree in a related field.
 3. Family peer support specialist. The integrated health home must have a family peer support specialist who has completed a department-recognized training program and passed the competency examination within six months of hire.
- 77.47(4) Lead entity qualifications.**
- a.* A lead entity must meet the following requirements:
- (1) The lead entity must be licensed and in good standing in the state of Iowa as a health maintenance organization in accordance with 191—Chapter 40.
 - (2) The lead entity must have a statewide integrated network of providers to serve members with serious mental illness and serious emotional disturbance.
 - (3) The lead entity must complete a self-assessment at the time of enrollment and annually thereafter.
 - (4) The lead entity must meet requirements, qualifications, and standards outlined in the state plan.
 - (5) The lead entity must participate in monthly, quarterly, and annual outcomes data collection and reporting.
- b.* At a minimum, a lead entity must fill the following roles:
- (1) Physician. The lead entity must have at least one physician to support the health home in meeting provider standards. The physician must have an active Iowa license to practice medicine in accordance with 653—Chapter 9 and be credentialed with at least one managed care organization.

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(2) Nurse care coordinators. The lead entity must have nurse care managers to support the health home in meeting provider standards. A nurse care manager must be a registered nurse or have a bachelor of science in nursing with an active Iowa nursing license in accordance with rule 655—3.3(17A,147,152,272C).

(3) Social workers. The lead entity must have a care coordinator with a bachelor of science or bachelor of arts degree in social work or a related field, including sociology, counseling, psychology, or human services, to support the health home in meeting the provider standards and delivering health home services.

(4) Behavioral health professionals. The lead entity must have a psychiatrist to support the health home in meeting provider standards and to deliver health home services. The psychiatrist must have an active Iowa license to practice medicine in accordance with 653—Chapter 9 and be credentialed with at least one managed care organization.

77.47(5) Health home general requirements.

a. Whole person orientation. The health home is responsible for providing whole person care.

(1) The health home must provide or take responsibility for appropriately arranging care with other qualified professionals for all the member's health care needs. This includes care for all stages of life, including acute care, chronic care, preventive services, long-term care, and end-of-life care.

(2) The health home must complete status reports to document the member's housing, legal status, employment status, education, custody, and other social determinants of health, as applicable.

(3) The health home must implement a formal screening tool to assess behavioral health, including mental health and substance abuse treatment needs, along with physical health care needs.

(4) The health home must work with the lead entity or Iowa Medicaid to develop capacity to receive members redirected from emergency departments, engage in planning transitions in care with area hospitals, and follow up on hospital discharges, including psychiatric medical institutions for children.

(5) The health home must provide bidirectional and integrated primary care and behavioral health services through use of a contract, memoranda of agreement or other written agreements approved by the department.

(6) The health home must initially and annually provide letters of support from at least one area hospital and two area primary care practices that agree to collaborate with the health home on care coordination and hospital and emergency department notification.

(7) The health home must advocate in the community on behalf of health home members, as needed.

(8) The health home must be responsible for preventing fragmentation or duplication of services provided to members.

b. Coordinated integrated care. The health home must provide coordinated integrated care.

(1) The health home must ensure that the nurse care manager is responsible for assisting members with medication adherence, appointments, referral scheduling, tracking follow-up results from referrals, understanding health insurance coverage, reminders, transition of care, wellness education, health support or lifestyle modification, and behavior changes.

(2) The health home must utilize member-level information, member profiles, and care coordination plans for high-risk individuals.

(3) The health home must incorporate tools and evidenced-based guidelines designed for identifying care opportunities across the age and diagnostic continuum, integrating clinical practices, and coordinating care with other providers.

(4) The health home must conduct interventions as indicated based on the member's level of risk.

(5) The health home must communicate with the member, authorized representative, and caregivers in a culturally appropriate manner for the purposes of assessment of care decisions, including the identification of authorized representatives.

(6) The health home must monitor, arrange, and evaluate appropriate evidence-based and evidence-informed preventive services.

(7) The health home must coordinate or provide access to the following services:

1. Mental health.

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2. Oral health.
 3. Long-term care.
 4. Chronic disease management.
 5. Recovery services and social health services available in the community.
 6. Behavior modification interventions aimed at supporting health management, including but not limited to obesity counseling, tobacco cessation, and health coaching.
 7. Comprehensive transitional care from inpatient to other settings, including appropriate follow-up.
 8. Crisis services.
 - (8) The health home must assess social, educational, housing, transportation, and vocational needs that may contribute to disease and present as barriers to self-management.
 - (9) The health home must coordinate with community-based case managers, case managers, and service coordinators for members who receive service coordination activities.
 - (10) The health home must maintain a system and written standards and protocols for tracking member referrals.
- c. Enhanced access.* The health home must provide enhanced access for members and member caregivers, including access to health home services 24 hours per day, seven days per week. The health home must use email, text messaging, patient portals and other technology to communicate with members.
- d. Emphasis on quality and safety.* The health home must emphasize quality and safety in the delivery of health home services.
- (1) The health home must have an ongoing quality improvement plan to address gaps and identify opportunities for improvement.
 - (2) The health home must participate in ongoing process improvement on clinical indicators and overall cost-effectiveness.
 - (3) The health home must demonstrate continuing development of fundamental health home functionality through an assessment process applied by the department.
 - (4) The health home must have strong, engaged organizational leadership that is personally committed to and capable of:
 1. Leading the health home through the transformation process and sustaining transformed practice, and
 2. Participating in learning activities including in-person sessions, webinars, and regularly scheduled meetings.
 - (5) The health home must participate in or convene ad hoc or scheduled meetings with lead entities and the department to plan and discuss implementation of goals and objectives for practice transformation, with ongoing consideration of the unique practice needs for adult members with a serious emotional disturbance and child members with a serious emotional disturbance and those members' families.
 - (6) The health home must participate in Centers for Medicare and Medicaid Services (CMS)- and department-required evaluation activities.
 - (7) The health home must submit information as requested by the department.
 - (8) The health home must maintain compliance with all of the terms and conditions of the integrated health home or chronic condition health home provider agreement.
 - (9) The health home must use an interoperable patient registry and certified electronic health record within a timeline approved by the lead entity or the department to input clinical information, track and measure care of members, automate care reminders, and produce exception reports for care planning.
 - (10) The health home must complete web-based member enrollment, disenrollment, members' consent to release to information, and health risk questionnaires for all members.
 - (11) The health home must use a certified electronic health record to support clinical decision-making within the practice workflow and establish a plan to meaningfully use health information in accordance with the federal law.

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(12) The health home must implement state-required disease management programs based on population-specific disease burdens. The health home may choose to identify and operate additional disease management programs at any time.

e. Case management. The integrated health home must provide case management services as defined in and required by 441—Chapter 90 to eligible members in an integrated health home. Requirements in 441—Chapter 90 are the minimum criteria for intensive care management for members enrolled in the 1915(i) Habilitation Program or the 1915(c) Children’s Mental Health Waiver.

f. Policies and procedures. The health home must have policies and processes in place to ensure compliance with federal and state requirements, including but not limited to statutes, rules and regulations, and sub-regulatory guidance. The health home must maintain documentation of its policies and processes and make those policies and processes readily available to any state or federal officials upon request.

g. Report on quality measures. A health home must collect and report quality data to the lead entity and the department as specified by the department.

h. Health home termination. If the health home intends to stop providing health home services, the health home must provide notice of termination a minimum of 60 days prior to the date of termination by submitting Form 470-5465, Provider Request to Terminate Enrollment, to the department. The health home must notify members of termination 60 days prior to the termination date and provide for a seamless transition of enrollees to other health home providers.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 16. Adopt the following **new** implementation sentence in rule **441—77.51(249A)**:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 17. Adopt the following **new** implementation sentence in rule **441—77.52(249A)**:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 18. Amend rule **441—78.12(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 and ~~2010 Iowa Acts, chapter 1192, section 31.~~

ITEM 19. Adopt the following **new** implementation sentence in rule **441—78.13(249A)**:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 20. Amend subrule **78.27(1)**, definitions of “Care coordinator” and “Integrated health home,” as follows:

“*Care coordinator*” means the professional who assists members in care coordination as described in paragraph ~~78.53(1)“b.”~~ 78.53(2)“b.”

“*Integrated health home services*” means the provision of services to enrolled members as described in subrule ~~78.53(1)~~ 78.53(2).

ITEM 21. Amend rule **441—78.47(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 and ~~2000 Iowa Acts, chapter 1228, section 9.~~

ITEM 22. Amend rule **441—78.52(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 and ~~2005 Iowa Acts, chapter 167, section 13, and chapter 117, section 3.~~

ITEM 23. Rescind rule 441—78.53(249A) and adopt the following **new** rule in lieu thereof:

441—78.53(249A) Health home services.

78.53(1) Definitions.

“*Chronic condition*” means, for purposes of this rule, one of the conditions outlined in subparagraph 78.53(3)“a”(1).

“*Chronic condition health home*” means a health home that meets the criteria in 441—subrule 77.47(2).

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“*Health home*” means a chronic condition health home or an integrated health home.

“*Integrated health home*” means a health home that meets the criteria in 441—subrule 77.47(3).

“*Patient-centered care plan*” means a care plan created through the person-centered planning process, directed by the member or the member’s guardian or representative, for a member receiving non-intensive care management or chronic condition health home services, to identify the member’s strengths, capabilities, preferences, needs, goals, and desired outcomes.

“*Person-centered service plan*” or “*service plan*” means a service plan (1) created through the person-centered planning process in accordance with subrule 78.27(4), rule 441—83.127(249A) and 441—paragraph 90.4(1)“b”; (2) directed by the member or the member’s guardian or representative; (3) for a member receiving intensive care management services; and (4) for the purposes of identifying the member’s strengths, capabilities, preferences, needs, and desired outcomes.

78.53(2) Covered services. A health home provides team-based, whole-person, patient-centered, coordinated care for all aspects of the member’s life and for transitions of care that the member may experience. A health home provides the following core services:

a. Comprehensive care management. Comprehensive care management is the initial and ongoing assessment and care management services aimed at the integration of primary, behavioral and specialty healthcare, and community support services, using a comprehensive person-centered care plan or service plan that addresses all clinical and non-clinical needs and promotes wellness and management of chronic conditions in pursuit of optimal health outcomes.

b. Care coordination. Care coordination includes assisting members with medication adherence, appointments, referral scheduling, understanding health insurance coverage, reminders, transition of care, wellness education, health support, lifestyle modification, and behavior changes. The health home must work with providers to coordinate, direct, and ensure results are communicated back to the health home.

c. Health promotion. Health promotion includes the education and engagement of a member in making decisions that promote health management, improved disease outcomes, disease prevention, safety and an overall healthy lifestyle.

d. Comprehensive transitional care. Comprehensive transitional care is the facilitation of services for the member that provides support when the member is transitioning between levels of care (nursing facility, hospital, rehabilitation facility, community-based group home, family, self-care, or another health home).

e. Individual and family support. Individual and family support services include communication with the member and the member’s family and caregivers to maintain and promote quality of life, with particular focus on community living options. Support will be provided in a culturally appropriate manner.

f. Referral to community and social support services. Referral to community and social support services includes coordinating or providing recovery services and social health services available in the community, including resources for understanding eligibility for various health care programs, disability benefits, and identifying housing programs.

78.53(3) Member eligibility for health home services.

a. Chronic condition health home member eligibility criteria.

(1) To be eligible for chronic condition health home services, the member must have one of the following chronic conditions and be at risk of having a second chronic condition:

1. A mental health disorder.
2. A substance use disorder.
3. Asthma.
4. Diabetes.
5. Heart disease.
6. Being overweight, as evidenced by:
 - Having a body mass index (BMI) over 25 for an adult, or
 - Weighing over the 85th percentile for the pediatric population.
7. Hypertension.

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8. Chronic obstructive pulmonary disease.
9. Chronic pain.

(2) “At risk” means a documented family history of a verified heritable condition described above, a diagnosed medical condition with an established comorbidity to a condition described above, or a verified environmental exposure to an agent or condition known to be the cause of a condition from the conditions described above.

b. Integrated health home eligible member criteria. To be eligible for integrated health home services, the member must have a serious mental illness or serious emotional disturbance, as such terms are defined in 441—subrule 77.47(1).

78.53(4) Member identification and enrollment.

a. Eligible members are identified through a referral from the department, lead entity, primary care provider, hospital, other providers, or the member.

b. The health home confirms eligibility for health home services by obtaining assessment documentation from the member’s licensed mental health professional or the patient tiering assignment tool (PTAT).

c. The health home must explain to the member, in a format easily understood by the member, how the team works together with the member at the center to improve the member’s care as well as all team member roles and responsibilities.

d. The health home must advise members of their ability and the process to opt out of health home services at any time.

e. Eligible members must agree to participate in the health home program, and the health home must document the member’s agreement in the member’s record before submitting an enrollment request. A member cannot be in more than one health home at the same time.

f. The health home must assess the member’s continued eligibility for health home services on an annual basis to ensure the member remains eligible to participate in the program.

78.53(5) Health home documentation. A health home must maintain adequate supporting documentation in readily reviewable form to ensure all state and federal requirements related to health home services have been met. All health home services must be documented in accordance with rule 441—79.3(249A). At a minimum, the health home must document the following:

a. Eligibility. Eligibility documentation includes but is not limited to the following:

- (1) How the member presented to the health home, including the referral.
- (2) Identified needs and plan to assess for eligibility.
- (3) Documentation that the member is eligible for health home services. If a member is not eligible, the health home must document the plan to support the member.
- (4) Qualifying diagnosis that makes the member eligible for health home services.
- (5) Member agreement and understanding of the program.
- (6) Enrollment request.
- (7) Enrollment with the health home.
- (8) Plan to complete the comprehensive assessment.
- (9) Documentation of eligibility and member’s agreement to continue participation in the program, obtained on an annual basis.

b. Comprehensive assessment. The comprehensive assessment must include all aspects of a member’s life and satisfy the following requirements:

(1) The comprehensive assessment must be completed within 30 days of enrollment, and at least every 365 days, or more frequently when the member’s needs or circumstances change significantly or at the request of the member or member’s support.

(2) The comprehensive assessment for members enrolled to receive non-intensive care management or enrolled in the chronic condition health home must include:

1. Assessment of the member’s current and historical information provided by the member, the lead entity, and other health care providers that support the member;
2. Assessment of physical and behavioral health needs, medication reconciliation, functional limitations, and appropriate screenings;

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3. Assessment of the member's social environment so that the plan of care incorporates areas of needs, strengths, preferences, and risk factors; and

4. Assessment of the member's readiness for self-management using screenings and assessments with standardized tools.

(3) The comprehensive assessment for members enrolled to receive intensive care management must be in a format designated by the department and must include:

1. The member's relevant history, including the findings from the independent evaluation of eligibility, medical records, an objective evaluation of functional ability, and any other records or information needed to complete the comprehensive assessment.

2. The member's physical, cognitive, and behavioral health care and support needs; strengths and preferences; available service and housing options; and if unpaid caregivers will be relied upon to implement any elements of the person-centered service plan, a caregiver assessment.

3. Documentation that no state plan HCBS is provided that would otherwise be available to the member through other Medicaid services or other federally funded programs.

4. For members receiving state plan HCBS and HCBS approved under 441—Chapter 83, documentation that HCBS provided through the state plan and waiver are not duplicative.

c. Person-centered service plan and patient-centered care plan.

(1) For members receiving non-intensive care management or enrolled in the chronic condition health home, documentation must include a patient-centered care plan that meets the requirements as defined in subrule 78.53(1) and the health home state plan amendment.

(2) For members receiving intensive care management, documentation must include a service plan that meets the requirements of rule 441—78.27(249A) or 441—83.127(249A) and 441—paragraph 90.4(1) "b."

(3) Documentation must reflect an update of the plan no less often than every 365 days and when significant changes occur in the member's support needs, situation, condition, or circumstances.

d. Core services. Documentation must reflect monthly provision of one of the six core health home services as outlined in subrule 78.53(2), based on the member's identified needs in the member's patient-centered care plan or person-centered service plan.

e. Intensive health home services. A health home must provide documentation to justify provision of more intensive health home services, including documentation that the member is enrolled to receive services through the HCBS habilitation or the HCBS children's mental health waiver programs.

f. Continuity of care.

(1) The health home must maintain a continuity of care document in each enrolled member's record and provide this document to the department, the lead entity, and the member's treating providers upon request.

(2) The continuity of care document must include, at a minimum, all aspects of the member's medical and behavioral health needs, treatment plan, and medication list.

g. Disenrollment. Members are able to opt out of health home services at any time. The health home must document a member's request to disenroll from health home services, the reason for disenrollment, how the member's needs will be supported after disenrollment, and that the health home has advised the member of the ability to re-enroll if circumstances change.

78.53(6) Payment.

a. Payment will be made for health home services when:

(1) The member is eligible for Medicaid and enrolled in the health home for the month of service, and

(2) The health home provides at least one of the six core health home services described in subrule 78.53(2) during the month, and

(3) The health home maintains the documentation outlined in paragraph 78.53(5) "e."

b. A unit of service is one member month.

HUMAN SERVICES DEPARTMENT[441](cont'd)

c. The health home must report the informational only code in addition to the billing procedure code and modifier for one or more of the core services provided to the member during the month on the claim for payment.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 24. Amend rule ~~441—78.54(249A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 ~~and 2012 Iowa Acts, Senate File 2158.~~

ITEM 25. Amend rule ~~441—78.55(249A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 ~~and 2015 Iowa Acts, Senate File 505, division V, section 12(23).~~

ITEM 26. Adopt the following **new** implementation sentence in rule ~~441—78.56(249A)~~:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 27. Amend subparagraph **79.3(2)“d”(40)** as follows:

(40) Health home services:

1. Member’s eligibility.

2. Comprehensive assessment.

~~3.~~ 3. Comprehensive care management plan for members receiving chronic condition health home services, or comprehensive person-centered care plan or service plan for members receiving integrated health home services.

~~2.~~ 4. Care coordination and health promotion plan.

~~3.~~ 5. Comprehensive transitional care plan, including appropriate follow-up, from inpatient to other settings.

6. Continuity of care document.

~~4.~~ 7. Documentation of member and family support (including authorized representatives).

~~5.~~ 8. Documentation of referral to community and social support services, if relevant.

9. Service notes or narratives.

10. Other documentation as applicable, including as outlined in 441—subrule 78.53(5).

ITEM 28. Adopt the following **new** implementation sentence in rule ~~441—79.7(249A)~~:

This rule is intended to implement Iowa Code section 249A.4.

ITEM 29. Amend rule ~~441—79.9(249A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.4 ~~and 2014 Iowa Acts, Senate File 2320.~~

ITEM 30. Amend paragraph **79.14(2)“c”** as follows:

c. With the application ~~form~~ Form 470-5273, or as a supplement to a previously submitted application, providers of health home services ~~shall~~ must submit Form 470-5100, Health Home Provider Agreement, or Form 470-5160, Integrated Health Home Provider Agreement.

