



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2023

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
20	Friday, March 17, 2023	April 5, 2023
21	Friday, March 31, 2023	April 19, 2023
22	Friday, April 14, 2023	May 3, 2023

PLEASE NOTE:

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

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

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

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

CORRECTIONS DEPARTMENT[201]

Iowa state industries—sale of products, 37.2 IAB 2/22/23 ARC 6915C	Via conference call Contact Michael Savala Email: michael.savala@iowa.gov	March 14, 2023 9 to 10 a.m. (If requested)
Parole, 45.1, 45.2 IAB 2/22/23 ARC 6914C	Via conference call Contact Michael Savala Email: michael.savala@iowa.gov	March 14, 2023 9 to 10 a.m. (If requested)

NATURAL RESOURCE COMMISSION[571]

Furbearer hunting, trapping—season dates, 108.1 to 108.9 IAB 3/8/23 ARC 6948C	Via video/conference call Contact Chris Ensminger Email: chris.ensminger@dnr.iowa.gov	March 28, 2023 12 noon to 1 p.m.
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PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Licensure by verification, veterans, spouses of veterans, 14.1, 14.3, 14.4 IAB 3/8/23 ARC 6946C	Bureau Offices, Suite 350 200 E. Grand Ave. Des Moines, Iowa	March 28, 2023 10 to 11 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Licensure by verification, veterans, spouses of veterans, 19.1, 20.1, 20.3 IAB 3/8/23 ARC 6943C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	March 28, 2023 9 to 9:30 a.m.
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PUBLIC EMPLOYMENT RELATIONS BOARD[621]

General procedures; impasse procedures; bargaining unit determination and representative certifications; retention and recertification elections; elections fees; electronic filing of documents; collective bargaining agreements; mediators; arbitrators, amend chs 2, 3, 6 to 8, 12 to 14, 16; adopt ch 15 IAB 2/22/23 ARC 6912C	Via videoconference Contact the agency Email: iaperb@iowa.gov	March 20, 2023 10 a.m. to 12 noon
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REVENUE DEPARTMENT[701]

Appeals, taxpayer representation, and other administrative procedures, amendments to ch 7 IAB 2/22/23 ARC 6923C	Via video/conference call Contact Alana Stamas Email: alana.stamas@iowa.gov	March 24, 2023 10 to 11 a.m. (If requested)
Mandatory electronic filing—exceptions, 8.7(5) IAB 2/22/23 ARC 6922C	Via video/conference call Contact Ben Clough Email: ben.clough@iowa.gov	March 14, 2023 10 to 11 a.m. (If requested)

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Manufacturers of food or food ingredients, 215.2 IAB 2/22/23 ARC 6924C	Room 1 NW Hoover State Office Bldg. Des Moines, Iowa	March 14, 2023 11 a.m. to 12 noon
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Sales of diapers, 220.17 IAB 2/22/23 ARC 6920C	Room 1 NW Hoover State Office Bldg. Des Moines, Iowa	March 14, 2023 9 to 10 a.m. (If requested)
Electric fuel excise tax, amend ch 260; renumber ch 262; adopt ch 262 IAB 2/22/23 ARC 6921C	Room 1 NW Hoover State Office Bldg. Des Moines, Iowa	March 14, 2023 10 a.m. to 11 a.m.
Fiduciary income tax returns—extension of time to file, 700.5 IAB 2/22/23 ARC 6919C	Via video/conference call Contact Kurt Konek Email: kurt.konek@iowa.gov	March 21, 2023 2 to 3 p.m. (If requested)

TRANSPORTATION DEPARTMENT[761]

Motor vehicle financial responsibility, 640.1, 640.3 to 640.7 IAB 2/22/23 ARC 6917C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	March 16, 2023 10 a.m. (If requested)
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UTILITIES DIVISION[199]

Electric transmission line companies, 11.6(1), 11.8(2), 11.10, 11.12(1) IAB 2/22/23 ARC 6918C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	March 28, 2023 10 a.m. to 12 noon
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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 6948C**NATURAL RESOURCE COMMISSION[571]****Amended Notice of Intended Action****Providing for a public hearing on rule making related to furbearer hunting and trapping**

The Notice of Intended Action published in the Iowa Administrative Bulletin on January 11, 2023, as **ARC 6815C** proposes to amend Chapter 108, “Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, River Otter, Bobcat, Gray (Timber) Wolf and Spotted Skunk Seasons,” Iowa Administrative Code. In order to receive oral comments concerning **ARC 6815C**, the Natural Resource Commission hereby gives notice that a public hearing will be held as follows:

March 28, 2023
12 noon to 1 p.m.