ARC 6209C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to child care assistance (CCA) programs
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 234.6.

HUMAN SERVICES DEPARTMENT[441](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 234.6 and 237A.14.

Purpose and Summary

This proposed rule making implements the new CCA graduated eligibility phase-out program provided for in 2021 Iowa Acts, House File 302. This new program provides CCA for families with income above 225 percent of the federal poverty level (FPL) (current CCA Plus program) and up to 250 percent of the FPL. For families with special needs children, the income level limit is 275 percent of the FPL.

This proposed rule making revises the CCA family fee chart to update the annual FPL changes.

Fiscal Impact

As a result of the new program, it is estimated that seven children will be added each month beginning July 1, 2022. The average cost per child for CCA Plus is estimated at \$414 for state fiscal year (SFY) 2023. The resulting average number of children per month for each year as calculated in a regression chart and the annual costs are as follows. SFY 2023: 45.5 average number served \times \$414 \times 12 = \$226,044; SFY 2024: 129.5 average number served \times \$414 \times 12 = \$643,356. There is currently an estimated federal Child Care and Development Fund balance of \$67.2 million at the end of SFY 2022. Based on current Department-estimated revenues and expenditures for child care, the cost for implementing the changes would be funded through SFY 2026 without increasing State general funds. This estimate is subject to change depending on the cost of additional child care policy changes that could be enacted.

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 March 15, 2022. Comments should be directed to:

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

Public Hearing

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **170.2(1)“a”** as follows:

a. Income limits.

(1) For initial eligibility, an applicant family's nonexempt gross monthly income as established in paragraph 170.2(1)“c” cannot exceed the amounts in this subparagraph.

1. 145 percent of the federal poverty level applicable to the family size for children needing basic care; or

2. 200 percent of the federal poverty level applicable to the family size for children needing special-needs care; or

3. 85 percent of Iowa's median family income, if that figure is lower than the standard in numbered paragraph “1” or “2.”

(2) For ongoing eligibility, at the time of a family's annual eligibility redetermination as described in subrule 170.3(5), if the family's nonexempt gross monthly income as established in paragraph 170.2(1)“c” cannot exceed the amounts in subparagraph 170.2(1)“a”(1), the family may continue to be eligible as long as the family's nonexempt gross monthly income does not exceed the amounts in this subparagraph.

1. 225 percent of the federal poverty level applicable to the family size for children needing basic care or special-needs care; or

2. 85 percent of Iowa's median family income, if that figure is lower than the standard in numbered paragraph “1.”

(3) For ongoing eligibility, at the time of a family's annual eligibility redetermination as described in subrule 170.3(5), if the family's nonexempt gross monthly income as established in paragraph 170.2(1)“c” exceeds the amounts in subparagraphs 170.2(1)“a”(1) and 170.2(1)“a”(2), the family may continue to be eligible as long as the family's nonexempt gross monthly income does not exceed the amounts in this subparagraph.

1. 250 percent of the federal poverty level applicable to the family size for children needing basic care; or

2. 275 percent of the federal poverty level applicable to the family size for children needing special-needs care.

ITEM 2. Amend subrule 170.4(2) as follows:

170.4(2) Fees. Fees for services received shall be charged to clients according to the schedules in this subrule, except that fees shall not be charged to clients receiving services without regard to income. ~~The~~ For families whose eligibility is established in subparagraphs 170.2(1)“a”(1) and 170.2(1)“a”(2), the fee is a per-unit charge that is applied to the child in the family who receives the largest number of units of service. The fee shall be charged for only one child in the family, regardless of how many children receive assistance. For families whose eligibility is established in subparagraph 170.2(1)“a”(3), the fee is a percentage of the cost of child care for each child in the family who receives service.

a. Sliding fee schedule.

(1) ~~The~~ For families whose eligibility is established in subparagraphs 170.2(1)“a”(1) and 170.2(1)“a”(2), the fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, 2021 2022:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size													Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	11	12	13+	1	2	3 or more
A	\$1,020	\$1,379	\$1,739	\$2,099	\$2,458	\$2,817	\$3,177	\$3,536	\$3,895	\$4,255	\$4,614	\$4,973	\$5,333	\$0.00	\$0.00	\$0.00
	\$1,076	\$1,450	\$1,824	\$2,197	\$2,571	\$2,945	\$3,318	\$3,692	\$4,066	\$4,439	\$4,813	\$5,187	\$5,560			
B	\$1,074	\$1,452	\$1,830	\$2,209	\$2,587	\$2,965	\$3,344	\$3,722	\$4,100	\$4,479	\$4,857	\$5,235	\$5,614	\$0.20	\$0.45	\$0.70
	\$1,133	\$1,526	\$1,920	\$2,313	\$2,706	\$3,100	\$3,493	\$3,886	\$4,280	\$4,673	\$5,066	\$5,460	\$5,853			
C	\$1,104	\$1,493	\$1,881	\$2,271	\$2,659	\$3,048	\$3,438	\$3,826	\$4,215	\$4,604	\$4,993	\$5,382	\$5,771	\$0.45	\$0.70	\$0.95
	\$1,165	\$1,569	\$1,974	\$2,378	\$2,782	\$3,187	\$3,591	\$3,995	\$4,400	\$4,804	\$5,208	\$5,613	\$6,017			
D	\$1,134	\$1,533	\$1,932	\$2,333	\$2,732	\$3,131	\$3,531	\$3,930	\$4,330	\$4,730	\$5,129	\$5,528	\$5,928	\$0.70	\$0.95	\$1.20
	\$1,196	\$1,611	\$2,028	\$2,443	\$2,858	\$3,274	\$3,689	\$4,104	\$4,520	\$4,935	\$5,350	\$5,766	\$6,181			
E	\$1,166	\$1,576	\$1,987	\$2,398	\$2,808	\$3,219	\$3,630	\$4,040	\$4,451	\$4,862	\$5,273	\$5,683	\$6,094	\$0.95	\$1.20	\$1.45
	\$1,230	\$1,657	\$2,084	\$2,511	\$2,938	\$3,365	\$3,792	\$4,219	\$4,646	\$5,073	\$5,499	\$5,927	\$6,354			
F	\$1,198	\$1,619	\$2,041	\$2,463	\$2,885	\$3,306	\$3,729	\$4,151	\$4,572	\$4,995	\$5,416	\$5,838	\$6,260	\$1.20	\$1.45	\$1.70
	\$1,263	\$1,702	\$2,141	\$2,579	\$3,018	\$3,457	\$3,895	\$4,333	\$4,773	\$5,211	\$5,649	\$6,089	\$6,527			
G	\$1,231	\$1,665	\$2,098	\$2,532	\$2,966	\$3,399	\$3,833	\$4,267	\$4,700	\$5,135	\$5,568	\$6,001	\$6,436	\$1.45	\$1.70	\$1.95
	\$1,299	\$1,749	\$2,201	\$2,652	\$3,102	\$3,554	\$4,004	\$4,455	\$4,906	\$5,357	\$5,807	\$6,259	\$6,710			
H	\$1,265	\$1,710	\$2,155	\$2,601	\$3,046	\$3,492	\$3,938	\$4,383	\$4,828	\$5,274	\$5,720	\$6,165	\$6,611	\$1.70	\$1.95	\$2.20
	\$1,334	\$1,797	\$2,261	\$2,724	\$3,187	\$3,651	\$4,113	\$4,576	\$5,040	\$5,503	\$5,966	\$6,430	\$6,892			
I	\$1,300	\$1,758	\$2,215	\$2,674	\$3,132	\$3,589	\$4,048	\$4,506	\$4,963	\$5,422	\$5,880	\$6,337	\$6,796	\$1.95	\$2.20	\$2.45
	\$1,372	\$1,847	\$2,324	\$2,800	\$3,276	\$3,753	\$4,228	\$4,704	\$5,181	\$5,657	\$6,133	\$6,610	\$7,085			
J	\$1,336	\$1,806	\$2,276	\$2,747	\$3,217	\$3,687	\$4,158	\$4,628	\$5,098	\$5,570	\$6,040	\$6,510	\$6,981	\$2.20	\$2.45	\$2.70
	\$1,409	\$1,898	\$2,388	\$2,876	\$3,365	\$3,855	\$4,344	\$4,832	\$5,322	\$5,811	\$6,300	\$6,790	\$7,278			
K	\$1,373	\$1,856	\$2,339	\$2,824	\$3,307	\$3,790	\$4,275	\$4,758	\$5,241	\$5,726	\$6,209	\$6,692	\$7,177	\$2.45	\$2.70	\$2.95
	\$1,448	\$1,951	\$2,454	\$2,957	\$3,459	\$3,963	\$4,465	\$4,968	\$5,471	\$5,974	\$6,476	\$6,980	\$7,482			
L	\$1,410	\$1,907	\$2,403	\$2,901	\$3,397	\$3,894	\$4,391	\$4,888	\$5,384	\$5,882	\$6,378	\$6,874	\$7,372	\$2.70	\$2.95	\$3.20
	\$1,488	\$2,004	\$2,521	\$3,037	\$3,553	\$4,071	\$4,587	\$5,103	\$5,620	\$6,136	\$6,652	\$7,170	\$7,686			
M	\$1,450	\$1,960	\$2,470	\$2,982	\$3,492	\$4,003	\$4,514	\$5,024	\$5,535	\$6,046	\$6,557	\$7,067	\$7,579	\$2.95	\$3.20	\$3.45
	\$1,529	\$2,060	\$2,592	\$3,122	\$3,653	\$4,185	\$4,715	\$5,246	\$5,778	\$6,308	\$6,839	\$7,371	\$7,901			
N	\$1,489	\$2,013	\$2,538	\$3,063	\$3,587	\$4,112	\$4,637	\$5,161	\$5,685	\$6,211	\$6,735	\$7,259	\$7,785	\$3.20	\$3.45	\$3.70
	\$1,571	\$2,116	\$2,662	\$3,207	\$3,752	\$4,299	\$4,844	\$5,389	\$5,935	\$6,480	\$7,025	\$7,571	\$8,116			
O	\$1,531	\$2,070	\$2,609	\$3,149	\$3,688	\$4,227	\$4,767	\$5,306	\$5,845	\$6,385	\$6,924	\$7,463	\$8,003	\$3.45	\$3.70	\$3.95
	\$1,615	\$2,175	\$2,737	\$3,297	\$3,857	\$4,419	\$4,979	\$5,540	\$6,101	\$6,662	\$7,222	\$7,783	\$8,344			
P	\$1,573	\$2,126	\$2,680	\$3,235	\$3,788	\$4,342	\$4,897	\$5,450	\$6,004	\$6,559	\$7,112	\$7,666	\$8,221	\$3.70	\$3.95	\$4.20
	\$1,659	\$2,235	\$2,812	\$3,387	\$3,963	\$4,540	\$5,115	\$5,690	\$6,267	\$6,843	\$7,418	\$7,995	\$8,571			

HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size													Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	11	12	13+	1	2	3 or more
Q	\$1,617	\$2,186	\$2,755	\$3,325	\$3,894	\$4,463	\$5,034	\$5,603	\$6,172	\$6,743	\$7,312	\$7,881	\$8,451	\$3.95	\$4.20	\$4.45
	\$1,706	\$2,297	\$2,890	\$3,482	\$4,074	\$4,667	\$5,258	\$5,850	\$6,443	\$7,035	\$7,626	\$8,219	\$8,811			
R	\$1,664	\$2,245	\$2,830	\$3,416	\$4,000	\$4,585	\$5,171	\$5,756	\$6,340	\$6,926	\$7,511	\$8,095	\$8,681	\$4.20	\$4.45	\$4.70
	\$1,752	\$2,360	\$2,969	\$3,577	\$4,184	\$4,794	\$5,401	\$6,009	\$6,618	\$7,226	\$7,834	\$8,443	\$9,051			
S	\$1,707	\$2,308	\$2,909	\$3,512	\$4,112	\$4,713	\$5,316	\$5,917	\$6,518	\$7,120	\$7,721	\$8,322	\$8,924	\$4.45	\$4.70	\$4.95
	\$1,801	\$2,426	\$3,052	\$3,677	\$4,302	\$4,928	\$5,553	\$6,177	\$6,804	\$7,428	\$8,053	\$8,680	\$9,304			
T	\$1,754	\$2,371	\$2,988	\$3,607	\$4,224	\$4,842	\$5,461	\$6,078	\$6,695	\$7,314	\$7,931	\$8,549	\$9,167	\$4.70	\$4.95	\$5.20
	\$1,850	\$2,492	\$3,135	\$3,777	\$4,419	\$5,062	\$5,704	\$6,346	\$6,989	\$7,631	\$8,273	\$8,916	\$9,558			
U	\$1,803	\$2,437	\$3,072	\$3,708	\$4,343	\$4,977	\$5,614	\$6,248	\$6,883	\$7,519	\$8,153	\$8,788	\$9,424	\$4.95	\$5.20	\$5.45
	\$1,902	\$2,562	\$3,223	\$3,883	\$4,543	\$5,204	\$5,864	\$6,523	\$7,185	\$7,844	\$8,504	\$9,166	\$9,825			
V	\$1,852	\$2,504	\$3,156	\$3,809	\$4,461	\$5,113	\$5,766	\$6,418	\$7,070	\$7,724	\$8,375	\$9,027	\$9,681	\$5.20	\$5.45	\$5.70
	\$1,954	\$2,631	\$3,311	\$3,989	\$4,666	\$5,346	\$6,023	\$6,701	\$7,380	\$8,058	\$8,736	\$9,415	\$10,093			
W	\$1,904	\$2,574	\$3,244	\$3,916	\$4,586	\$5,256	\$5,928	\$6,598	\$7,268	\$7,940	\$8,610	\$9,280	\$9,952	\$5.45	\$5.70	\$5.95
	\$2,008	\$2,705	\$3,404	\$4,100	\$4,797	\$5,495	\$6,192	\$6,889	\$7,587	\$8,284	\$8,980	\$9,679	\$10,376			
X	\$1,956	\$2,644	\$3,332	\$4,023	\$4,711	\$5,399	\$6,089	\$6,778	\$7,466	\$8,156	\$8,844	\$9,533	\$10,223	\$5.70	\$5.95	\$6.20
	\$2,063	\$2,779	\$3,496	\$4,212	\$4,928	\$5,645	\$6,361	\$7,076	\$7,794	\$8,509	\$9,225	\$9,943	\$10,658			
Y	\$2,010	\$2,718	\$3,426	\$4,135	\$4,843	\$5,550	\$6,260	\$6,967	\$7,675	\$8,385	\$9,092	\$9,800	\$10,509	\$5.95	\$6.20	\$6.45
	\$2,121	\$2,857	\$3,594	\$4,330	\$5,066	\$5,803	\$6,539	\$7,274	\$8,012	\$8,748	\$9,483	\$10,221	\$10,957			
Z	\$2,065	\$2,792	\$3,519	\$4,248	\$4,975	\$5,702	\$6,430	\$7,157	\$7,884	\$8,613	\$9,340	\$10,067	\$10,795	\$6.20	\$6.45	\$6.70
	\$2,179	\$2,934	\$3,692	\$4,448	\$5,203	\$5,961	\$6,717	\$7,473	\$8,230	\$8,986	\$9,742	\$10,499	\$11,255			
AA	\$2,123	\$2,870	\$3,618	\$4,367	\$5,114	\$5,861	\$6,610	\$7,358	\$8,105	\$8,854	\$9,601	\$10,348	\$11,098	\$6.45	\$6.70	\$6.95
	\$2,240	\$3,017	\$3,795	\$4,572	\$5,349	\$6,128	\$6,905	\$7,682	\$8,461	\$9,238	\$10,014	\$10,793	\$11,570			
BB	\$4,000	\$5,000	\$6,000	\$7,000	\$8,000	\$9,000	\$9,000	\$9,000	\$9,500	\$9,500	\$10,000	\$10,500	\$11,500	\$6.70	\$6.95	\$7.20
											\$10,500	\$11,000	\$12,000			

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (2) To use the chart:
 1. Find the family size used in determining income eligibility for service.
 2. Move across the monthly income table to the column headed by that number.
 3. Move down the column for the applicable family size to the highest figure that is equal to or less than the family's gross monthly income. Income at or above that amount (but less than the amount in the next row) corresponds to the fees in the last three columns of that row.
 4. Choose the fee that corresponds to the number of children in the family who receive child care assistance.
- (3) For families whose eligibility is established in subparagraph 170.2(1) "a"(3), the fee schedule shown in the following tables is effective for eligibility determinations made on or after July 1, 2022:

<u>Level</u>	<u>Monthly Income According to Family Size (Basic Care)</u>													<u>Fee for Each Child in Care</u>
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13+</u>	
<u>A</u>	<u>\$2,549</u>	<u>\$3,434</u>	<u>\$4,320</u>	<u>\$5,204</u>	<u>\$6,089</u>	<u>\$6,975</u>	<u>\$7,859</u>	<u>\$8,744</u>	<u>\$9,630</u>	<u>\$10,514</u>	<u>\$11,399</u>	<u>\$12,285</u>	<u>\$13,169</u>	<u>33%</u>
<u>B</u>	<u>\$2,663</u>	<u>\$3,586</u>	<u>\$4,512</u>	<u>\$5,436</u>	<u>\$6,359</u>	<u>\$7,285</u>	<u>\$8,209</u>	<u>\$9,132</u>	<u>\$10,058</u>	<u>\$10,982</u>	<u>\$11,905</u>	<u>\$12,831</u>	<u>\$13,755</u>	<u>45%</u>
<u>C</u>	<u>\$2,776</u>	<u>\$3,739</u>	<u>\$4,704</u>	<u>\$5,667</u>	<u>\$6,630</u>	<u>\$7,595</u>	<u>\$8,558</u>	<u>\$9,521</u>	<u>\$10,486</u>	<u>\$11,449</u>	<u>\$12,412</u>	<u>\$13,377</u>	<u>\$14,340</u>	<u>60%</u>
<u>D</u>	<u>\$2,833</u>	<u>\$3,815</u>	<u>\$4,800</u>	<u>\$5,783</u>	<u>\$6,765</u>	<u>\$7,750</u>	<u>\$8,733</u>	<u>\$9,715</u>	<u>\$10,700</u>	<u>\$11,683</u>	<u>\$12,665</u>	<u>\$13,650</u>	<u>\$14,633</u>	<u>60%</u>

Monthly Income According to Family Size (Special Needs Care)

<u>Level</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13+</u>	<u>Fee for Each Child in Care</u>
<u>A</u>	<u>\$2,549</u>	<u>\$3,434</u>	<u>\$4,320</u>	<u>\$5,204</u>	<u>\$6,089</u>	<u>\$6,975</u>	<u>\$7,859</u>	<u>\$8,744</u>	<u>\$9,630</u>	<u>\$10,514</u>	<u>\$11,399</u>	<u>\$12,285</u>	<u>\$13,169</u>	<u>33%</u>
<u>B</u>	<u>\$2,776</u>	<u>\$3,739</u>	<u>\$4,704</u>	<u>\$5,667</u>	<u>\$6,630</u>	<u>\$7,595</u>	<u>\$8,558</u>	<u>\$9,521</u>	<u>\$10,486</u>	<u>\$11,449</u>	<u>\$12,412</u>	<u>\$13,377</u>	<u>\$14,340</u>	<u>45%</u>
<u>C</u>	<u>\$3,002</u>	<u>\$4,044</u>	<u>\$5,088</u>	<u>\$6,129</u>	<u>\$7,171</u>	<u>\$8,215</u>	<u>\$9,256</u>	<u>\$10,298</u>	<u>\$11,342</u>	<u>\$12,383</u>	<u>\$13,425</u>	<u>\$14,469</u>	<u>\$15,510</u>	<u>60%</u>
<u>D</u>	<u>\$3,116</u>	<u>\$4,197</u>	<u>\$5,280</u>	<u>\$6,361</u>	<u>\$7,442</u>	<u>\$8,525</u>	<u>\$9,606</u>	<u>\$10,687</u>	<u>\$11,770</u>	<u>\$12,851</u>	<u>\$13,932</u>	<u>\$15,015</u>	<u>\$16,096</u>	<u>60%</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

(4) To use the tables:

1. Determine which table to use for each child in the family by whether the child needs basic or special needs care.
 2. Find the family size used in determining income eligibility for service.
 3. Move across the monthly income table to the column headed by that number.
 4. Move down the column for the applicable family size to the highest figure that is equal to or less than the family's gross monthly income. Income at or above that amount (but less than the amount in the next row) corresponds to the fee for that eligible child in the last column of that row.
 5. Repeat for each eligible child in the family.
- b. and c. No change.

ITEM 3. Amend paragraph 170.4(7)“a” as follows:

a. *Rate of payment.* The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7) “d,” shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider’s declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider’s declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider type and age group as shown in the tables below. To be eligible for the special needs rate, the provider must submit documentation to the child’s service worker that the child needing services has been assessed by a qualified professional and meets the definition for “child with special needs,” and a description of the child’s special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

Table 1 Half-Day Rate Ceilings for (Licensed Center)								
Age Group	No QRS Quality Rating		QRS Quality Rating 1 or 2		QRS Quality Rating 3 or 4		QRS Quality Rating 5	
	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs
Infant and Toddler	\$19.30	\$51.94	\$20.50	\$51.94	\$21.50	\$51.94	\$23.21	\$51.94
Preschool	\$17.00	\$30.43	\$18.00	\$30.43	\$18.98	\$30.43	\$20.00	\$30.43
School Age	\$13.50	\$30.34	\$14.75	\$30.34	\$15.00	\$30.34	\$16.00	\$30.34

Table 2 Half-Day Rate Ceilings for (Child Development Home A/B)								
Age Group	No QRS Quality Rating		QRS Quality Rating 1 or 2		QRS Quality Rating 3 or 4		QRS Quality Rating 5	
	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs
Infant and Toddler	\$12.98	\$19.47	\$13.50	\$20.25	\$13.75	\$20.63	\$14.00	\$21.00
Preschool	\$12.50	\$18.75	\$12.75	\$19.13	\$13.00	\$19.50	\$13.75	\$20.63
School Age	\$10.82	\$16.23	\$11.25	\$16.88	\$12.00	\$18.00	\$12.50	\$18.75

HUMAN SERVICES DEPARTMENT[441](cont'd)

Table 3 Half-Day Rate Ceilings for (Child Development Home C)								
Age Group	No QRS Quality Rating		QRS Quality Rating 1 or 2		QRS Quality Rating 3 or 4		QRS Quality Rating 5	
	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs
Infant and Toddler	\$14.00	\$21.00	\$14.50	\$21.75	\$15.00	\$22.50	\$15.25	\$22.88
Preschool	\$13.75	\$20.63	\$14.50	\$21.75	\$14.75	\$22.13	\$15.00	\$22.50
School Age	\$11.25	\$16.88	\$12.50	\$18.75	\$13.00	\$19.50	\$14.50	\$21.75

Table 4 Half-Day Rate Ceilings for Child Care Home (Not Registered)		
Age Group	Basic	Special Needs
Infant and Toddler	\$12.98	\$19.47
Preschool	\$12.50	\$18.75
School Age	\$10.82	\$16.23

The following definitions apply in the use of the rate tables:

(1) “Licensed center” shall mean those providers as defined in 170.4(3) “a.” “Child development home A/B” or “child development home C” shall mean those providers as defined in 170.4(3) “b.” “Child care home (not registered)” shall mean those providers as defined in 441—Chapter 120.

(2) Under age group, “infant and toddler” shall mean age two weeks to three years; “preschool” shall mean three years to school age; “school age” shall mean a child in attendance in full-day or half-day classes.

(3) “No QRS Quality Rating” shall mean a provider who is not participating in the quality rating system does not have a current quality rating.

(4) A provider who is rated under the quality rating system shall be paid according to the corresponding QRS quality rating payment level in the tables above only during the period the rating is valid as defined in 441—Chapter 118. If the provider’s QRS quality rating expires, the provider shall be paid according to the “No QRS Quality Rating” payment level. Programs whose quality rating has expired shall not receive backdated payments once a new rating is awarded.

(5) For a provider rated “QRS Quality Rating 1” through “QRS Quality Rating 4,” if the rating period expires before a new QRS quality level is approved, the provider will be paid according to the “No QRS Quality Rating” payment level until the new QRS quality level is approved.

(6) For a provider rated “QRS Quality Rating 5,” if a renewal application is received before the current rating period expires, the provider will continue to be paid according to the “QRS Quality Rating 5” payment level until a decision is made on the provider’s application.

(7) “QRS Quality Rating 1 or 2” shall mean a provider who has achieved a rating of Level 1 or Level 2 under the quality rating system.

(8) “QRS Quality Rating 3 or 4” shall mean a provider who has achieved a rating of Level 3 or Level 4 under the quality rating system.

(9) “QRS Quality Rating 5” shall mean a provider who has achieved a rating of Level 5 under the quality rating system.

ARC 6214C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to raffles and social and charitable gambling
and providing an opportunity for public comment**

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104(10) and 99B.2.

Purpose and Summary

The proposed amendments to Chapter 100 permit the sale of raffle entries online; require that a purchaser of a raffle entry be provided the location, date, and time of the raffle drawing upon purchase; clarify that raffle entries shall not be purchased by credit card and that the price, including discounts, shall be the same for every purchaser; require that the drawing of a winning entry is done in a manner that allows purchasers to observe the drawing; require that a licensed qualified organization make a reasonable effort to inform a winner of the results of the drawing; and require that an application for a gambling license be submitted by an individual who has the authority to make decisions on behalf of the qualified organization. The proposed amendments also revise a reference to other chapters to align with previous rule makings.

Fiscal Impact

After analysis and review of this rule making, no fiscal impact to the State of Iowa is anticipated.

Jobs Impact

After analysis and review of this rule making, no impact on jobs is anticipated.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 15, 2022. Comments should be directed to:

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

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 481—100.1(99B), introductory paragraph, as follows:

481—100.1(99B) Definitions. In addition to the definitions found in Iowa Code chapter 99B, and unless specifically defined in 481—Chapters 101 to ~~407~~ 106, the following definitions apply to all social and charitable gambling rules.

ITEM 2. Adopt the following **new** subrule 100.3(7):

100.3(7) Responsible party. The responsible party identified on the application shall sign the application or submit the online application. The responsible party shall be a person who is authorized to make decisions on behalf of the qualified organization.

ITEM 3. Amend subrules 100.16(2) to 100.16(4) as follows:

100.16(2) Raffle entries—sales. Any price may be charged for a raffle entry, and the price, including any discounts, shall be the same for every purchaser. Raffle entries shall not be ~~sold online~~ purchased by credit card. Raffle entries shall not be sold outside the state of Iowa. Organizations shall comply with United States Postal Service regulations restricting the sale of raffle entries through the mail. The purchaser of a raffle entry shall be provided the location, date, and time of the corresponding raffle drawing at the time of purchase.

100.16(3) Raffle entries—discount. A licensee may offer raffle entries for sale at a discounted rate if the discount is applied in a nondiscriminatory manner.

a. Examples. Selling one entry for \$5 or five entries for \$20 is acceptable as long as the discount is available to all purchasers. The amount paid for entries ~~may~~ shall not be determined by a any variable characteristic of the person purchasing entries, such as height, weight or wingspan.

b. Promotion and availability of discount. The discount must be available to all persons throughout the duration of the raffle and must be posted on all promotional material.

100.16(4) Winners. Raffle winners cannot be required to be present to win. The drawing of the winning entry shall be done in a manner that allows the purchasers to observe the drawing.

a. The date by which the prize shall be claimed shall be no fewer than 14 days following the drawing. The licensed qualified organization shall make a reasonable effort to inform the winner of the drawing results during that time frame.

b. If the prize is not claimed, the licensed qualified organization may do one of the following:

(1) Continue to draw until a winner claims the prize. Each drawing must allow the time period specified in paragraph 100.16(4)“a” for claiming the prize.

(2) Donate the unclaimed prize to another qualified organization to be used for an educational, civic, public, charitable, patriotic, or religious use.

ARC 6204C**LABOR SERVICES DIVISION[875]****Notice of Intended Action****Proposing rule making related to civil penalties
and providing an opportunity for public comment**

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 88.

Purpose and Summary

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

Fiscal Impact

The proposed penalty increases may result in a small increase in OSHA civil penalties that are deposited into the General Fund.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on March 15, 2022. Comments should be directed to:

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

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

LABOR SERVICES DIVISION[875](cont'd)

March 15, 2022
9 a.m.

150 Des Moines Street
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 Commissioner and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after ~~June 26, 2021~~ June 1, 2022, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than ~~\$9,639~~ \$10,360 and shall not exceed ~~\$136,532~~ \$145,027.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~\$136,532~~ \$145,027.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~\$13,653~~ \$14,502.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~\$13,653~~ \$14,502.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~\$13,653~~ \$14,502 per day.

f. Posting, reporting, or record-keeping violation. The penalty for each posting, reporting, or record-keeping violation under Iowa Code section 88.14(9) shall not exceed ~~\$13,653~~ \$14,502.

ARC 6208C

NURSING BOARD[655]

Notice of Intended Action

Proposing rule making related to standards of practice for telehealth for registered nurses (RNs) and licensed practical nurses (LPNs) and providing an opportunity for public comment

The Board of Nursing hereby proposes to amend Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 152.

NURSING BOARD[655](cont'd)

Purpose and Summary

In light of the proliferation of telehealth services, the Board proposes to adopt new amendments governing minimum standards of practice for registered nurses (RNs) and licensed practical nurses (LPNs) who provide health care services through telehealth. These proposed amendments provide when an Iowa license is required, instruct that the licensee will be held to the same standard of care as is applicable to in-person settings, instruct that RNs and LPNs may only provide services through telehealth that are within the licensee's scope of practice, require the use of Health Insurance Portability and Accountability Act (HIPAA)-complaint technology, and require adequate recordkeeping of telehealth encounters.

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 655—Chapter 15.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 15, 2022. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. Eighth Street, Suite B
Des Moines, Iowa 50309
Email: kathy.weinberg@iowa.gov

Public Hearing

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

March 15, 2022
9 to 10 a.m.

Board Office, Suite B
400 S.W. Eighth Street
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).

NURSING BOARD[655](cont'd)

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definitions of “Asynchronous store-and-forward transmission,” “Licensee” and “Telehealth” in rule **655—6.1(152)**:

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

“*Licensee*” means an individual licensed by the board as a registered nurse or licensed practical nurse.

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

ITEM 2. Adopt the following **new** rule 655—6.4(152):

655—6.4(152) Telehealth.

6.4(1) *Telehealth permitted.* A licensee may, in accordance with all applicable laws and rules, provide health care services to a patient through telehealth.

6.4(2) *License required.* A registered nurse or licensed practical nurse who provides services through telehealth to a patient physically located in Iowa must hold an active license issued by the board or have an active privilege to practice in Iowa pursuant to the nurse licensure compact.

6.4(3) *Standard of care.* A licensee who provides services through telehealth shall be held to the same standard of care as is applicable to in-person settings. A licensee shall not perform any service via telehealth unless the same standard of care can be achieved as if the service was performed in person.

6.4(4) *Scope of practice.* A licensee who provides services through telehealth shall ensure the services provided are consistent with the licensee’s scope of practice, education, training, and experience.

6.4(5) *Technology.* A licensee providing services through telehealth shall utilize technology that is secure and compliant with the Health Information Portability and Accountability Act (HIPAA). The technology must be of sufficient quality, size, resolution, and clarity such that the licensee can safely and effectively provide the telehealth services and abide by the applicable standard of care.

6.4(6) *Records.* A licensee who provides services through telehealth shall maintain a record of the care provided to the patient. Such records shall comply with all applicable laws, rules, and standards of care for recordkeeping, confidentiality, and disclosure of a patient’s medical record.

ARC 6205C

NURSING BOARD[655]

Notice of Intended Action

Proposing rule making related to standards of practice for telehealth for advanced registered nurse practitioners (ARNPs) and providing an opportunity for public comment

The Board of Nursing hereby proposes to amend Chapter 7, “Advanced Registered Nurse Practitioners,” Iowa Administrative Code.

Legal Authority for Rule Making

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

NURSING BOARD[655](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 152.

Purpose and Summary

In light of the proliferation of telehealth services, the Board proposes to adopt amendments governing minimum standards of practice for advanced registered nurse practitioners (ARNPs) who provide health care services through telehealth. These proposed amendments provide when an Iowa license is required, instruct that the licensee will be held to the same standard of care as is applicable to in-person settings, instruct when a provider-patient relationship must first be established, require the use of Health Insurance Portability and Accountability Act (HIPAA)-compliant technology, authorize the issuance of prescriptions via telehealth provided such issuance is consistent with the standard of care, require adequate recordkeeping of telehealth encounters, and require referrals for follow-up care when required by the standard of care. These proposed amendments have been reviewed and approved by the Board's ARNP Advisory Committee, which is a committee comprised of 11 ARNPs who work in various settings throughout the state.

Fiscal Impact

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

Jobs Impact

Although a precise jobs impact is unclear, these amendments have the potential for creating additional jobs, because the amendments clarify that ARNPs may provide health care services, consistent with ARNPs' scopes of practice and population foci, through telehealth.

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 655—Chapter 15.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 15, 2022. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. Eighth Street, Suite B
Des Moines, Iowa 50309
Email: kathy.weinberg@iowa.gov

Public Hearing

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

March 15, 2022
10 to 11 a.m.

Board Office, Suite B
400 S.W. Eighth Street
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.

NURSING BOARD[655](cont'd)

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definitions of “Asynchronous store-and-forward transmission,” “Cross-coverage,” “Licensee,” “On call” and “Telehealth” in rule **655—7.1(17A,124,147,152)**:

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

“*Cross-coverage*” means a licensee who engages in a remote evaluation of a patient, without in-person contact, at the request of another licensed health care provider who has established a proper practitioner-patient relationship with the patient.

“*Licensee*” means an individual licensed by the board as an advanced registered nurse practitioner.

“*On call*” means a licensee is available, where necessary, to attend to the urgent and follow-up needs of a patient for whom the licensee has temporarily assumed responsibility, as designated by the patient’s primary care licensee or other health care provider of record.

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

ITEM 2. Adopt the following **new** rule 655—7.9(152):

655—7.9(152) Standards of practice for telehealth.

7.9(1) Telehealth permitted. A licensee may, in accordance with all applicable laws and rules, provide health care services to a patient through telehealth.

7.9(2) License required. An advanced registered nurse practitioner who provides services through telehealth to a patient physically located in Iowa must be licensed by the board. A licensee who provides services through telehealth to a patient physically located in another state shall be subject to the laws and jurisdiction of the state where the patient is physically located.

7.9(3) Standard of care.

a. A licensee who provides services through telehealth shall be held to the same standard of care as is applicable to in-person settings. A licensee shall not perform any service via telehealth unless the same standard of care can be achieved as if the service was performed in person.

b. Prior to initiating contact with a patient for the purpose of providing services to the patient using telehealth, a licensee shall:

(1) Review the patient’s history and all relevant medical records; and

(2) Determine as to each unique patient encounter whether the licensee will be able to provide the same standard of care using telehealth as would be provided if the services were provided in person.

NURSING BOARD[655](cont'd)

7.9(4) Scope of practice. A licensee who provides services through telehealth must practice within the licensee's respective population foci and ensure the services provided are consistent with the licensee's scope of practice, education, training, and experience.

7.9(5) Practitioner-patient relationship.

a. Prior to providing services through telehealth, the licensee shall first establish a practitioner-patient relationship. A practitioner-patient relationship is established when:

- (1) The person with a health-related matter seeks assistance from the licensee;
- (2) The licensee agrees to provide services; and
- (3) The person agrees to be treated, or the person's legal guardian or legal representative agrees to the person's being treated, by the licensee regardless of whether there has been a previous in-person encounter between the licensee and the person.

b. A practitioner-patient relationship can be established through an in-person encounter, consultation with another licensee or health care provider, or telehealth encounter.

c. Notwithstanding paragraphs 7.9(5) "a" and "b," services may be provided through telehealth without first establishing a practitioner-patient relationship in the following settings or circumstances:

- (1) Institutional settings;
- (2) Licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities, and hospice settings;
- (3) In response to an emergency or disaster;
- (4) Informal consultations with another health care provider performed by a licensee outside of the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
- (5) Episodic consultations by a specialist located in another jurisdiction who provides consultation services upon request to a licensee;
- (6) A substitute licensee acting on behalf and at the designation of an absent licensee or other health care provider in the same specialty on an on-call or cross-coverage basis; or
- (7) When a sexually transmitted disease has been diagnosed in a patient, a licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention.

7.9(6) Consent to telehealth. Prior to providing services via telehealth, the licensee shall obtain consent from the patient, or the patient's legal guardian or legal representative, to receive services via telehealth.

7.9(7) Technology. A licensee providing services through telehealth shall utilize technology that is secure and compliant with the Health Information Portability and Accountability Act (HIPAA). The technology must be of sufficient quality, size, resolution, and clarity such that the licensee can safely and effectively provide the telehealth services and abide by the applicable standard of care.

7.9(8) Prescriptions. A licensee providing services through telehealth may issue a prescription to a patient as long as the issuance of such prescription is consistent with the standard of care applicable to the in-person setting.