Video/conference call

Persons who wish to attend the conference call should contact Chris Ensminger, wildlife research supervisor, via email at chris.ensminger@dnr.iowa.gov. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Mr. Ensminger prior to the hearing to facilitate an orderly hearing.

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

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6)“a,” 481A.38, 481A.39 and 481A.87.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 481A.87.

Purpose and Summary

Chapter 108 sets the season dates, bag limits, possession limits, and areas open to hunting or trapping furbearers. The rule making proposes to extend the regular furharvest season by one month. The season will end on the last day of February (February 28), rather than the last day of January (January 31). The rule making also proposes a continuous open season statewide for raccoon hunting and trapping. The proposed amendment is biologically responsible, as required by law. It will also increase recreational opportunities for Iowa fur harvesters while reducing negative social issues associated with high raccoon and other furbearer densities.

The Commission is publishing this Amended Notice of Intended Action to schedule a second public hearing.

Fiscal Impact, Jobs Impact, Waivers

Statements related to the fiscal impact, jobs impact, and waiver of this rule making may be found in the preamble of **ARC 6815C**.

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

NATURAL RESOURCE COMMISSION[571](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

ARC 6945C

NURSING BOARD[655]

Notice of Intended Action

Proposing rule making related to licensing regulation, veterans and military spouses and providing an opportunity for public comment

The Board of Nursing hereby proposes to amend Chapter 18, "Military Service and Veteran Reciprocity," 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, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

These proposed amendments implement the licensure-related provisions of 2022 Iowa Acts, Senate File 2383. Specifically, this rule making updates the Board's requirements for licensure of veterans and spouses of active duty members of the military forces of the United States.

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 28, 2023. 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

NURSING BOARD[655](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. Adopt the following new definition of “Spouse” in rule **655—18.1(272C)**:
 “Spouse” means a spouse of an active duty member of the military forces of the United States.

ITEM 2. Amend rule 655—18.3(272C) as follows:

655—18.3(272C) Veteran and spouse reciprocity.

18.3(1) A veteran or spouse with a nursing license in another jurisdiction may apply for licensure in Iowa through reciprocity (endorsement) pursuant to 655—Chapter 3. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

18.3(2) ~~Such an application~~ Any application by reciprocity shall contain all of the information required of all applicants for licensure who hold licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary histories, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant’s status as a veteran under Iowa Code section 35.1(2) or as a spouse under rule 655—18.1(272C).

18.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the ~~professional or occupational licensing requirements of scope of practice in the jurisdiction where the applicant is licensed~~ is substantially equivalent to the licensing requirements scope of practice in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. ~~The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.~~

18.3(4) The board shall promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose ~~licensure requirements are~~ scope of practice is substantially equivalent to ~~those required~~ the scope of practice in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant’s disciplinary or criminal background.

18.3(5) If the board determines that the ~~licensing requirements~~ scope of practice in the jurisdiction in which the applicant is licensed ~~are~~ is not substantially equivalent to ~~those required~~ the scope of practice in Iowa, the board shall promptly inform the applicant of the additional ~~experience~~, education, or ~~examinations~~ training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If an applicant has not passed the required examination(s) for licensure, the applicant may not be issued a ~~provisional~~ temporary license but may request that the licensure application be placed in

NURSING BOARD[655](cont'd)

pending status for up to one year or as mutually agreed to provide the applicant with the opportunity to satisfy the examination requirements.

b. If additional ~~experience or education or training~~ is required ~~in order for the applicant's qualifications to be considered substantially equivalent~~, the applicant may request that the board issue a ~~provisional~~ temporary license for a specified period of time during which the applicant will successfully complete the necessary ~~experience or education or training~~. The board shall issue a ~~provisional~~ temporary license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a ~~provisional~~ temporary license is granted.

c. If a request for a ~~provisional~~ temporary license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a ~~provisional~~ temporary license.

d. If a ~~provisional~~ temporary license is issued, the application for full licensure shall be placed in pending status until the necessary ~~experience or education or training~~ has been successfully completed or the ~~provisional~~ temporary license expires, whichever occurs first. The board may extend a ~~provisional~~ temporary license on a case-by-case basis for good cause.

18.3(6) A veteran An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a ~~provisional~~ temporary license or is aggrieved by the terms under which a ~~provisional~~ temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. ~~No~~ The procedures of 655—Chapter 20 shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

ARC 6944C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to licensing regulation, veterans and military spouses and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 33, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2022 Iowa Acts, Senate File 2383.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

These proposed amendments implement the licensure-related provisions of 2022 Iowa Acts, Senate File 2383. This proposed rule making revises the requirements and parameters of licensure for veterans and active duty military spouses.

Fiscal Impact

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

PHARMACY BOARD[657](cont'd)

Jobs Impact

After analysis and review of this rule making, no impact on jobs can be determined since the Board's current license transfer process provides an opportunity for a temporary license in accordance with Senate File 2383.

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 28, 2023. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

- ITEM 1. Adopt the following **new** definition of “Spouse” in rule **657—33.1(272C)**:
“Spouse” means a spouse of an active duty member of the military forces of the United States.
- ITEM 2. Amend rule 657—33.3(272C) as follows:

657—33.3(272C) Veteran and spouse licensure or registration. A veteran or spouse with an unrestricted pharmacist license in another jurisdiction may apply for pharmacist licensure in Iowa by license transfer pursuant to rule 657—2.9(147,155A) and this chapter. A veteran or spouse must pass any required examinations to be eligible for pharmacist licensure by license transfer. A veteran or spouse may submit an application for pharmacist-intern registration pursuant to 657—Chapter 4 and this chapter. A veteran or spouse may submit an application for technician registration pursuant to 657—Chapter 3 and this chapter. A veteran or spouse may submit an application for pharmacy support person registration pursuant to 657—Chapter 5 and this chapter.

33.3(1) No change.

33.3(2) Application requirements. Such an application shall contain all of the information required of all applicants for licensure or registration who hold unrestricted licenses or registrations in other

PHARMACY BOARD[657](cont'd)

jurisdictions and who are applying for licensure or registration, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. In addition, the applicant shall provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or a spouse of an active duty member of the military forces of the United States.

33.3(3) *Equivalency determination.* Upon receipt of a fully completed application for licensure or registration, the board shall promptly determine if the ~~requirements for licensure or registration of scope of practice in the jurisdiction where the veteran or spouse is licensed or registered are~~ is substantially equivalent to the ~~requirements for licensure or registration scope of practice in Iowa. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and postgraduate experiences.~~

33.3(4) *Licensure or registration approval.* The board shall promptly grant a license or registration, as appropriate, to the veteran or spouse if the applicant is licensed or registered in another jurisdiction whose ~~licensure or registration requirements are~~ scope of practice is substantially equivalent to those ~~required~~ the scope of practice in Iowa, unless the applicant is ineligible for licensure or registration based on other grounds, for example, the applicant's disciplinary or criminal background.

33.3(5) *Notification of additional requirements and ~~provisional temporary~~ licensure or registration.* If the board determines that the veteran or spouse is licensed or registered in another jurisdiction whose ~~licensure or registration requirements are~~ scope of practice is not substantially equivalent to ~~those required~~ the scope of practice in Iowa, the board shall promptly inform the applicant of the additional ~~experience, education, or examinations~~ training required for licensure or registration in Iowa. Unless the applicant is ineligible for licensure or registration based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If the applicant has not passed the required examination(s) for licensure or registration, the applicant may request that the application be placed in pending status. The board may issue a ~~provisional temporary~~ 90-day license in order for a pharmacist who has applied for license transfer pursuant to rule 657—2.9(147,155A) to take and pass the multistate pharmacy jurisprudence examination (MPJE), Iowa Edition.