7.9(9) Records. A licensee who provides services through telehealth shall maintain a record of the care provided to the patient. Such records shall comply with all applicable laws, rules, standards of care for recordkeeping, confidentiality, and disclosure of a patient's medical record.

7.9(10) Follow-up care. A licensee who provides services through telehealth shall refer a patient for follow-up care when required by the standard of care.

ARC 6207C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to commercial driver's license requirements and adoption of federal regulations and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 520, "Regulations Applicable to Carriers," Chapter 529, "For-Hire Interstate Motor Carrier Authority," Chapter 605, "License Issuance," 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 307.27, 321.188, 321.449 and 321.450.

Purpose and Summary

This proposed rule making aligns Chapters 520, 529 and 607 with federal regulation changes that occurred during the 2021 federal fiscal year. This proposed rule making also amends Chapters 605 and 607 to clarify certain commercial driver's license (CDL) requirements.

CDL updates. The proposed amendments to Chapters 605 and 607 will align the rules with existing legal authority and current Department practice. In particular, the proposed amendments specify the type of vehicle that a person with a Class C CDL may operate by relating the rule to the definition of such vehicle in Iowa Code section 321.1(11), and they also outline the process the Department will follow if an applicant for a CDL or commercial learner's permit (CLP) fails to retake a required test upon a determination that the knowledge or skills test was improperly administered. In addition, these amendments clarify that an applicant seeking to add or remove a K (intrastate only) restriction is eligible to renew the applicant's CDL online. The current rule language is not clear that a Class C commercial vehicle is either a vehicle designed to transport 16 or more passengers or a vehicle used to transport hazardous materials. The current rule language also does not outline the steps the Department will take to downgrade or cancel a CDL or CLP when a person fails to retake a required test upon a finding that the test was improperly administered. The current rule language also does not account for the fact that a person who is adding or removing a K (intrastate only) restriction from the person's license is eligible to utilize the online CDL renewal process. Making these proposed rule amendments will help clarify these areas for affected parties.

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

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the 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

TRANSPORTATION DEPARTMENT[761](cont'd)

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 CFR dated October 1, 2021, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399. The proposed amendment to Chapter 529 adopts the CFR dated October 1, 2021, for 49 CFR Parts 365 to 368 and 370 to 379. The proposed amendment to Chapter 607 adopts the CFR dated October 1, 2021, 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 2021 edition of the CFR that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and HMR

Part 180 (FR Vol. 85, No. 211, Pages 68790-68798, 10-30-20)

This final rule amends the requirements in the HMR relating to the requalification periods for certain U.S. Department of Transportation 4-series specification cylinders in noncorrosive gas service in response to a petition for rule making submitted by the National Propane Gas Association. Effective date: November 30, 2020.

Part 395 (FR Vol. 85, No. 227, Pages 74909-74919, 11-24-20)

This final rule clarifies the definitions of the terms “any agricultural commodity,” “livestock,” and “non-processed food,” as the terms are used in the definition of “agricultural commodity” for the purposes of the “Hours of Service (HOS) of Drivers” regulations promulgated by the Federal Motor Carrier Safety Administration (FMCSA). Under the current regulations, drivers transporting agricultural commodities, including livestock, from the source of the commodities to a location within 150 air miles of the source, during harvest and planting seasons as defined by each state, are exempt from the HOS requirements. Furthermore, the HOS requirement for a 30-minute rest break does not apply to drivers transporting livestock in interstate commerce while the livestock are on the commercial motor vehicle. This interim final rule clarifies the meaning of these existing definitional terms to ensure that the HOS exemptions are utilized as Congress intended. Effective date: December 9, 2020.

Parts 107, 171-173, 178 and 180 (FR Vol. 85, No. 228, Pages 75680-75717, 11-25-20)

This final rule amends the HMR in response to 24 petitions for rule making submitted by the regulated community between February 2015 and March 2018. This final rule updates, clarifies, or provides relief from various regulatory requirements without adversely affecting safety. The Pipeline and Hazardous Materials Safety Administration (PHMSA) also, as of the effective date of this final rule, withdraws its September 28, 2017, enforcement discretion regarding the phase-out of mobile refrigeration systems. Effective date: December 28, 2020.

Parts 107, 171-173, 177, 178 and 180 (FR Vol. 85, No. 245, Pages 83366-83403, 12-21-20)

This final rule amends the HMR to correct editorial errors and improves the clarity of certain provisions in the regulations and PHMSA program and procedural regulations. The intended effect of this final rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this final rule are nonsubstantive changes and do not impose new requirements. Effective date: January 20, 2021.

Parts 107, 171, 173, 178 and 180 (FR Vol. 85, No. 248, Pages 85380-85437, 12-28-20)

This final rule amends the HMR to revise certain requirements applicable to the manufacture, use, and requalification of U.S. Department of Transportation specification cylinders. The PHMSA is taking this action in response to petitions for rule making submitted by stakeholders and agency review of compressed gas cylinder regulations. Specifically, the PHMSA is incorporating by reference or updating the references to several Compressed Gas Association publications, amending the filling requirements for compressed and liquefied gases, expanding the use of salvage cylinders, and revising and clarifying the manufacture and requalification requirements for cylinders. Effective date: January 27, 2021.

Parts 107 and 171 (FR Vol. 86, No. 83, Pages 23241-23260, 5-03-21)

TRANSPORTATION DEPARTMENT[761](cont'd)

This final rule amends the HMR and provides the 2021 inflation adjustment to civil penalty amounts that may be imposed for violations of certain U.S. Department of Transportation regulations. Effective date: May 3, 2021.

Part 107 (FR Vol. 86, No. 104, Pages 29528-29529, 6-02-21)

This final rule amends the HMR and makes a technical correction to the effective date listed in an appendix, which was originally amended by a final rule published on May 3, 2021, providing the 2021 inflation adjustment to civil penalty amounts that may be imposed for violations of certain U.S. Department of Transportation regulations. Effective date: June 2, 2021.

Parts 383 and 391 (FR Vol. 86, No. 117, Pages 32643-32651, 6-22-21)

This final rule amends the FMCSR to extend the compliance date from June 22, 2021, to June 23, 2025, for several provisions of the FMCSA's April 23, 2015, Medical Examiner's Certification Integration final rule. The FMCSA issued an interim final rule on June 21, 2018, extending the compliance date for these provisions until June 22, 2021. On April 22, 2021, the FMCSA published a supplemental notice of proposed rule making that proposed further extending the compliance date to June 23, 2025. This final rule will provide the FMCSA time to complete certain information technology (IT) system development tasks for its National Registry of Certified Medical Examiners (National Registry) and to provide the State Driver's Licensing Agencies (SDLAs) sufficient time to make the necessary IT programming changes when the new National Registry system is completed and available. Effective date: June 22, 2021.

Part 383 (FR Vol. 86, No. 123, Pages 34631-34636, 6-30-21)

This final rule amends the FMCSR to finalize the FMCSA's final interim final rule revising a December 8, 2016, final rule regarding "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" (ELDT final rule). This final rule finalizes the extension of the compliance date for the ELDT final rule from February 7, 2020, to February 7, 2022. This action provides the FMCSA additional time to complete development of the Training Provider Registry (TPR) and provides SDLAs time to modify their IT systems and procedures, as necessary, to accommodate their receipts of driver-specific ELDT data from the TPR. Effective date: July 30, 2021.

Parts 383, 385, 390 and 391 (FR Vol. 86, No. 127, Pages 35633-35653, 7-07-21)

This final rule amends the FMCSR by making technical changes to correct inadvertent errors and omissions, to remove or update obsolete references, and to improve the clarity and consistency of certain regulatory provisions. The final rule also makes nondiscretionary, ministerial changes that are statutorily mandated and changes that merely align regulatory requirements with the underlying statutory authority. Finally, the final rule contains two minor changes to the FMCSA's rules of agency procedure or practice that relate to separation of functions and allow the FMCSA and state personnel to conduct off-site compliance reviews of motor carriers following the same safety fitness determination criteria used in on-site compliance reviews. Effective date: July 7, 2021.

Part 385 (FR Vol. 86, No. 164, Pages 48038-48044, 8-27-21)

This final rule amends the FMCSR to incorporate by reference the Commercial Vehicle Safety Alliance's (CVSA) "Operational Policy 4: Inspector Training and Certification," as required by the Fixing America's Surface Transportation Act (FAST Act). The CVSA policy provides the current policy and practices for FMCSA employees, state or local government employees, and contractors to obtain and maintain certification for conducting driver or vehicle inspections. Consistent with the requirements of the FAST Act, this final rule substitutes the most recent version of the CVSA policy, reflecting revisions to the version referenced in the July 8, 2019, notice of proposed rule making. The revisions include availability of inspector certification extensions under declared emergency situations adopted in response to the COVID-19 national emergency. This final rule also replaces an interim final rule in place since 2002. Effective date: August 27, 2021.

TRANSPORTATION DEPARTMENT[761](cont'd)

Fiscal Impact

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

Jobs Impact

The proposed amendments may have a slight impact on CDL holders and motor carrier operations. However, the amendments should not negatively impact jobs or employment opportunities because the regulations align the rules to federal regulations and clarify that an applicant seeking to add or remove a K (intrastate only) restriction is eligible to renew the applicant's CDL online. These amendments will 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 March 15, 2022. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on March 17, 2022, via conference call at 1 p.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on March 15, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs.

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

TRANSPORTATION DEPARTMENT[761](cont'd)

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, ~~2020~~ 2021).

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, ~~2020~~ 2021).

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, ~~2020~~ 2021, for regulating interstate for-hire carriers.

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

ITEM 4. Amend paragraph **605.25(8)“a,”** introductory paragraph, as follows:

a. An applicant who is otherwise eligible to renew a commercial driver’s license must meet the same eligibility requirements for renewing a noncommercial driver’s license listed in paragraph 605.25(7)“a” to renew the license electronically ~~and~~, except that numbered paragraph 605.25(7)“a”(9)“3” shall not apply if the applicant is adding or removing the K restriction from the license at the time of renewal. The applicant must also meet the following criteria:

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

d. The following portions of 49 CFR Part 383 (October 1, ~~2020~~ 2021):

- (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.

ITEM 6. Amend subrule 607.16(2) as follows:

607.16(2) Validity.

a. A Class A commercial driver’s license allows a person to operate a combination of commercial motor vehicles as specified in Iowa Code ~~section 321.189(1)“a.”~~ sections 321.1(11) and 321.189(1)“a”(1). With the required endorsements and subject to the applicable restrictions, a Class A commercial driver’s license is valid to operate any vehicle. Before the department administers the skills test for a Class A commercial driver’s license to an applicant for the first time, the applicant must comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

b. A Class B commercial driver’s license allows a person to operate a commercial motor vehicle as specified in Iowa Code ~~section 321.189(1)“b.”~~ sections 321.1(11) and 321.189(1)“a”(2). With the required endorsements and subject to the applicable restrictions, a Class B commercial driver’s license is valid to operate any vehicle except a truck-tractor semitrailer combination as a chauffeur (Class D) or a vehicle requiring a Class A commercial driver’s license. Before the department administers the skills test for a Class B commercial driver’s license to an applicant for the first time, the applicant must comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

c. A Class C commercial driver’s license allows a person to operate a commercial motor vehicle as specified in Iowa Code ~~section 321.189(1)“c.”~~ sections 321.1(11) and 321.189(1)“a”(3) if the vehicle is designed to transport 16 or more passengers, including the driver, or is used in the transportation of hazardous materials as defined in 49 CFR Section 383.5. With the required endorsements and subject to the applicable restrictions, a Class C commercial driver’s license is valid to operate any vehicle except a vehicle requiring a Class A or Class B commercial driver’s license.

d. to h. No change.

ITEM 7. Amend rule 761—607.31(321) as follows:

761—607.31(321) Test results.

TRANSPORTATION DEPARTMENT[761](cont'd)

607.31(1) to 607.31(4) No change.

607.31(5) *Downgrade or cancellation when retesting is required.*

a. When retesting is required under subrule 607.31(2) or 607.31(4), the department shall notify the person of the requirement to retake the applicable knowledge or skills test.

b. If the person fails to contact the department within 30 days after receipt of the notice, fails to appear for a scheduled retest, or fails the knowledge or skills test, the department shall, in accordance with the authority in 49 CFR Section 383.5 and Iowa Code section 321.201, take one of the following actions:

(1) Downgrade the person's commercial driver's license or commercial learner's permit if the person held valid noncommercial driving privileges prior to obtaining the license or permit.

(2) Cancel the person's commercial driver's license or commercial learner's permit pursuant to 761—subrule 615.7(3) if the applicant did not hold valid noncommercial driving privileges prior to obtaining the license or permit.

c. When a person's commercial driver's license or commercial learner's permit has been downgraded or canceled under this subrule, the person must comply with all applicable retesting requirements in order to regain the license or permit, in addition to any other applicable requirements for licensure.

This rule is intended to implement Iowa Code sections 321.180, 321.186, 321.187, and 321.188 and 321.201.

ARC 6200C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to emergency contact information and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 601, "Application for License," and Chapter 630, "Nonoperator's Identification," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.197.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.197.

Purpose and Summary

This proposed rule making updates Chapters 601 and 630 to conform the rules with 2021 Iowa Acts, House File 435, which amended Iowa Code section 321.197. House File 435 requires the Department to request emergency contact information from every customer during a driver's license or nonoperator's identification card transaction. The legislation also gives customers the option of providing the Department with emergency contact information outside of during a driver's license or nonoperator's identification card transaction.

The proposed amendments outline the process for customers to submit emergency contact information to the Department to be used by law enforcement in the event of an accident or other emergency. Submission of emergency contact information is voluntary and is not a mandatory condition of processing a driver's license or nonoperator's identification card transaction. The proposed amendments allow the customer to submit information for up to two emergency contacts and require one of the emergency contacts to be the customer's parent, guardian, or custodian if the customer is an unemancipated minor. Additionally, the amendments lay out the steps that a customer can take to

TRANSPORTATION DEPARTMENT[761](cont'd)

change the customer's emergency contact information or to request to opt out of being listed as an emergency contact for another person.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

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 March 15, 2022. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on March 17, 2022, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on March 15, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs.

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Adopt the following new rule 761—601.3(321):

761—601.3(321) Emergency contact information. Pursuant to Iowa Code section 321.197, a person may voluntarily provide the department with emergency contact information.

601.3(1) Form and submission.

a. Emergency contact information provided to the department shall meet the requirements and be used in the circumstances set forth in Iowa Code section 321.197(2)“b.”

b. Emergency contact information may be provided to the department through any of the following methods:

(1) By submitting Form 430305 via mail to the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; by email at emergencyinfo.contact@iowadot.us; or on the department’s website at www.iowadot.gov.

(2) In person at a driver’s license service center.

(3) In person at a county treasurer’s office that issues driver’s licenses under Iowa Code chapter 321M.

c. Pursuant to Iowa Code section 321.197(2)“c,” an unemancipated person under 18 years of age choosing to provide emergency contact information shall include a parent, guardian or custodian as an emergency contact.

d. The department shall not require submission of emergency contact information as a condition of issuing, renewing or replacing a driver’s license.

e. In accordance with Iowa Code section 321.197(2)“b,” the department will not verify the emergency contact information provided.

601.3(2) Disclosure and use. Information provided to the department under subrule 601.3(1) shall be provided to and used by law enforcement in accordance with the provisions of Iowa Code section 321.197.

601.3(3) Modifications.

a. A person may request changes to the person’s emergency contact information by entering those changes on the department’s website or by submitting Form 430305 to the department using any of the methods provided in paragraph 601.3(1)“b.”

b. A person may request to be removed from being listed as an emergency contact by submitting Form 430306 to the department via mail at Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204, or by email at emergencyinfo.contact@iowadot.us. Any person removed from being listed as an emergency contact shall not be re-added as a potential emergency contact unless such person follows the opt-in process in paragraph 601.3(3)“c.”

c. A person who requested to be removed from being listed as an emergency contact under paragraph 601.3(3)“b” may request to again be listed as a person’s emergency contact by submitting Form 430306 to the department via mail at Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204, or by email at emergencyinfo.contact@iowadot.us.

This rule is intended to implement Iowa Code section 321.197.

ITEM 2. Amend subrule 630.2(2) as follows:

630.2(2) The applicant shall present proof of identity, date of birth, social security number, Iowa residency, current residential address and lawful status as required by rule 761—601.5(321). ~~Submission~~ If applicable, submission of a parent’s, guardian’s or custodian’s consent is also required in accordance with rule 761—601.6(321). The applicant or a current cardholder may provide the department with emergency contact information in accordance with rule 761—601.3(321).

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for February is 3.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective February 9, 2022, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

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

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

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:

USURY(cont'd)

March 1, 2021 — March 31, 2021	3.00%
April 1, 2021 — April 30, 2021	3.25%
May 1, 2021 — May 31, 2021	3.50%
June 1, 2021 — June 30, 2021	3.75%
July 1, 2021 — July 31, 2021	3.50%
August 1, 2021 — August 31, 2021	3.50%
September 1, 2021 — September 30, 2021	3.25%
October 1, 2021 — October 31, 2021	3.25%
November 1, 2021 — November 30, 2021	3.25%
December 1, 2021 — December 31, 2021	3.50%
January 1, 2022 — January 31, 2022	3.50%
February 1, 2022 — February 28, 2022	3.50%
March 1, 2022 — March 31, 2022	3.75%

ARC 6201C**WORKFORCE DEVELOPMENT DEPARTMENT[871]****Notice of Intended Action****Proposing rule making related to unemployment insurance benefits
and providing an opportunity for public comment**

The Director of the Workforce Development Department hereby proposes to amend Chapter 24, “Claims and Benefits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

This proposed rule making updates the Department’s requirement that a claimant for unemployment insurance benefits be earnestly and actively seeking work.

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.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

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 March 15, 2022. Comments should be directed to:

David Steen
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, IA 50319-0209
Email: david.steen@iwd.iowa.gov

Public Hearing

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

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:

Rescind paragraph **24.22(3)“c”** and adopt the following **new** paragraph in lieu thereof:

c. Exceptions.

(1) Union and professional employees. Members of unions or professional organizations who normally obtain their employment through union or professional organizations are considered as earnestly and actively seeking work if they maintain active contact with the union’s business agent or with the placement officer in the professional organization. A paid-up membership must be maintained if this is a requirement for placement service. The trade, profession, or union to which the individual belongs must have an active hiring hall or placement facility, and the trade, profession, or union must be the source customarily used by employers in filling their job openings. Registering with the individual’s union hiring or placement facility is sufficient, except that whenever all benefit rights to regular benefits are exhausted and Iowa is in an extended benefit period or similar program such as the federal supplemental compensation program, individuals must also actively search for work. Mere registration at a union or reporting to a union hiring hall or registration with a placement facility of the individual’s professional organization does not satisfy the extended benefit systematic and sustained effort to find work, and additional work contacts must be made.

(2) The requirement for seeking work is waived for the first 16 weeks after the initial claim is filed if all of the following conditions apply:

1. The individual is attached to a regular job or industry.
2. The individual is a high-skilled worker. For purposes of this numbered paragraph, “high-skilled worker” means a worker whose job or position requires licensing, credentials, or specialized training.
3. The individual is on a short-term temporary layoff. For purposes of this numbered paragraph, “short-term temporary layoff” means a layoff period of 16 weeks or less due to seasonal weather conditions that impact the ability to perform work related to highway construction, repair, or maintenance with a specific return-to-work date verified by the employer.
4. The individual otherwise qualifies for unemployment insurance benefits.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

(3) The requirement for seeking work is waived for the first eight weeks after the initial claim is filed. A claimant shall be required to complete one work search activity each week after the first eight weeks after the initial claim is filed if all of the following conditions apply:

1. The individual is attached to a regular job or industry.
2. The individual is a worker other than a high-skilled worker as defined in numbered paragraph 24.22(3) “c”(2)“2.”

3. The individual is on a short-term temporary layoff. For purposes of this numbered paragraph, “short-term temporary layoff” means a layoff period of 16 weeks or less due to seasonal weather conditions that impact the ability to perform work related to highway construction, repair, or maintenance with a specific return-to-work date verified by the employer.

4. The individual otherwise qualifies for unemployment insurance benefits.

(4) If work is not available at the conclusion of the layoff period due to short-term circumstances beyond the employer’s control, the employer may request a one-time extension of the waiver or alteration for up to two weeks from the department. For the purposes of this subparagraph, “short-term circumstances” means a temporary, unexpected condition that delays the anticipated start of the employer’s normal work season.

ARC 6217C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to farm-to-school fund

The Agriculture and Land Stewardship Department hereby adopts new Chapter 51, “Farm-to-School Fund,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 190A.6 as enacted by 2021 Iowa Acts, Senate File 578, section 7.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 578.

Purpose and Summary

This rule making implements 2021 Iowa Acts, Senate File 578, by laying out a process for schools to participate in the farm-to-school local food reimbursement program. Schools may be reimbursed by the Department for up to \$1,000 in local food purchases per year on a three-to-one matching basis.

These rules address how schools can apply to participate, describe eligible purchases, and set forth the reimbursement process.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 29, 2021, as **ARC 6113C**. 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 February 2, 2022.

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).

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

Effective Date

This rule making will become effective on March 30, 2022.

The following rule-making action is adopted:

Adopt the following **new** 21—Chapter 51:

CHAPTER 51
FARM-TO-SCHOOL FUND

21—51.1(190A) Purpose. The purpose of the farm-to-school fund is to assist schools and school districts in purchasing food locally grown or produced by Iowa farmers to serve in school meals or as snacks.

21—51.2(190A) Definitions.

“*Department*” means the department of agriculture and land stewardship.

“*Food product*” means a perishable or nonperishable product derived from processing a food commodity to be fit for human consumption, including but not limited to cuts of meat, poultry, or fish; shelled aquatic items; pasteurized milk or dairy products; washed shelled eggs; honey; maple syrup; cleaned unshelled or shelled nuts; washed whole produce; and washed and cut produce.

“*School*” means a public school or nonpublic school, as those terms are defined in Iowa Code section 280.2, or that portion of a public school or nonpublic school that provides facilities for teaching any grade from kindergarten through grade 12.

21—51.3(190A) Application to participate. To participate in the farm-to-school program, schools must register with the department each school year. A school may apply to the department at any time during the school year.

21—51.4(190A) Eligible purchases.

51.4(1) Schools may be reimbursed for the purchase of a food product if either of the following applies:

- a. The food product was produced by a farm source located in this state.
- b. If the school district shares a border with another state, or the school is part of a school district that shares a border with another state, the farm source may be located in the other state. However, the farm source must be located within 30 miles of the school district’s border with the other state and the department must approve the purchase in advance.

51.4(2) Purchases must follow United States Department of Agriculture (USDA) child nutrition program procurement requirements.

21—51.5(190A) Reimbursement for purchases.

51.5(1) Participating schools or districts must submit a request for reimbursement to the department, and proof of purchase must be provided at that time.

51.5(2) The department will reimburse \$1 for every \$3 spent by the school or school district, up to \$1,000, as funds are available.

These rules are intended to implement Iowa Code chapter 190A.

[Filed 2/4/22, effective 3/30/22]

[Published 2/23/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/22.

ARC 6213C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to record-keeping requirements

The Agriculture and Land Stewardship Department hereby amends Chapter 67, “Animal Welfare,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 162.16.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 162.5.

Purpose and Summary

This rule making exempts tropical and ornamental fish from certain record-keeping requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 29, 2021, as **ARC 6111C**. One comment was received that expressed general support for the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 2, 2022.

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 30, 2022.

The following rule-making actions are adopted:

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

ITEM 1. Amend subrule 67.6(1), introductory paragraph, as follows:

67.6(1) Records shall be made and retained for a period of 12 months for any change of ownership of a dog, cat or nonhuman primate, including but not limited to any sale, exchange, transfer, trade, or adoption from any commercial establishment. Records shall be similarly kept on other small vertebrate animals, excluding tropical or ornamental fish, sold or transferred, except that individual identifications shall not be required. Records shall include the following:

ITEM 2. Amend subrule 67.6(2), introductory paragraph, as follows:

67.6(2) All commercial establishments shall furnish a statement of sale, exchange, transfer, trade, or adoption to each purchaser or recipient of a dog, cat, nonhuman primate, bird, or other vertebrate animal, excluding tropical or ornamental fish. This statement shall include the following:

[Filed 2/3/22, effective 3/30/22]

[Published 2/23/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/22.

ARC 6216C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to weights and measures

The Agriculture and Land Stewardship Department hereby amends Chapter 85, "Weights and Measures," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 215.24.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 215.

Purpose and Summary

This rule making implements a number of amendments to reflect current industry and departmental practices. These amendments do the following:

- Allow a scale pit to include a one-inch drop for drainage.
- Require Department approval for modifications that attach to or touch a scale.
- Allow master scale weights to be sealed every two years, as opposed to every year.
- Update several industry standards by reference. The "Security Seal" section of the National Institute of Standards and Technology (NIST) Handbook was renumbered as G-UR4.5 due to an update of the Handbook. Two references to that section have been updated accordingly.
 - Require fuel product names that are displayed in advertising to match those listed on the fuel dispenser.
 - Require flex fuel hoses to be separate from other fuel hoses, as required already by the Environmental Protection Agency (EPA).
 - Establish a servicer's license fee, equal to the amount previously set in statute, to reflect updates to Iowa Code section 215.23.
 - Provide a general cleanup of existing rules.

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 29, 2021, as **ARC 6112C**. 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 February 2, 2022.

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 May 1, 2022.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** implementation sentence in rule **21—85.5(215)**:

This rule is intended to implement Iowa Code section 215.18.

ITEM 2. Amend subrule 85.11(1) as follows:

85.11(1) In the construction of a scale pit, walls must be of reinforced concrete. A slab floor must be installed in the pit. The floor must be at least 12 inches thick with a minimum of grade 40 reinforcement rod running into all piers and sidewalls, installed according to the manufacturer's specifications. There shall be an approach at each end of the scale of not less than ten feet, and said approach shall be of reinforced concrete 12 inches thick on a level with the scale deck. A slope of a one-inch drop across the ten-foot span may be allowed for drainage.

ITEM 3. Amend subrule 85.12(6) as follows:

85.12(6) Scale platform and indicator shall be protected from wind and other elements which could cause inaccurate operation of the scale. Protection modifications that attach to or touch the scale or parts attached to the scale shall be approved by the department prior to installation.

ITEM 4. Amend rule 21—85.13(215) as follows:

21—85.13(215) Master weights. Master scale test weights used for checking scales after being overhauled must be sealed ~~by the department of agriculture and land stewardship, division of weights~~

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

~~and measures~~, as to their accuracy once ~~each year~~ every two years. Said weights after being sealed are to be used only as master test weights.

This rule is intended to implement Iowa Code section 215.17.

ITEM 5. Renumber subrule **85.18(8)** as **85.18(3)**.

ITEM 6. Adopt the following new heading preceding rule **21—85.30(215)**:

REGISTERED SERVICERS

ITEM 7. Adopt the following new rule 21—85.30(215):

21—85.30(215) Servicer's license fee. The fee for a servicer's license shall be \$10. The license shall be valid for two years from its date of issuance.

This rule is intended to implement Iowa Code section 215.23.

ITEM 8. Amend subrule 85.35(2) as follows:

85.35(2) In accordance with the contemplated revision of National ~~Bureau of Standards~~ Institute of Standards and Technology Handbook 44-4th Edition, G-UR4.4 G-UR4.5 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

ITEM 9. Amend subrule 85.39(2) as follows:

85.39(2) The National Institute of Standards and Technology (NIST) Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Fuel Quality, Handbook 133, Checking the Net Contents of Packaged Goods, Type Evaluation, and all supplements to these handbooks, as published by the National Institute of Standards and Technology amended or revised as of January 1, 2020, are adopted in their entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

ITEM 10. Amend rule 21—85.40(215), introductory paragraph, as follows:

21—85.40(215) Inspection ILP inspection tag or mark. If a meter is found to be inaccurate, an appropriate "inaccurate" card and a "repair and placing in service" card shall be left with the meter.

ITEM 11. Amend rule 21—85.41(215) as follows:

21—85.41(215) Meter repair. If the meter has not been repaired within 30 days, the meter ~~will~~ may be condemned and a red condemned tag ~~will~~ may be attached to the meter.

This rule is intended to implement Iowa Code section 215.5.

ITEM 12. Amend rule 21—85.42(215) as follows:

21—85.42(215) Security seal. In accordance with the contemplated revision of National Institute of Standards and Technology Handbook 44, ~~Gur. 4.4~~ G-UR4.5 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

This rule is intended to implement Iowa Code section 215.12.

ITEM 13. Amend subrule 85.48(2) as follows:

85.48(2) Petroleum product retailers, if they elect to advertise the unit price of their petroleum products at or near the curb, storefront or billboard, shall display the price per gallon or liter. The advertised price shall equal the computer price settings shown on the metering pump or shall be displayed in a manner clear to the purchaser for discounts offered for cash payment. Product names displayed shall match the product names on the retail motor fuel dispensers and all consumer receipts.

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

ITEM 14. Amend rule 21—85.50(214,214A,215) as follows:

21—85.50(214,214A,215) Blender pumps. Motor fuel blender pumps or blender pumps installed or modified after November 1, 2008, which sell both ethanol blended gasoline classified as higher than E-15 and gasoline need to have at least two hoses per pump to separate registered gasoline fuels from flex fuels.

This rule is intended to implement Iowa Code section 214A.2.

[Filed 2/4/22, effective 5/1/22]

[Published 2/23/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/22.

ARC 6215C

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Adopted and Filed

Rule making related to five-year review of rules

The Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 5, "Employees," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," and Chapter 16, "Domestic Relations Orders and Other Assignments," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 97B.4 and 97B.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 97B.

Purpose and Summary

This rule making conforms rules with other rules and statutes or rescinds rules that are outdated, are redundant or inconsistent, or are no longer in effect to meet the requirements of the statutory five-year review of rules for Chapters 21 to 33; implements contribution rates for all classes of members; clarifies that all Regents institutions are covered by subrule 5.2(40), as universities also have optional coverage; allows IPERS to initiate investigations of suspected fraud in disability claims under Iowa Code section 97B.50A as amended by 2021 Iowa Acts, Senate File 342, sections 28 and 29, even in the absence of a written complaint; aligns subrule 13.2(14) with Senate File 342, enacted in the 89th General Assembly and subsequently signed by the Governor; reinstates rule 495—14.17(97B), inadvertently deleted in a prior rule making; provides a process for successor alternate payees to disclaim their benefit; and clarifies signature requirements for the mandatory Administrative Rule Compliance and Confidential Information forms accompanying Qualified Domestic Relations Orders.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 29, 2021, as **ARC 6117C**. A public hearing was held on January 24, 2022, at 10 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by IPERS on February 3, 2022.

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495](cont’d)

Fiscal Impact

IPERS’ enabling legislation requires that employer and employee contribution rates for each member class be updated every fiscal year.

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 IPERS 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 30, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrules 4.6(1) to 4.6(3) as follows:

4.6(1) Contribution rates for regular class members.

a. No change.

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022
Combined rate	14.88%	15.73%	15.73%	15.73%	15.73%	<u>15.73%</u>
Employer	8.93%	9.44%	9.44%	9.44%	9.44%	<u>9.44%</u>
Employee	5.95%	6.29%	6.29%	6.29%	6.29%	<u>6.29%</u>

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022
Combined rate	18.76%	19.52%	19.02%	18.52%	18.02%	<u>17.52%</u>
Employer	9.38%	9.76%	9.51%	9.26%	9.01%	<u>8.76%</u>
Employee	9.38%	9.76%	9.51%	9.26%	9.01%	<u>8.76%</u>

4.6(3) Contribution rates for protection occupations are as follows.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022
Combined rate	16.40%	17.02%	16.52%	16.02%	15.52%	<u>15.52%</u>
Employer	9.84%	10.21%	9.91%	9.61%	9.31%	<u>9.31%</u>
Employee	6.56%	6.81%	6.61%	6.41%	6.21%	<u>6.21%</u>

ITEM 2. Amend subrule 5.2(40) as follows:

5.2(40) Employees of area community colleges and universities shall be covered unless they elect coverage under an alternative system pursuant to a one-time irrevocable election. An employee must make an election in the alternative retirement system within 60 days of the employee's first day of employment.

ITEM 3. Amend rule 495—13.2(97B) as follows:

495—13.2(97B) Disability claim process for special service members. Except as otherwise indicated, this rule shall apply only to disability claims initiated under Iowa Code section 97B.50A. Except as otherwise indicated, disability claims under Iowa Code section 97B.50(2) shall be administered under rule 495—13.1(97B).

13.2(1) to 13.2(10) No change.

13.2(11) Notice of abuse of disability benefits. The system has the obligation and full authority to investigate allegations of abuse of disability benefits. The system, in its sole discretion, may initiate investigations in the absence of a complaint. The scope of the investigation to be conducted shall be determined by the system, and may include the ordering of a sub rosa investigation of a disability recipient to verify the facts relating to an alleged abuse. A sub rosa investigation shall only be considered upon receipt and evaluation of an acceptable notice of abuse. The notification must be in writing and include:

a. to c. No change.

IPERS may employ such investigators and other personnel, in IPERS' sole discretion, as may be deemed necessary. IPERS may also, in its sole discretion, decline to carry out such investigations if more than five years have elapsed since the date of the disability determination.

13.2(12) and 13.2(13) No change.

13.2(14) Offset to allowance. A member who retires under Iowa Code section 97B.50A shall have benefits reduced by other disability-related payments the member receives for the same disability, including, but not limited to, benefits from:

a. Social security.

b. Long-term disability insurance.

c. Workers' compensation, subject to the limitations set forth in Iowa Code section 97B.50A(5) "b" and "c."

d. Unemployment insurance.

e. Employer-paid disability plans, programs, or policies.

f. Other laws.

For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers' compensation award, disability insurance payments, or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS. IPERS shall convert any monthly, weekly, or other stated period workers' compensation award, disability insurance payments, or other awards for the same illnesses or injuries, dollar-for-dollar, to the same monthly, weekly, or other stated period, as determined by IPERS.

ITEM 4. Adopt the following **new** rule 495—14.17(97B):

495—14.17(97B) Procedures for final distribution to heirs who have filed claims. If a claimant has identified other persons in the claimant's group who would be entitled to a share of the member's death benefit, but such persons have not filed a claim within five years after the member's death, or by the

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

date required under IRC Section 401(a)(9) if earlier, the remainder of the member's death benefit shall be paid in pro rata shares to the claimants who were previously paid a share of the death benefit. In order to comply with the applicable IRS limitations, the final payments under this rule shall be made by December 31 of the fifth year that begins after the member's date of death, or by December 31 of the year that distribution is required under IRC Section 401(a)(9), if earlier. The sole recourse of any claimant who is a member of a group receiving payments hereunder or of any lower-numbered group that should have received all of such payments shall be against the claimants of the group that received death benefit payments.

This rule is intended to implement Iowa Code sections 97B.44 and 97B.52.

ITEM 5. Amend subrule 16.2(3) as follows:

16.2(3) Administrative provisions.

a. to d. No change.

e. A named successor alternate payee may waive current or future rights to payments to which the successor alternate payee would have otherwise been entitled. The funds waived by a successor alternate payee shall revert to the member. The waiver of rights shall occur prior to the receipt of any payment from IPERS to the successor alternate payee and shall be in the form of a filed and signed court order. The waiver of rights by a successor alternate payee is binding and shall serve to indemnify IPERS from all liability to beneficiaries, heirs, or other claimants for any waiver executed by a successor alternate payee. The waiver must be received by IPERS no later than nine months after the date of death of the alternate payee or the date on which the successor alternate payee reaches age 21, whichever occurs later.

e. f. An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a QDRO.

f. g. The CEO, or CEO's designee, shall have exclusive authority to determine whether a domestic relations order is a QDRO. A final determination by the CEO, or CEO's designee, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

g. h. A person who attempts to make IPERS a party or requires IPERS to appear as a witness to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney's fees.

h. i. A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a QDRO. Payment to the alternate payee will be withheld from the member's payment the month the alternate payee's application is mailed by IPERS. If the member is not receiving a retirement allowance at the time a domestic relations order is approved by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS. If IPERS has placed a hold on the member's account following written or verbal notification from the member, member's spouse, or legal representative of either party of a pending dissolution of marriage, and no further contacts are received from either party or their representatives within the following one-year period, or IPERS has not received and qualified a domestic relations order, IPERS shall release the hold.

i. j. IPERS and its staff shall have no liability for making or withholding payments in accordance with the provisions of this rule.

j. k. IPERS has no duty or responsibility to search for alternate payees. Alternate payees must notify IPERS of any change in their mailing addresses. IPERS shall mail the alternate payee an application once an application for a distribution has been received from the member and considered a complete application by IPERS. For monthly benefit applications, the alternate payee is eligible for monthly payments as of the member's first month of entitlement.

k. l. If a QDRO requires the member to select an option with joint and survivor provisions (Option 4 or 6) and name the alternate payee as contingent annuitant, the order must state the percentage in Option 4 or 6 to be payable to the alternate payee as contingent annuitant (the currently available percentages under Option 4 or 6 are 25, 50, 75 and 100 percent). Acceptable birth proof for the alternate payee as the

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named contingent annuitant, pursuant to 495—subrule 11.1(2), must also be provided to IPERS prior to approval of the order by IPERS.

l. m. For both lump sum and monthly payments, the alternate payee's tax withholding and rollover elections, if eligible, must be received before the first or current month's benefit is certified for payment or IPERS will use the applicable default tax withholding elections.

m. n. If an order that is determined to be a QDRO divides a member's account using a service factor formula and the member's IPERS benefits are based on a number of quarters less than the member's total covered quarters, notwithstanding any terms of the order to the contrary, IPERS shall limit the number of quarters used in the numerator and the denominator of the service fraction to the number of quarters actually used in the calculation of IPERS benefits, not to exceed 120 quarters for special service members and 140 quarters for regular and hybrid members. IPERS will not accept or administer a service factor formula fraction in excess of 1.

n. o. Service credit that is purchased during the period when the member is married to the alternate payee shall be added to the numerator and the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Service credit that is purchased during a period when the member is not married to the alternate payee shall only be added to the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Under no circumstances shall the number of quarters in the denominator be more than the number of quarters used to calculate the member's benefit. Service purchase after retirement shall not increase or decrease the alternate payee's payment amount that was deducted and was payable at the time of retirement.

o. p. The parties or their attorneys in a dissolution action involving an IPERS member shall decide between themselves which attorney will submit a proposed domestic relations order to IPERS for review. ~~IPERS shall not review a proposed order that has not been approved as to form by both parties or their counsel by enclosure of the Administrative Rule Compliance for QDROs form.~~ With the initial submission of an order for review, drafters must also submit a completed, signed, and dated Confidential Information (CI) form; in addition, every draft order submitted for review must be accompanied by a freshly signed and dated Administrative Rule Compliance for QDROs (ARC) form. Both the member and alternate payee, or their respective counsel, must sign and date the ARC form. Both forms must be wet signed; however, attorneys or pro se filers may sign with their electronic (eFile or EDMS) signatures. A rejection under this paragraph shall not preclude IPERS from placing a hold on a member's account until the status of a proposed order as a QDRO is resolved or the hold is released pursuant to the terms of paragraph ~~16.2(3)“h.”~~ 16.2(3)“i.”

p. q. If a member has filed for and is receiving monthly pension benefits, or wishes to file an application for retirement or a refund and has a qualified domestic relations order pending on the member's account, the parties (the member and the alternate payee or their counsel of record) may execute a waiver of the 30-day appeal period following review and qualification of the member's domestic relations order, using a form approved by the system.

q. r. If a member with an IPERS-approved QDRO is receiving a distribution according to a qualified benefits arrangement (QBA), the alternate payee shall share in the distribution to the member unless the order specifically states otherwise.