b. If additional ~~experience or education or training~~ is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a ~~provisional temporary~~ license or registration for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare, and safety of the public unless the board determines that the deficiency is of a character that the public health, welfare, or safety will be adversely affected if a ~~provisional temporary~~ license or registration is granted.

c. If a request for a ~~provisional temporary~~ license or registration is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a ~~provisional temporary~~ license or registration.

d. If a ~~provisional temporary~~ license or registration is issued, the application for full licensure or registration shall be placed in pending status until the necessary ~~experience or education or training~~ has been successfully completed or the ~~provisional temporary~~ license or registration expires, whichever occurs first. The board may extend a ~~provisional temporary~~ license or registration on a case-by-case basis for good cause.

ITEM 3. Amend rule 657—33.4(272C) as follows:

657—33.4(272C) Request for contested case. A military service applicant, ~~or a veteran, or a spouse~~ who is aggrieved by the board's decision to deny all or part of the military service credit application, a request for a license transfer, a request for a registration, or a request for ~~provisional temporary~~ license or registration, or is aggrieved by the terms under which a ~~provisional temporary~~ license or registration will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision pursuant to 657—subrule 35.30(1). There shall be no fees or costs assessed against the military

PHARMACY BOARD[657](cont'd)

service applicant, ~~or~~ veteran, or spouse in connection with a contested case conducted pursuant to this chapter.

ARC 6946C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Notice of Intended Action

Proposing rule making related to licensing regulation, veterans and military spouses and providing an opportunity for public comment

The Professional Licensing and Regulation Bureau hereby proposes to amend Chapter 14, “Alternative Paths to Licensure,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 546.3 and 546.10 and 2022 Iowa Acts, Senate File 2383.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

This proposed rule making revises license by verification rules to comply with 2022 Iowa Acts, Senate File 2383, which removed residency and active duty requirements from the license by verification process for applicants seeking professional licensure who have been licensed in another state. This rule making also adds military spouses as individuals who can be licensed under special veteran reciprocity rules.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may become eligible for licensure.

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 Bureau for a waiver of the discretionary provisions, if any, pursuant to 193—Chapter 5.

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

Lori SchraderBachar
Professional Licensing and Regulation Bureau
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Phone: 515.725.9030
Email: lori.schraderbachar@iowa.gov

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Public Hearing

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

March 28, 2023
10 to 11 a.m.

Bureau Offices
200 East Grand Avenue, Suite 350
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 Bureau 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** definition of "Spouse" in rule **193—14.1(272C)**:
"Spouse" means a spouse of an active duty member of the military forces of the United States.

ITEM 2. Amend rule 193—14.3(272C) as follows:

193—14.3(272C) Veteran and spouse reciprocity.

14.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

14.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or a spouse of an active duty member of the military forces of the United States.

14.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the ~~professional or occupational licensing requirements of~~ scope of practice in the jurisdiction where the applicant is licensed ~~are~~ is substantially equivalent to the ~~licensing requirements~~ scope of practice in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. ~~As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.~~

14.3(4) The board shall promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose ~~licensure requirements are~~ scope of practice is substantially equivalent to ~~those required~~ the scope of practice in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

or the licensee is not in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration.

14.3(5) If the board determines that the ~~licensing requirements~~ scope of practice in the jurisdiction in which the applicant is licensed ~~are~~ is not substantially equivalent to ~~those required~~ the scope of practice in Iowa, the board shall promptly inform the applicant of the additional ~~experience, education, or examinations~~ training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If an applicant has not passed the required examination(s) for licensure, the applicant may not be issued a ~~provisional~~ temporary license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the applicant with the opportunity to satisfy the examination requirements.

b. If additional ~~experience or education or training~~ is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a ~~provisional~~ temporary license for a specified period of time during which the applicant will successfully complete the necessary ~~experience or education or training~~. The board shall issue a ~~provisional~~ temporary license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a ~~provisional~~ temporary license is granted.

c. If a request for a ~~provisional~~ temporary license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a ~~provisional~~ temporary license.

d. If a ~~provisional~~ temporary license is issued, the application for full licensure shall be placed in pending status until the necessary ~~experience or education or training~~ has been successfully completed or the ~~provisional~~ temporary license expires, whichever occurs first. The board may extend a ~~provisional~~ temporary license on a case-by-case basis for good cause.