[Filed 2/3/22, effective 3/30/22]

[Published 2/23/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/22.

ARC 6196C**NURSING BOARD[655]****Adopted and Filed****Rule making related to administrative and regulatory authority of the board**

The Board of Nursing hereby rescinds Chapter 1, “Administrative and Regulatory Authority,” Iowa Administrative Code, and adopts a new Chapter 1 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 17A, 147, and 152.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 147, 152, and 272C.

Purpose and Summary

Iowa Code section 17A.3 requires that agencies adopt as a rule a description of the organization of the agency that states the general course and method of its operations, the administrative subdivisions of the agency and the programs implemented by each of them, a statement of the mission of the agency, and the methods by which and the location where the public may obtain information or make submissions or requests. Chapter 1 provides this information for the Board. Pursuant to Iowa Code section 17A.7, the Board conducted a five-year review of this chapter and adopted a number of changes to simplify the chapter and also align it with the Board’s current practices.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as **ARC 6034C**. A public hearing was held on December 7, 2021, at 9 a.m. at the Board’s Office, Suite B, 400 S.W. Eighth Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 19, 2022.

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 655—Chapter 15.

Review by Administrative Rules Review Committee

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

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meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 30, 2022.

The following rule-making action is adopted:

Rescind 655—Chapter 1 and adopt the following new chapter in lieu thereof:

CHAPTER 1
ADMINISTRATIVE AND REGULATORY AUTHORITY

655—1.1(17A) Board mission. The board of nursing protects the public health, safety, and welfare by regulating the licensure of nurses, the practice of nursing, nursing education, and continuing education.

655—1.2(17A,147,152,152E,272C) Description and organization of the board.

1.2(1) Board composition. The board is composed of four registered nurses, two of whom are engaged in active practice and two of whom are nurse educators from nursing education programs; one licensed practical nurse actively engaged in practice; and two members who represent the general public and are not registered nurses or licensed practical nurses. Of those board members who are nurse educators, one should be involved in higher education, and the other should be involved in area community college and vocational-technical nurse education.

1.2(2) Board leadership and committees. The board shall annually select a chairperson and a vice chairperson from its own membership. The election of chairperson and vice chairperson, as well as standing committee assignments, shall be done during the first regularly scheduled meeting after May 1.

1.2(3) Executive director. The board shall retain a full-time executive director who is responsible for the administration of policies and programs of the board and for the operation of the board office. Pursuant to Iowa Code section 135.11B, the board shall advise the director of the department of public health in evaluating potential candidates for the position of executive director, consult with the director in the hiring of the executive director, and review and advise the director on the performance of the executive director in the discharge of the executive director's duties.

1.2(4) Board authority. The board's authority for regulating nursing education, nursing practice, and continuing education for nurses in the state of Iowa is found in Iowa Code chapters 147, 147A, 152, 152E, and 272C.

655—1.3(17A,152,152E,272C) Responsibilities. The responsibilities of the board include but are not limited to:

1. Licensing qualified applicants for the practice of nursing by examination, endorsement, renewal, and compact privilege pursuant to Iowa Code chapters 147, 152, 152E, and 272C.
2. Conducting investigations and imposing discipline for violations of statutes or rules related to the practice of nursing pursuant to Iowa Code chapters 147, 152, and 272C.
3. Approving nursing education programs pursuant to Iowa Code section 152.5.
4. Collecting, analyzing, and disseminating nursing workforce data pursuant to Iowa Code section 152.4.
5. Approving continuing education providers to ensure continued competency of individuals licensed by the board to practice nursing pursuant to Iowa Code chapter 272C.
6. Administering the Iowa nurse assistance program to support the evaluation and monitoring of licensees who are impaired as a result of any substance use or mental or physical condition pursuant to Iowa Code section 272C.3.
7. Overseeing the nursing profession through policymaking, rule making, and advocating for and against legislation pursuant to Iowa Code section 135.11B.

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655—1.4(17A,272) Submission of requests, obtaining information, and board office. Members of the general public may obtain information or submit requests or complaints relative to the licensure of nursing, practice of nursing, nursing education, continuing education, or any other matters relating to the function and authority of this board. Correspondence should be submitted to the executive director at the board office. The board office is located at: RiverPoint Business Park, 400 S.W. Eighth Street, Suite B, Des Moines, Iowa 50309-4685.

655—1.5(17A,21) Meetings.

1.5(1) Quorum. A majority of the members of the board constitutes a quorum.

1.5(2) Meeting schedule and public notice. The board shall schedule and hold regular meetings. The date, time, and location of each meeting of the board shall be made available to the public on the board's website and upon request by contacting the board office.

1.5(3) Special meetings. Special meetings of the board may be called by the chairperson or upon request of four board members to the chairperson or the executive director.

1.5(4) Meeting materials. Materials received at the board office at least three weeks prior to a scheduled board meeting shall be placed on the agenda. Materials from emergency or unusual circumstances may be added to the agenda with the chairperson or executive director's approval.

1.5(5) Public observation and comment. The board shall provide a means for members of the public to observe and, when appropriate, offer public comment during board meetings unless the board votes to hold a closed session.

a. Anyone who has submitted materials for the agenda or whose presence has been requested by the board shall be given the opportunity to address the board.

b. At every regularly scheduled board meeting, time will be designated for public comment. During the time on the agenda for public comment, anyone may speak for up to two minutes per person. Requests to speak at a later time for two minutes per person when a particular topic comes before the board should be made at the time for public comment and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted to public comment at any one time unless the chairperson indicates otherwise.

c. One who has not asked to address the board during the time for public comment may be recognized by the chairperson upon request. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

655—1.6(147,152,272C) Communications. The board may issue or disseminate communications as a means to provide information to licensees and the general public related to the mission and responsibilities of the board. Board communications may include, but are not limited to, publishing updates on its website, issuing a newsletter, and other written, audio, or video methods of communication.

These rules are intended to implement Iowa Code chapters 17A, 147, 152, 152E, and 272C.

[Filed 1/24/22, effective 3/30/22]

[Published 2/23/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/22.

ARC 6197C

NURSING BOARD[655]

Adopted and Filed

Rule making related to licensure to practice for registered nurses and licensed practical nurses

The Board of Nursing hereby rescinds Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code, and adopts a new Chapter 3 with the same title.

NURSING BOARD[655](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 17A, 147 and 152.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 147, 152 and 272C.

Purpose and Summary

Pursuant to the five-year review of rules required by Iowa Code section 17A.7, the Board reviewed Chapter 3, which sets forth the basic requirements to obtain an initial registered nurse (RN) and licensed practical nurse (LPN) license by examination or endorsement, to obtain license renewals and reactivations, and to issue license denials. The Board made several changes to make the rules easier to understand, incorporate the interstate licensure compact requirements from Iowa Code chapter 152E, eliminate superfluous language, and reflect the Board's current practices. Except for a change to paragraph 3.11(2)"b" for clarity and consistency in terminology, rule 655—3.11(272C) reflects the content adopted in **ARC 5761C**, IAB 7/14/21.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as **ARC 6048C**. A public hearing was held on December 7, 2021, at 10 a.m. at the Board's Office, Suite B, 400 S.W. Eighth Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 19, 2022.

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 655—Chapter 15.

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 30, 2022.

The following rule-making action is adopted:

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Rescind 655—Chapter 3 and adopt the following new chapter in lieu thereof:

CHAPTER 3
LICENSURE TO PRACTICE—REGISTERED NURSE/LICENSED PRACTICAL NURSE

655—3.1(17A,147,152,152E,272C) Definitions.

“*Approved nursing program*” means a nursing education program whose status has been recognized by the board or by a similar board in another jurisdiction that prepares individuals for licensure as a licensed practical nurse, registered nurse, or advanced registered nurse practitioner; or grants a baccalaureate, master’s or doctorate degree with a major in nursing.

“*CGFNS*” means the Commission on Graduates of Foreign Nursing Schools.

“*Fees*” means those fees collected that are based upon the cost of sustaining the board’s mission to protect the public health, safety and welfare. The nonrefundable fees set by the board are as follows:

1. Application for an original license based on the registered nurse examination, \$93 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI)).

2. Application for an original license based on the practical nurse examination, \$93 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the DCI and the FBI).

3. Application for a registered nurse/licensed practical nurse license by endorsement, \$119 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the DCI and the FBI).

4. Application for an original license or renewal as an advanced registered nurse practitioner, \$81 for any period of licensure up to three years.

5. For a certified statement that a registered nurse/licensed practical nurse is licensed in this state or registered as an advanced registered nurse practitioner, \$25.

6. For reactivation of a license to practice as a registered nurse/licensed practical nurse, \$175 for a license lasting more than 24 months up to 36 months (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the DCI and the FBI).

7. For reactivation of a license to practice as an advanced registered nurse practitioner, \$81 for any period of licensure up to three years.

8. For the renewal of a license to practice as a registered nurse/licensed practical nurse, \$99 for a three-year period.

9. For the late renewal of a registered nurse/licensed practical nurse license, \$50 (plus the renewal fee as specified in paragraph “8” of this definition).

10. For a check returned for any reason, \$15. If licensure/registration has been issued by the board office based on a check for the payment of fees and the check is later returned by the bank, the board shall request payment by certified check or money order.

11. For a certified copy of an original document, \$20.

12. For the processing of the fingerprint cards and the DCI and FBI criminal history background checks, \$50.

13. For a petition for eligibility determination, \$25.

“*IELTS™*” means the International English Language Testing System.

“*Inactive license*” means a registered nurse or licensed practical nurse license that has been placed on inactive status because it was not renewed by the fifteenth day of the month following the expiration date or means that the board has received notification that a licensee has declared another compact state as the primary state of residency.

“*Late license*” means a registered nurse or licensed practical nurse license that has not been renewed by the expiration date. The time between the expiration date and the fifteenth day of the month following the expiration date is considered a grace period.

“*Licensee*” means a person who has been issued a license to practice as a registered nurse, licensed practical nurse or advanced registered nurse practitioner under the laws of this state.

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“*Multistate license*” means a license to practice as a registered nurse or licensed practical nurse issued to a qualified person under Iowa Code chapter 152E that authorizes the holder to practice in all party states under a multistate licensure privilege.

“*Multistate licensure privilege*” means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse or a licensed practical nurse in a party state.

“*NCSBN*” means the National Council of State Boards of Nursing, Inc.

“*Nurse licensure compact*” means the agreement between party states, as set forth in Iowa Code chapter 152E, to allow mutual recognition of a nursing license.

“*Overpayment*” means payment in excess of the required fee. An overpayment less than \$10 received by the board shall not be refunded.

“*Party state*” means any state that has adopted the nurse licensure compact.

“*TOEFL®*” means the Test of English as a Foreign Language.

655—3.2(17A,147,152,272C) Mandatory licensure.

3.2(1) A person who engages in the practice of nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of caring for one’s family, shall have a current Iowa license, whether or not the person’s employer is in Iowa and whether or not the person receives compensation. Any nurse who participates in the care of a patient situated in Iowa, whether that care is provided through telephonic, electronic or in-person means, and regardless of the location of the nurse, must obtain Iowa licensure unless specifically exempted.

3.2(2) Current Iowa licensure is not mandatory when:

a. A nurse holds an active multistate license issued by a party state, pursuant to Iowa Code chapter 152E. A nurse who practices nursing in Iowa pursuant to a multistate licensure privilege is subject to the jurisdiction of the board, the courts, and the laws of Iowa.

b. A nurse holds an active license in another state and is providing services to patients in Iowa only during interstate transit.

c. A nurse holds an active license in another state and is providing emergency services in an area in which the governor of Iowa has declared a state of emergency.

3.2(3) A licensed practical nurse who is enrolled in an approved program for registered nurses shall hold an active licensed practical nurse license in all jurisdictions in which the licensed practical nurse provides patient care. A registered nurse who is enrolled in an approved program for advanced registered nurse practitioners shall hold an active registered nurse license in all jurisdictions in which the registered nurse provides patient care.

655—3.3(17A,147,152,272C) Licensure qualifications for registered nurse and licensed practical nurse. Applicants for registered nurse and licensed practical nurse licenses shall meet the following requirements:

3.3(1) Graduation from an approved nursing program.

3.3(2) Successful passage of the National Council Licensure Examination (NCLEX®) or the State Board Test Pool Examination, the national examination used prior to 1982. The passing standard shall be the standard established by the testing authority at the time the test was administered.

3.3(3) If applicable, board approval of an applicant with a criminal history, pursuant to rule 655—3.11(272C), or a record of prior disciplinary action, regardless of jurisdiction.

655—3.4(17A,147,152,272C) Licensure by examination.

3.4(1) Board application. A graduate of an approved nursing program seeking initial licensure as a registered nurse or licensed practical nurse shall submit the following:

a. A completed application for licensure by examination.

b. Payment of the application fee.

c. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

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d. If the applicant has a criminal history, copies of all documents required by rule 655—3.11(272C).

e. An official transcript denoting the date of graduation and diploma or degree conferred, sent directly to the board from the nursing program.

3.4(2) *Test registration.* The applicant shall complete NCLEX® registration, including payment of applicable fees through the national test service agency.

3.4(3) *Americans with Disabilities Act accommodations.* An applicant with a disability may submit a request to the board for testing accommodations. The request must include the nature of the disability and the specific testing accommodations being requested. A request must be accompanied by written documentation from the applicant's health care provider describing the disability and the recommended accommodations, and documentation from the applicant's nursing education program if testing accommodations were provided to the applicant during school. The board's recommendation regarding approval of accommodation requests will be communicated to the national test service agency.

3.4(4) *Authorization to test.* An applicant will not receive an authorization to test until all of the requirements in subrules 3.4(1) and 3.4(2) are met. An applicant shall self-schedule the examination with an approved testing center and must test within 91 days of receiving the authorization to test. An applicant who does not test within 91 days of receiving the authorization to test is required to submit a new completed application for licensure by examination and fee to the board. An applicant who does not appear for a testing appointment or does not complete the examination must follow the requirements for reexamination.

3.4(5) *Reexamination.* An applicant who fails the examination and reapplies within 12 months of submitting a prior application to the board shall be required to complete the requirements in paragraphs 3.4(1) "a" and "b" and subrule 3.4(2). An applicant who fails the examination and reapplies after 12 months of submitting a prior application to the board shall be required to complete all requirements in subrules 3.4(1) and 3.4(2).

3.4(6) *Licensure.* Upon satisfactory review of the documentation required by subrule 3.4(1) and proof of successful passage of the examination, the applicant will be issued a license to practice as a registered nurse or licensed practical nurse.

3.4(7) *Failure to complete the licensure process.* Once an application is initiated, the applicant has 12 months to complete the licensure process. The board reserves the right to destroy any applications and supporting documents after 12 months if the applicant has not completed the licensure process. Applicants who fail to complete the licensure process within 12 months are required to start the application process anew.

655—3.5(17A,147,152,272C) Licensure by endorsement.

3.5(1) *Board application.* A graduate of an approved nursing program seeking licensure as a registered nurse or licensed practical nurse in Iowa who has been licensed in another state shall submit the following:

a. A completed application for licensure by endorsement.
b. Payment of the application fee.
c. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

d. If the applicant has a criminal history, copies of all documents required by rule 655—3.11(272C).

e. Copies of relevant disciplinary documents if the applicant has had disciplinary action taken by another state.

f. Verification of the license from the original state of licensure, which may be done through www.nursys.com or by using the verification form depending on the requirements of the original state of licensure.

g. Proof of active licensure in any jurisdiction within the previous five years from the date of application or proof of completion of a nurse refresher course in accordance with rule 655—3.10(152) within the 12 months prior to the date of application.

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h. An official transcript denoting the date of graduation and diploma or degree conferred, sent directly to the board from the nursing program. An applicant may be excused from this requirement if the nursing program is closed and records are no longer available.

3.5(2) Temporary license. An applicant who has submitted all documentation described in paragraphs 3.5(1) “a” through “g” may request a temporary registered nurse or licensed practical nurse license, which authorizes the practice of nursing in Iowa for a maximum of 30 days, pending receipt of official transcripts from the nursing program. A temporarily licensed licensee will automatically be issued a permanent license upon receipt of satisfactory transcripts from the nursing program.

3.5(3) Licensure. Upon satisfactory review of the documentation described in subrule 3.5(1), the applicant will be issued a license to practice as a registered nurse or licensed practical nurse.

3.5(4) Failure to complete the licensure process. Once an application is initiated, the applicant has 12 months to complete the licensure process. The board reserves the right to destroy any applications and supporting documents after 12 months if the applicant has not completed the licensure process. Applicants who fail to complete the licensure process within 12 months are required to start the application process anew.

3.5(5) Changing primary state of residence for multistate license. A nurse who holds a multistate license issued by a party state and who changes the nurse’s primary state of residence to Iowa must apply for licensure in Iowa pursuant to this rule. Upon issuance of a multistate license by the board, the nurse’s prior multistate license will be deactivated.

655—3.6(17A,147,152,272C) Applicants educated in a foreign country or in a U.S. territory that is not a member of NCSBN.

3.6(1) Applicant for licensure. An applicant seeking licensure in Iowa who was educated in a foreign country or in a U.S. territory that is not a member of NCSBN shall apply for licensure by examination pursuant to rule 655—3.4(17A,147,152,272C) or licensure by endorsement pursuant to rule 655—3.5(17A,147,152,272C), as applicable, but instead of submitting an official transcript, shall submit one of the following documents issued by CGFNS:

- a.* Credentials Evaluation Service (CES) Professional Report®.
- b.* VisaScreen® certificate or certificate verification letter verifying that a VisaScreen® certificate was issued.
- c.* CGFNS Certification Program® certificate or certificate verification letter verifying that a CGFNS Certification Program® certificate was issued.

3.6(2) CGFNS documentation. The documentation issued by CGFNS shall verify all of the following:

- a.* Completion of education equivalent to approved nursing programs for licensed practical nurse and registered nurse applicants.
- b.* The applicant’s licensure or registration as a nurse in the applicant’s country or U.S. territory of origin, current country or U.S. territory of residence, or country or U.S. territory where educated.
- c.* The ability to read, write, speak, and understand the English language as determined by passing the TOEFL® or IELTS™ test. For the TOEFL® test, a passing score is as follows: 560 for the TOEFL® paper-based test, or 220 for the TOEFL® computer-based test, or 84 for the TOEFL® Internet-based test with a speaking score of at least 26. For the IELTS™ test, a passing score is as follows: an overall score of 6.5 and a speaking score of 7.0. An applicant shall be exempt from taking either the TOEFL® or IELTS™ test when all of the following requirements are met:

- (1) The nursing education was completed in a college, university, or professional school located in Australia, Barbados, Canada (except Quebec), Ireland, Jamaica, New Zealand, South Africa, Trinidad and Tobago, or the United Kingdom.

- (2) The language of instruction in the nursing program was English.

- (3) The language of the textbooks in the nursing program was English.

3.6(3) Social security number. To be eligible for a multistate license, an applicant must have a social security number. An applicant who does not have a social security number shall submit documentation of lawful presence and will only be eligible for a single state license.

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655—3.7(17A,147,152,272C) License renewal and reactivation.

3.7(1) Name and address changes. Licensees must notify the board in writing of any name or address change within 30 days of the change. Licensure documents are mailed to the licensee at the address on file in the board office. There is no fee for a change of name or address in board records.

3.7(2) Initial licenses. The board shall issue licenses by endorsement and examination for a 24- to 36-month period. When the license is renewed, it will be placed on a three-year renewal cycle. License expiration shall be on the fifteenth day of the licensee's birth month.

3.7(3) Renewal. The licensee may renew the license beginning 60 days prior to license expiration.

a. The licensee shall:

(1) Attest that Iowa is the primary state of residence or that the primary state of residence is a noncompact state. The board may request evidence of residency.

(2) Submit the renewal application and the renewal fee.

(3) Meet the continuing education requirement as set forth in 655—Chapter 5, prior to license renewal.

(4) Complete the required mandatory reporter training set forth in paragraph 3.7(3) "b."

b. Mandatory reporter training.

(1) The course(s) shall be the curriculum provided by the Iowa department of human services.

(2) A licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous three years or condition(s) for rule suspension as identified in subparagraph 3.7(3) "b"(5).

(3) A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for rule suspension as identified in subparagraph 3.7(3) "b"(5).

(4) The licensee shall maintain written documentation for three years after mandatory training as identified in subparagraphs 3.7(3) "b"(2) and (3), including program date(s), content, duration, and proof of participation.

(5) The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

1. Is engaged in active duty in the military service of this state or the United States.

2. Holds a current exemption based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 655—Chapter 5.

(6) The board may select licensees for audit of compliance with the requirements in subparagraphs 3.7(3) "b"(1) through (5).

3.7(4) Late renewal. The license shall become late when the license has not been renewed by the expiration date. The licensee shall be assessed a late fee as specified in rule 655—3.1(17A,147,152,152E,272C). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee before the fifteenth day of the month following the expiration date.

3.7(5) Inactive status. The license shall become inactive when the license has not been renewed by the fifteenth day of the month following the expiration date.

a. If the inactive license is not reactivated, it shall remain inactive.

b. If the licensee resides in Iowa or a noncompact state, the licensee shall not practice nursing in Iowa until the license is reactivated to active status. If the licensee is identified as engaging in the practice of nursing with an inactive license, disciplinary proceedings may be initiated.

c. The licensee is not required to obtain continuing education credit or pay fees while the license is inactive.

3.7(6) Changing primary state of residence for multistate license. A licensee who holds a multistate license issued by this board and who changes the licensee's primary state of residency to another party

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state must apply for licensure in the new party state. Once the board has been notified by the new party state that a new license has been issued, the Iowa multistate license will become inactive.

3.7(7) Reactivation.

a. To reactivate an inactive license, the licensee shall comply with the following:

(1) The licensee shall submit the following:

1. A completed reactivation application.
2. Payment of the applicable fees.
3. A completed continuing education report form and supporting continuing education certificates.
4. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

(2) The licensee shall have obtained 36 contact hours of continuing education, as specified in 655—Chapter 5, within the 36 months prior to reactivation.

(3) If a licensee has not held an active license in any jurisdiction within the previous five years, the licensee must complete a nurse refresher course in accordance with rule 655—3.10(152) within 12 months of applying for reactivation.

b. Upon receipt of all necessary materials, the licensee shall be issued a license for a 24- to 36-month period. At the time of the next renewal, the license will be placed on a three-year renewal cycle. License expiration shall be on the fifteenth day of the licensee's birth month.

c. An applicant who fails to complete the reactivation of licensure process within 12 months from the date of initial application must reapply. All fees are nonrefundable.

655—3.8(17A,147,152,272C) Verification. Upon written request from the licensee or another jurisdiction and payment of the verification fee as specified in rule 655—3.1(17A,147,152,152E,272C), the board shall provide a certified statement to another jurisdiction or entity that the license of a registered nurse, licensed practical nurse or advanced registered nurse practitioner is active, inactive or encumbered/disciplined in Iowa.

655—3.9(17A,272C) License denial.

3.9(1) Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that cites the factual and legal basis for denying the application, notifies the applicant of the appeal process and specifies the date upon which the denial will become final if not appealed.

3.9(2) An applicant who has been issued a preliminary notice of denial may appeal the notice and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director within 30 days following the date the preliminary notice of denial was mailed. The request for hearing shall specify the factual or legal errors in the preliminary notice of denial and provide any additional written information or documents in support of the licensure.

3.9(3) All hearings held pursuant to this rule shall be held in accordance with the process outlined in 655—Chapter 20.

3.9(4) If an applicant does not appeal a preliminary notice of denial, the preliminary notice of denial automatically becomes final.

655—3.10(152) Nurse refresher course.

3.10(1) A nurse refresher course shall meet the following requirements:

a. A minimum of 80 hours of theory, with content in basic nursing skills, pharmacology, physical assessment, intravenous (IV) therapy (registered nurse only), and legal and ethical considerations in health care; and

b. A minimum of 80 hours of hands-on supervised clinical learning experiences.

3.10(2) To participate in the clinical component of a nurse refresher course in Iowa, a licensee must have an active license to practice nursing in Iowa or a limited authorization issued by the board. A licensee shall request the limited authorization from the board prior to beginning the clinical component of a nurse refresher course.

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3.10(3) To receive a certificate of completion from the nurse refresher course, a licensee must complete all requirements of the nurse refresher course to the satisfaction of the course provider. The course provider shall submit proof of the licensee's completion of the nurse refresher course directly to the board.

655—3.11(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions.

3.11(1) Definitions.

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Disqualifying offense" means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

"License" means a license issued by the board.

3.11(2) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to subrule 3.11(3), the applicant's convictions will be reviewed when the board receives a completed license application.

a. An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

b. In order for the license application to be considered complete, an applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession.

c. An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

d. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

e. An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

f. Any application fees paid will not be refunded if the license is denied.

3.11(3) Eligibility determination.

a. An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

b. To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

- (1) A completed eligibility determination form;
- (2) The complete criminal record for each of the petitioner's convictions;
- (3) A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should deem the petitioner rehabilitated;
- (4) All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- (5) Payment of a nonrefundable fee of \$25.

3.11(4) Appeal. A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's

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rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

a. An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

b. The contested case hearing shall be closed to the public, and the board's review of a proposed decision shall occur in closed session.

c. The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense. Upon the satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

d. A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

3.11(5) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code chapters 17A, 147, 152, 152E, and 272C.

[Filed 1/24/22, effective 3/30/22]

[Published 2/23/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/22.

ARC 6198C

NURSING BOARD[655]

Adopted and Filed

Rule making related to discipline

The Board of Nursing hereby rescinds Chapter 4, "Discipline," Iowa Administrative Code, and adopts a new Chapter 4 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.55, 152.10, and 272C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 147, 152, and 272C.

Purpose and Summary

Chapter 4 governs the disciplinary process for advanced registered nurse practitioners (ARNPs), registered nurses (RNs), and licensed practical nurses (LPNs) licensed by the Board. Pursuant to Iowa Code section 17A.7, each agency must conduct a comprehensive review of its rules on a five-year basis. The Board therefore reviewed Chapter 4 as part of its five-year review of its rules and now adopts a number of changes to make the chapter easier to read and align with the provisions of other similar

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licensing boards. These changes include adding headings or titles to subrules, explaining the nature of confidential letters, and explaining the available sanctions. Changes to the disciplinary grounds include adding attempted misappropriation of medications; adding participation in a sexual, emotional, social, or business relationship with a patient; removing the reference to prescription “blanks” to account for e-prescribing; and updating citations of Iowa Code sections that have been renumbered.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as **ARC 6049C**. A public hearing was held on December 7, 2021, at 1 p.m. at the Board’s Office, Suite B, 400 S.W. Eighth Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 19, 2022.

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 655—Chapter 15.

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 30, 2022.

The following rule-making action is adopted:

Rescind 655—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
DISCIPLINE

655—4.1(17A,147,152,272C) Board authority. The board may discipline a licensee pursuant to Iowa Code chapters 147, 152, 272C, and 272D and rules promulgated thereunder.

655—4.2(17A,147,152,272C) Complaints and investigations.

4.2(1) General. Upon receipt of a written complaint or upon its own motion pursuant to other information received by the board, the board may review and investigate alleged acts or omissions that may violate the board’s rules or that are related to the ethical or professional conduct of a licensee. The board may also determine that a complaint does not warrant an investigation.

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4.2(2) Confidentiality of investigative files. Complaint files, investigation files, and all other investigation reports and investigation information in the possession of the board, including any employees or agents of the board, that relate to licensee discipline are confidential pursuant to Iowa Code section 272C.6(4).

4.2(3) Investigation. In order to determine whether disciplinary action is warranted, the executive director or a board investigator may conduct an investigation into the allegations of a complaint. Upon completion of an investigation, the investigator shall prepare a report for the board's consideration. The report may contain evidence gathered by the investigator, findings made by the investigator, the licensee's response to the allegations, and the potential laws or rules alleged to have been violated.

655—4.3(17A,147,152,272C) Issuance of investigatory subpoenas. The board has the authority to issue investigatory subpoenas pursuant to Iowa Code section 17A.13.

4.3(1) Scope of subpoena. The executive director or designee may, upon the written request of a board investigator or on the executive director's own initiative, subpoena books, papers, records, and any other real evidence necessary for the board to determine whether it should institute a contested case proceeding.

4.3(2) Content of request. A written request for a subpoena or the executive director's written memorandum in support of the issuance of a subpoena shall contain the following:

- a. The name and address of the person to whom the subpoena will be directed;
- b. A specific description of the books, papers, records or other real evidence requested;
- c. An explanation of why the documents sought to be subpoenaed are necessary for the board to determine whether it should institute a contested case proceeding; and
- d. In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 4.3(1) have been satisfied.

4.3(3) Additional requirements for subpoenas for mental health records. In the case of a subpoena for mental health records, a written request for a subpoena or the executive director's written memorandum in support of the issuance of the subpoena shall, in addition to the requirements of subrule 4.3(2), set forth sufficient facts to establish the following:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

4.3(4) Contents of subpoena. Each issued subpoena shall contain the following:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records, or other real evidence requested;
- c. The date, time, and location for production or inspection and copying;
- d. The time within which a motion to quash or modify the subpoena must be filed;
- e. The signature, address, and telephone number of the executive director or designee;
- f. The date of issuance; and
- g. A return of service.

4.3(5) Motion to quash. Any person who is aggrieved or adversely affected by compliance with the subpoena and who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.

4.3(6) Ruling on motion. Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to issue a decision, or the board may issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

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4.3(7) Appeal of an administrative law judge ruling. A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

4.3(8) Judicial review. If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either:

- a. The person is notified that the investigation has been concluded with no formal action; or
- b. There is a final decision in the contested case.

655—4.4(17A,147,152,272C) Board action. When reviewing complaints and investigative material, the board shall do one of the following:

4.4(1) Close the case without further action.

4.4(2) Close the case and issue the licensee a confidential letter of warning or letter of education. The purpose of confidential letters of warning and letters of education is to alert the licensee to possible violations of Iowa law or board rules so the licensee may address any issues. Confidential letters of warning and letters of education do not constitute formal disciplinary action and are not open for inspection under Iowa Code chapter 22. The board shall maintain a copy of confidential letters of warning and letters of education in the confidential investigative file regarding the licensee. Confidential letters of warning and letters of education may be used as evidence against a licensee in future contested case hearings before the board.

4.4(3) Request further investigation, including obtaining a peer review.

4.4(4) Determine the existence of probable cause and issue a notice of hearing and statement of charges or approve a combined statement of charges and settlement agreement.

655—4.5(17A,147,152,272C) Peer review committee. Any case may be referred to peer review for evaluation of the professional services rendered by the licensee.

4.5(1) Contract and case referral. The board shall enter into a contract with peer reviewers to provide peer review services. The board or board staff shall determine which peer reviewer(s) will review a case and what investigative information shall be referred to a peer reviewer.

4.5(2) Written report. Peer reviewers shall review the information provided and provide a written report to the board. The written report shall contain an opinion of the peer reviewer regarding whether the licensee conformed to minimum standards of acceptable and prevailing practice of nursing and the rationale supporting the opinion.

4.5(3) Confidentiality. Peer reviewers shall observe the confidentiality requirements imposed by Iowa Code section 272C.6(4).

655—4.6(17A,147,152,272C) Grounds for discipline. A licensee may be disciplined for failure to comply with the rules promulgated by the board and for any wrongful act or omission related to nursing practice, licensure, or professional conduct.

4.6(1) In accordance with Iowa Code section 147.55(1), behavior which constitutes fraud in procuring a license may include, but need not be limited to, the following:

- a. Falsification of the application, credentials, or records submitted to the board for licensure or license renewal as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner.
- b. Fraud, misrepresentation, or deceit in taking the licensing examination or in obtaining a license as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner.
- c. Impersonating any applicant in any examination for licensure as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner.

4.6(2) In accordance with Iowa Code section 147.55(2), professional incompetency may include, but need not be limited to, the following:

- a. Lack of knowledge, skill, or ability to discharge professional obligations within the scope of nursing practice.

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- b.* Deviation by the licensee from the standards of learning, education, or skill ordinarily possessed and applied by other nurses in the state of Iowa acting in the same or similar circumstances.
- c.* Willful or repeated departure from or failure to conform to the minimum standards of acceptable and prevailing practice of nursing in the state of Iowa.
- d.* Willful or repeated failure to practice nursing with reasonable skill and safety.
- e.* Willful or repeated failure to practice within the scope of current licensure or level of preparation.
- f.* Failure to meet the standards as defined in 655—Chapter 6.
- g.* Failure to meet the standards as defined in 655—Chapter 7.
- h.* Failure to comply with the requirements of Iowa Code chapter 139A.

4.6(3) In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a profession may include, but need not be limited to, the following:

- a.* Oral or written misrepresentation relating to degrees, credentials, licensure status, records, and applications.
- b.* Falsifying records related to nursing practice or knowingly permitting the use of falsified information in those records.

4.6(4) In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct or practice harmful or detrimental to the public may include, but need not be limited to, the following:

- a.* Performing nursing services beyond the authorized scope of practice for which the individual is licensed or prepared.
- b.* Allowing another person to use one's nursing license for any purpose.
- c.* Failing to comply with any rule promulgated by the board related to minimum standards of nursing.
- d.* Improper delegation of nursing services, functions, or responsibilities.
- e.* Committing an act or omission which may adversely affect the physical or psychosocial welfare of the patient or client.
- f.* Committing an act which causes physical, emotional, or financial injury to the patient or client.
- g.* Failing to report to, or leaving, a nursing assignment without properly notifying appropriate supervisory personnel and ensuring the safety and welfare of the patient or client.
- h.* Violating the confidentiality or privacy rights of the patient or client.
- i.* Discriminating against a patient or client because of age, sex, race, ethnicity, national origin, creed, illness, disability, sexual orientation, or economic or social status.
- j.* Failing to assess, accurately document, evaluate, or report the status of a patient or client.
- k.* Misappropriating or attempting to misappropriate medications, property, supplies, or equipment of the patient, client, or agency.
- l.* Fraudulently or inappropriately using or permitting the use of prescriptions, obtaining or attempting to obtain prescription medications under false pretenses, or assisting others to obtain or attempt to obtain prescription medication under false pretenses.
- m.* Practicing nursing while under the influence of alcohol, marijuana, or illicit drugs or while impaired by the use of pharmacological agents or medications, even if legitimately prescribed.
- n.* Being involved in the unauthorized manufacture or distribution of a controlled substance.
- o.* Being involved in the unauthorized possession or use of a controlled substance.
- p.* Engaging in behavior that is contradictory to professional decorum.
- q.* Failing to report suspected wrongful acts or omissions committed by a licensee of the board.
- r.* Failing to comply with an order of the board.
- s.* For an advanced registered nurse practitioner, prescribing, dispensing, administering, or distributing drugs:
 - (1) In an unsafe manner.
 - (2) Without accurately documenting it or without assessing, evaluating, or instructing the patient or client.