14.3(6) An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a ~~provisional~~ temporary license or is aggrieved by the terms under which a ~~provisional~~ temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 193—Chapter 7 shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

14.3(7) No change.

ITEM 3. Amend subrule 14.4(1) as follows:

14.4(1) Eligibility. A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa, ~~and either:~~

a. ~~The person establishes residency in the state of Iowa; or~~

b. ~~The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.~~

ITEM 4. Amend subrule 14.4(2) as follows:

14.4(2) Board application. The applicant must submit the following:

a. A completed application for licensure by verification.

b. Payment of the application fee.

c. Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.

d. A verification form completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

~~e.~~—Proof of residency in the state of Iowa or proof of military member’s official permanent change of station. Proof of residency includes:

- ~~(1)~~ Residential mortgage, lease, or rental agreement;
- ~~(2)~~ Utility bill;
- ~~(3)~~ Bank statement;
- ~~(4)~~ Paycheck or pay stub;
- ~~(5)~~ Property tax statement;
- ~~(6)~~ A federal or state government document; or
- ~~(7)~~ Any other board approved document that reliably confirms Iowa residency.

~~f. e.~~ A copy of the complete criminal record, if the applicant has a criminal history.

~~g. f.~~ A copy of relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.

~~h. g.~~ Copies of relevant laws setting forth the scope of practice in the other state.

ITEM 5. Rescind subrule **14.4(5)**.

ITEM 6. Renumber subrule **14.4(6)** as **14.4(5)**.

ARC 6943C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

**Proposing rule making related to licensing regulation, veterans and military spouses
and providing an opportunity for public comment**

The Professional Licensure Division hereby proposes to amend Chapter 19, “Licensure by Verification and of Applicants with Work Experience,” and Chapter 20, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 272C.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

This proposed rule making revises license by verification rules to comply with 2022 Iowa Acts, Senate File 2383, which removed residency and active duty requirements from the license by verification process for applicants seeking professional licensure who have been licensed in another state. This rule making also adds military spouses as individuals who can be licensed under special veteran reciprocity rules.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

Jessica O'Brien
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.6352
Email: jessica.o'brien@idph.iowa.gov

Public Hearing

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

March 28, 2023
9 to 9:30 a.m.

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

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 19.1(1) as follows:

19.1(1) Eligibility. A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa, ~~the person has been licensed for a minimum of one year in the other jurisdiction, and either:~~

~~a. The person establishes residency in the state of Iowa; or~~

~~b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.~~

ITEM 2. Amend subrule 19.1(2) as follows:

19.1(2) Board application. The applicant must submit the following:

a. A completed application for licensure by verification.

b. Payment of the application fee.

c. Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

d. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.

~~*e.* Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency includes:~~

- ~~(1) A residential mortgage, lease, or rental agreement;~~
- ~~(2) A utility bill;~~
- ~~(3) A bank statement;~~
- ~~(4) A paycheck or pay stub;~~
- ~~(5) A property tax statement;~~
- ~~(6) A federal or state government document; or~~
- ~~(7) Any other board approved document that reliably confirms Iowa residency.~~

~~*f. e.* A copy of the complete criminal record if the applicant has a criminal history.~~

~~*g. f.* A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.~~

~~*h. g.* A written statement from the applicant detailing the scope of practice in the other state.~~

~~*i. h.* Copies of relevant laws setting forth the scope of practice in the other state.~~

ITEM 3. Rescind subrule **19.1(5)**.

ITEM 4. Amend rule 645—20.1(272C) as follows:

645—20.1(272C) Definitions.

"Board" means a licensing board within the professional licensure division.

"License" or *"licensure"* means any license, registration, certificate, or permit that may be granted by a licensing board within the professional licensure division.

"Military service" means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

"Military service applicant" means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

"Spouse" means a spouse of an active duty member of the military forces of the United States.

"Veteran" means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

ITEM 5. Amend rule 645—20.3(272C) as follows:

645—20.3(272C) Veteran reciprocity.

20.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

20.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or a spouse of an active duty member of the military forces of the United States.

20.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the ~~professional or occupational licensing requirements of~~ scope of practice in the jurisdiction where

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

the applicant is licensed ~~are~~ is substantially equivalent to the ~~licensing requirements~~ scope of practice in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. ~~As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.~~

20.3(4) The board shall promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose ~~licensure requirements are~~ scope of practice is substantially equivalent to ~~those required~~ the scope of practice in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

20.3(5) If the board determines that the ~~licensing requirements~~ scope of practice in the jurisdiction in which the applicant is licensed ~~are~~ is not substantially equivalent to ~~those required~~ the scope of practice in Iowa, the board shall promptly inform the applicant of the additional ~~experience~~, education, or ~~examinations~~ training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If an applicant has not passed the required examination(s) for licensure, the applicant may not be issued a ~~provisional~~ temporary license, but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the applicant with the opportunity to satisfy the examination requirements.

b. If additional ~~experience or education or training~~ is required ~~in order for the applicant's qualifications to be considered substantially equivalent~~, the applicant may request that the board issue a ~~provisional~~ temporary license for a specified period of time during which the applicant will successfully complete the necessary ~~experience or education or training~~. The board shall issue a ~~provisional~~ temporary license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a ~~provisional~~ temporary license is granted.

c. If a request for a ~~provisional~~ temporary license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a ~~provisional~~ temporary license.

d. If a ~~provisional~~ temporary license is issued, the application for full licensure shall be placed in pending status until the necessary ~~experience or education or training~~ has been successfully completed or the ~~provisional~~ temporary license expires, whichever occurs first. The board may extend a ~~provisional~~ temporary license on a case-by-case basis for good cause.

20.3(6) An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a ~~provisional~~ temporary license or is aggrieved by the terms under which a ~~provisional~~ temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 645—Chapter 11 shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

ARC 6942C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to licensing regulation, fees, veterans and military spouses and providing an opportunity for public comment

The Public Health Department hereby proposes to amend Chapter 131, "Emergency Medical Services—Providers—Initial Certification—Renewal and Reactivation—Authority—Complaints and

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Investigations,” and Chapter 196, “Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 147A and 272C and 2022 Iowa Acts, Senate File 2383.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

This proposed rule making implements the licensure-related provisions of 2022 Iowa Acts, Senate File 2383, by revising the requirements for licensure by verification and updating the requirements and parameters of licensure for veterans and their spouses.

Fiscal Impact

This rule making will have limited fiscal impact. The provisions of the rule making will waive the initial application and renewal fees for veterans who were honorably or generally discharged within the previous five years. However, the overall number of applications that meet the criteria is low.

Jobs Impact

After analysis and review of this rule making, there may be a positive impact on jobs since it would streamline and remove some of the requirements related to licensure by verification. Additionally, it would clearly provide an alternative pathway to licensure of spouses of veterans when moving to Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver provisions contained in 641—Chapter 178.

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 28, 2023. Comments should be directed to:

Margot McComas
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: margot.mccomas@idph.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.

PUBLIC HEALTH DEPARTMENT[641](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 subrule 131.3(6) as follows:

131.3(6) Fees may be waived in accordance with provisions in Iowa Code chapter 272C for individuals demonstrating ~~income~~ the following:

- a. Income that does not exceed 200 percent of the federal poverty level;
- b. Initial licensing fees and one renewal fee for an applicant who has been honorably or generally discharged from federal active duty or national guard duty, as those terms are defined in Iowa Code section 29A.1, who would otherwise be charged within five years of the discharge.