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(3) To individuals who are not patients or who are outside of the licensee's specialty area.

t. Engaging in repeated verbal or physical conduct that interferes with another health care worker's performance or creates an intimidating, hostile, or offensive work environment.

u. Failing to properly safeguard or secure medications.

v. Failing to properly document or perform medication wastage.

4.6(5) For purposes of this subrule, "patient" is defined to include the patient and the patient's family or caretakers who are present with the patient while the patient is under the care of the licensee. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct or practice harmful or detrimental to the public may include, but need not be limited to, the following professional boundaries violations:

a. Sexual contact with a patient, regardless of patient consent.

b. Making lewd, suggestive, demeaning, or otherwise sexual comments, regardless of patient consent.

c. Participating in, initiating, or attempting to initiate a sexual, emotional, social, or business relationship with a patient, regardless of patient consent.

d. Soliciting, borrowing, or misappropriating money or property from a patient, regardless of patient consent.

e. Repeatedly divulging personal information to a patient for nontherapeutic purposes, regardless of patient consent.

f. Engaging in a sexual, emotional, social, or business relationship with a former patient when there is a risk of exploitation or harm to the patient, regardless of patient consent.

4.6(6) In accordance with Iowa Code section 147.55(4), habitual intoxication or addiction to the use of drugs may include, but need not be limited to, the following:

a. Excessive use of alcohol which may impair a licensee's ability to practice the profession with reasonable skill and safety.

b. Excessive use of drugs which may impair a licensee's ability to practice the profession with reasonable skill and safety.

4.6(7) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

4.6(8) In accordance with Iowa Code section 147.55(5), fraud in representation as to skill or ability.

4.6(9) In accordance with Iowa Code section 147.55(6), use of untruthful or improbable statements in advertisements.

4.6(10) In accordance with Iowa Code section 147.55(7), willful or repeated violations of provisions of Iowa Code chapter 147, 152, or 272C.

4.6(11) In accordance with Iowa Code section 147.55(8), other acts or offenses as specified by board rule, including the following:

a. Failing to provide written notification of a change of address to the board within 30 days of the event.

b. Failing to notify the board within 30 days from the date of the final decision in a disciplinary action taken by the licensing authority of another state, territory, or country.

c. Failing to notify the board of a criminal conviction within 30 days of the action, regardless of whether the judgment of conviction or sentence was deferred, and regardless of the jurisdiction where it occurred.

d. Failing to submit an additional completed fingerprint packet as required and applicable fee, when a previous fingerprint submission has been determined to be unacceptable, within 30 days of a request made by board staff.

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- e.* Failing to respond to the board during a board audit or submit verification of compliance with continuing education requirements or exceptions within the time period provided.
 - f.* Failing to respond to the board during a board audit or submit verification of compliance with training in child or dependent adult abuse identification and reporting or exceptions within the time period provided.
 - g.* Failing to respond to the board during a board audit or submit verification of compliance with the requirements for the supervision of fluoroscopy set forth in 655—subrule 7.4(5) or exceptions within the time period provided.
 - h.* Failing to respond to or comply with a board investigation or subpoena.
 - i.* Engaging in behavior that is threatening or harassing to the board, board staff, or agents of the board.
 - j.* Violating an initial agreement or contract with the Iowa nurse assistance program committee.
- 4.6(12)** In accordance with Iowa Code section 147.2 or 147.10:
- a.* Engaging in the practice of nursing in Iowa prior to licensure or not pursuant to the nurse licensure compact.
 - b.* Engaging in the practice of nursing in Iowa on an inactive license.
- 4.6(13)** In accordance with Iowa Code section 152.10(2):
- a.* Continuing to practice while knowingly having an infectious or contagious disease which could be harmful to a patient's welfare without taking precautions to meet the current standard of care.
 - b.* Having a license to practice nursing as a registered nurse, licensed practical/vocational nurse, or advanced registered nurse practitioner revoked or suspended, or having other disciplinary action taken, by a licensing authority of another state, territory, or country.
 - c.* Having a license to practice nursing as a registered nurse, licensed practical/vocational nurse, or advanced registered nurse practitioner revoked or suspended, or having other disciplinary action taken, by a licensing authority in another state which has adopted the nurse licensure compact contained in Iowa Code section 152E.1 or the advanced practice registered nurse compact contained in Iowa Code section 152E.3 and which has communicated information relating to such action pursuant to the coordinated licensure information system established by the compact. If the action taken by the licensing authority occurs in a jurisdiction which does not afford the procedural protections of Iowa Code chapter 17A, the licensee may object to the communicated information and shall be afforded the procedural protections of Iowa Code chapter 17A.
 - d.* Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice nursing.
 - e.* Being adjudicated mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.
 - f.* Being unable to practice nursing with reasonable skill and safety by reason of illness or as a result of a mental or physical condition.

655—4.7(17A,147,152,272C) Sanctions.

- 4.7(1)** A sanction is a disciplinary action by the board which resolves a contested case.
- 4.7(2)** The board may impose one or more of the following sanctions:
 - a.* Revocation of a license.
 - b.* Suspension of a license until further order of the board or for a specified period.
 - c.* Nonrenewal of a license.
 - d.* Restriction on engaging in specified nursing procedures, methods, settings, or acts.
 - e.* Probation.
 - f.* Additional education or training, reexamination, or both.
 - g.* Physical, mental, or substance abuse evaluation, alcohol or drug screening, or clinical competency evaluation.
 - h.* Civil penalty. Assessment of a fine shall be specified in the order and may not exceed a maximum amount of \$1,000.

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- i.* Citation and warning.
- j.* Such other sanctions allowed by law as may be appropriate.

655—4.8(17A,147,152,272C) Voluntary surrender. A voluntary surrender of licensure may be submitted to the board as resolution of a contested case or in lieu of continued compliance with a disciplinary decision of the board. A voluntary surrender, when accepted by the board, has the same force and effect as an order of revocation. A voluntary surrender of a license during the pendency of a complaint or investigation shall be considered discipline and shall have the same force and effect as an order of revocation.

655—4.9(17A,147,152,272C) Prohibited grounds for discipline. The board shall not suspend or revoke the license of a person who is in default or is delinquent on repayment of a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

These rules are intended to implement Iowa Code chapters 17A, 147, 152, and 272C.

[Filed 1/24/22, effective 3/30/22]

[Published 2/23/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/22.

ARC 6212C

VETERINARY MEDICINE BOARD[811]

Adopted and Filed

Rule making related to ethics

The Board of Veterinary Medicine hereby amends Chapter 10, "Discipline," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 169.

Purpose and Summary

This rule making establishes Iowa's principles of veterinary medical ethics, by which licensed veterinarians must abide. These ethics rules are based on the American Veterinary Medical Association's (AVMA's) Principles of Veterinary Medical Ethics, which the Board currently utilizes. Licensed veterinarians who violate the ethics rules may be subject to discipline by the Board.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 2, 2021, as **ARC 5669C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on December 1, 2021, as **ARC 6058C**.

One commenter recommended including "physical condition" as a reason that a veterinarian's ability to perform the veterinarian's job effectively may be impaired. "Physical condition" is currently referenced in Iowa Code section 169.13(1)"h." After reviewing the comment, the Board added "physical conditions" to paragraph 10.6(3)"f" to match statutory provisions.

VETERINARY MEDICINE BOARD[811](cont'd)

Adoption of Rule Making

This rule making was adopted by the Board on January 27, 2022.

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 811—Chapter 14.

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 30, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 811—10.6(17A,169,272C), introductory paragraph, as follows:

811—10.6(17A,169,272C) Grounds for discipline and principles of veterinary medical ethics. The board has established grounds for discipline and principles of ethics for veterinary medicine. Without regard as to whether the board has determined that an injury has occurred, the board may impose any of the disciplinary sanctions set forth in rule 10.7(17A,169,272C) 811—10.7(17A,169,272C), including civil penalties in an amount not to exceed \$10,000, when the board determines that the credential holder is guilty of any of the following acts or offenses:

ITEM 2. Amend paragraph **10.6(2)“a”** as follows:

a. Engaging in unethical conduct which includes, but is not limited to, a violation of the standards of practice as set out in 811—Chapter 12, and which may include acts or offenses in violation of ~~the AVMA Principles of Veterinary Medical Ethics~~ Iowa's principles of veterinary medical ethics, as adopted in subrule 10.6(3).

ITEM 3. Adopt the following **new** subrule 10.6(3):

10.6(3) Principles of veterinary medical ethics. Veterinarians are members of a scholarly profession who have earned academic degrees from comprehensive universities or similar educational institutions. Licensed veterinarians practice veterinary medicine in a variety of situations and circumstances. Exemplary professional conduct upholds the dignity of the veterinary profession. All Iowa-licensed veterinarians are expected to adhere to these principles of veterinary medical ethics adopted by the board.

a. *General ethics principles.*

(1) A veterinarian shall be influenced only by the welfare of the patient, the needs of the client, the safety of the public, and the need to uphold the public trust vested in the veterinary profession and shall avoid conflicts of interest or the appearance thereof.

VETERINARY MEDICINE BOARD[811](cont'd)

(2) A veterinarian shall provide competent veterinary medical clinical care under the terms of a veterinarian-client-patient relationship (VCPR), with compassion and respect for animal welfare and human health.

(3) A veterinarian shall uphold the standards of professionalism, be honest in all professional interactions, and report veterinarians who are deficient in character or competence to the appropriate entities.

(4) A veterinarian shall not willfully violate the provisions of Iowa Code chapters 169 and 272C and rules promulgated thereunder by the board, or other law of this state, another state, or the United States, which relates to the practice of veterinary medicine.

(5) A veterinarian shall respect the rights of clients, colleagues, and other health professionals and shall safeguard medical information within the confines of the law.

(6) A veterinarian shall continue to study, apply, and advance scientific knowledge; maintain a commitment to veterinary medical education; make relevant information available to clients, colleagues, and the public; and obtain consultation or referral when indicated.

(7) A veterinarian shall, in the provision of appropriate patient care, be free to choose whom to serve, with whom to associate, and the environment in which to provide veterinary medical care.

(8) A veterinarian shall not advertise a specialty or claim to be a specialist when not a diplomate of a veterinary specialty organization recognized by the AVMA.

b. Veterinarian-client-patient relationship ethics. A veterinarian shall not engage in the practice of veterinary medicine without a valid VCPR as defined in these rules.

c. Veterinarian-client communication; documentation of informed consent.

(1) A veterinarian shall explain to clients how any diagnostic tests offered would help diagnose a patient's medical condition.

(2) A veterinarian is responsible for professional communication directly with the client regarding diagnosis, options for treatment(s), expected cost of treatment(s), expected outcome of treatment(s), and the potential risks associated with each treatment regimen, as well as the client's ability to decline treatment(s). Client consent for the treatment(s) shall be documented in the patient's medical records. A veterinary assistant may communicate the information listed in this subparagraph to the client under the direct supervision of an Iowa-licensed veterinarian.

(3) If a veterinarian does not have the expertise or the necessary equipment and facilities to adequately diagnose or treat a patient, the veterinarian shall offer a referral to another veterinarian or referral center where the diagnosis or treatment can be performed.

d. Veterinary medical records.

(1) Complete, accurate and legible medical records that are considered to meet the prevailing standard of the practice of veterinary medicine are required by the board. Medical records are vitally important in any board review of a complaint against a licensee.

(2) Any controlled substances administered to a patient must be written into the patient's medical record, which shall include the drug name, the date the drug was administered, the amount of drug administered, the frequency of drug administration, and the prescribing (and administering, if different) veterinarian's name, as required by rules 811—12.2(169) to 811—12.4(169). This requirement is in addition to regulations and requirements promulgated by the Iowa board of pharmacy, U.S. Drug Enforcement Administration, and any other applicable governmental agency. Violating or failing to comply with a state or federal law or regulation relating to the storing, labeling, prescribing, or dispensing of controlled substances shall be deemed unethical.

(3) Humane euthanasia of animals is an ethical veterinary procedure. A veterinarian can refuse to perform euthanasia.

e. Client and patient privacy rights.

(1) A veterinarian shall protect and respect the privacy rights of clients, colleagues, and other health professionals. A veterinarian shall not reveal confidential medical records or other medical information unless authorized to do so by law.

(2) It is unethical to place photographs or information regarding a patient, a client, or a client's premises on social media or other public platforms without the consent of the owner, unless the patient,

VETERINARY MEDICINE BOARD[811](cont'd)

client, or client's premises cannot be identified by its marking and unless all personally identifying information has been removed from the photograph. Use of photographs and information for didactic purposes is permitted with client consent or after removal of any information that would identify the client or patient.

f. Professional behavior.

(1) A veterinarian shall be honest in all professional interactions while respecting the rights of clients, colleagues, and other health professionals. A veterinarian must be honest and fair in relations with others, and a veterinarian shall not engage in fraud, misrepresentation, or deceit, including by material omission, in accordance with Iowa Code section 169.13(1) "a."

(2) A veterinarian must not defame or injure the professional standing or reputation of another veterinarian in a false or misleading manner. Any complaints about behavior of a veterinarian that may violate the principles of veterinary medical ethics should be addressed through the board in an appropriate and timely manner.

(3) It is unethical to knowingly aid anyone who is engaged in the unlicensed practice of veterinary medicine in accordance with Iowa Code section 169.13(1) "e."

(4) A veterinarian who is impaired due to substance abuse or mental health or physical conditions as set forth in Iowa Code section 169.13(1) "h" must not act in the capacity of a veterinarian and shall quickly seek medical treatment from qualified organizations or individuals.

ITEM 4. Adopt the following **new** subrule 10.6(4):

10.6(4) Recommended practices for veterinarians.

a. A veterinarian is encouraged to participate in activities contributing to the improvement of the community and the betterment of public health. The responsibilities of the veterinary profession extend beyond individual patients and clients to society in general.

b. A veterinarian is encouraged to participate in the political process to seek changes to laws and regulations that are contrary to the best interests of the patient, the client and public health.

c. A veterinarian is encouraged to make the veterinarian's knowledge available to the community and to provide the veterinarian's services for activities that protect public health.

d. A veterinarian is encouraged to view, evaluate, and treat all individual persons in any professional activity or circumstance in which the veterinarian may be involved solely as individuals on the basis of the person's personal abilities, qualifications and character.

[Filed 2/3/22, effective 3/30/22]

[Published 2/23/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/22.

ARC 6199C

VOTER REGISTRATION COMMISSION[821]

Adopted and Filed

Rule making related to voter notification

The Voter Registration Commission hereby amends Chapter 8, "Transmission of Registration Forms by Agencies," Chapter 10, "Notice to Voters Without Activity in Four Years in Counties Using NCOA Records; to All Voters in Other Counties," and Chapter 12, "Voter Notifications," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 47.8.

VOTER REGISTRATION COMMISSION[821](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 413, and 2021 Iowa Acts, Senate File 568.

Purpose and Summary

This rule making makes amendments necessary to conform the Iowa Administrative Code with 2021 Iowa Acts, Senate File 413, and 2021 Iowa Acts, Senate File 568. The amendments include adjustments to the voter registration deadline, the mailing of no-activity notices, and notification of voters regarding a change in polling place.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 6005C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on December 29, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission 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 30, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 821—8.5(48A) as follows:

821—8.5(48A) Transmission of paper voter registration forms. Voter registration applications or changes accepted on paper documents by agencies shall be sent to the appropriate county commissioner by courier, U.S. mail, or other reliable carrier not later than the Friday of the week in which the document is received by the agency. ~~If an agency receives completed voter registration forms on the Saturday which is a close of registration date for an election, the agency shall forward those registration forms immediately following the end of that business day.~~ Nothing in these rules shall be construed to require an agency to be open for business on the last day of registration for an election.

VOTER REGISTRATION COMMISSION[821](cont'd)

ITEM 2. Amend rule 821—10.1(48A) as follows:

821—10.1(48A) NCOA county commissioner determines nonactivity; sends notices.

10.1(1) During the first quarter of each calendar year, every commissioner who elects to participate in the NCOA process that year shall examine voter registration records to identify those without activity during the period between and following the previous two general elections and for which no information has been reported in NCOA data. For the purpose of this subrule, “activity” means any registration application, including an application which duplicates existing information, a notice of change of name, address, mailing address, party affiliation, a vote in any election, or the mailing of a notice pursuant to subrule 10.1(2). During the first quarter of the calendar year following a general election, the state registrar shall examine voter registration records to identify those voters without activity during the period following the previous general election and for whom no information has been reported in NCOA data. For the purpose of this subrule, “activity” means voter-initiated activity such as any registration application, including an application which duplicates existing information; a notice of change of name, address, mailing address, or party affiliation; a vote in any election; or the mailing of a notice pursuant to subrule 10.1(2). A registered voter shall not be sent a notice and return card under this subrule if the registered voter was not 18 years of age on the date of the most recent general election.

10.1(2) The commissioner shall send a notice of the type described in Iowa Code section 48A.28 to each voter whose record is identified pursuant to subrule 10.1(1). The state registrar shall coordinate the printing and mailing of the required no-activity notifications. The state registrar shall notify the commissioners when the notifications have been mailed. Any postage-paid preaddressed return cards returned by voters will be sent back to the counties, not to the state registrar. The state registrar shall send one notification to each voter identified based on the criteria in subrule 10.1(1). The notice shall be mailed to the voter’s mailing address.

ITEM 3. Rescind rule 821—10.2(48A) and adopt the following **new** rule in lieu thereof:

821—10.2(48A) Fees. The state registrar shall charge the counties for the costs of the no-activity process, including matching the records and the printing of and postage for the mailing. The fees charged to the counties shall reflect actual costs to the state registrar.

ITEM 4. Amend rule 821—10.3(48A) as follows:

821—10.3(48A) Voter record not made inactive. ~~The act of mailing the notice required by this chapter does not, in and of itself, make a registration record inactive.~~ A registered voter receiving a mailing pursuant to rule 821—10.1(48A) shall be made “inactive.”

ITEM 5. Rescind rule **821—10.4(48A)**.

ITEM 6. Amend rule 821—12.1(48A) as follows:

821—12.1(48A) Primary and general election polling place change—voter notification required. When a change is made from the usual polling place for the precinct or when the precinct polling place used for the primary or general election is permanently changed by the county commissioner pursuant to Iowa Code section 49.10 different from that used for the precinct at the last preceding primary or general election, the county commissioner shall mail every registered voter with a status of “active” who is affected by the change a notification informing the voter of the change. The county commissioner may either send a notice of the change to each household at which a an impacted voter with a status of “active” is registered or send notice of the change to each registered voter with a status of “active.” The notification shall be sent at the time the polling place change is made not more than 20 nor less than 7 days before the day on which the election is to be held.

VOTER REGISTRATION COMMISSION[821](cont'd)

ITEM 7. Amend **821—Chapter 12**, implementation sentence, as follows:
This rule is intended to implement Iowa Code section ~~48A.26~~ 49.23.

[Filed 1/25/22, effective 3/30/22]

[Published 2/23/22]

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