ITEM 2. Amend subrules 196.3(3) to 196.3(6) as follows:

196.3(3) Upon receipt of a fully completed licensure application, the licensing authority shall promptly determine if the ~~professional or occupational licensing requirements~~ scope of practice of the jurisdiction where the veteran or spouse is licensed ~~are~~ is substantially equivalent to the ~~licensing requirements~~ scope of practice in Iowa. The licensing authority shall make this determination based on information supplied by the applicant and such additional information as the licensing authority may acquire from the applicable jurisdiction. ~~As relevant to the license at issue, the licensing authority may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, experience, and examinations required for licensure.~~

196.3(4) The licensing authority shall promptly grant a license to the veteran or spouse if the applicant is licensed in the same or similar profession in another jurisdiction whose ~~licensure requirements are~~ scope of practice is substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

196.3(5) If the licensing authority determines that the ~~licensure requirements~~ scope of practice in the jurisdiction in which the veteran or spouse is licensed ~~are~~ is not substantially equivalent to ~~those required~~ the scope of practice in Iowa, the licensing authority shall promptly inform the applicant of the additional ~~experience, education, or examinations~~ training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, or the issuance of a ~~provisional~~ temporary license is inconsistent with the licensing authority's enabling statute, the following shall apply:

a. If an applicant has not passed the required examination(s) for licensure, the applicant may not be issued a ~~provisional~~ temporary license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the applicant with the opportunity to satisfy the examination requirements.

b. If additional ~~experience or education or training~~ is required for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the licensing authority issue a ~~provisional~~ temporary license for a specified period of time during which the applicant will successfully complete the necessary ~~experience or education or training~~. The licensing authority shall issue a ~~provisional~~ temporary license for a specified period of time upon such conditions as the licensing authority deems reasonably necessary to protect the health, welfare or safety of the public unless the licensing authority determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a ~~provisional~~ temporary license is granted.

c. If a request for a ~~provisional~~ temporary license is denied, the licensing authority shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a ~~provisional~~ temporary license.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

d. If a ~~provisional~~ temporary license is issued, the application for full licensure shall be placed in pending status until the necessary ~~experience or education or training~~ has been successfully completed or the ~~provisional~~ temporary license expires, whichever occurs first. The licensing authority may extend a ~~provisional~~ temporary license on a case-by-case basis for good cause.

196.3(6) A veteran or spouse who is aggrieved by the licensing authority's decision to deny an application for a reciprocal license or a ~~provisional~~ temporary license or is aggrieved by the terms under which a ~~provisional~~ temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the licensing authority's decision. The provisions of 641—Chapter 173 shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

ARC 6947C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to golf and country clubs and all commercial recreation and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 216, "Events, Amusements, and Other Related Activities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.2.

Purpose and Summary

Pursuant to Part IV of Executive Order 10, the Department has been directed to propose this Notice of Intended Action. In light of the significant concerns received after the official public comment period for **ARC 6577C** and the effective date of new rule 701—216.3(423) implementing the taxable service of commercial recreation, the Department proposes to rescind rule 701—216.3(423) and replace it with the text previously found in rule 701—26.24(422), with minor updates for consistency with other administrative rules. This will allow the Department to consider the newly raised concerns and reevaluate changes to the rule.

Fiscal Impact

This rule making proposes to reverse a recent rule change that had a fiscal impact of a \$4.95 million increase for sales tax and a \$0.78 million increase for local option sales tax (LOST) in fiscal year 2024, increasing gradually thereafter due to inflation. Because this rule making proposes to reverse that rule change, this rule making will have the inverse fiscal impact, decreasing sales tax revenue by \$4.95 million and LOST revenue by \$0.78 million in fiscal year 2024.

Jobs Impact

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

REVENUE DEPARTMENT[701](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 28, 2023. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.782.0535
Email: tim.reilly@iowa.gov

Public Hearing

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

March 28, 2023
10 to 11 a.m.

Room 1 NW
Hoover State Office Building
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind rule 701—216.3(423) and adopt the following **new** rule in lieu thereof:

701—216.3(423) Golf and country clubs and all commercial recreation. All fees, dues or charges paid to golf and country clubs are subject to tax. "Country clubs" shall include all clubs or clubhouses providing golf and other athletic sports for members. Persons providing facilities for recreation for a charge are rendering, furnishing or performing a service, the gross receipts from which are subject to tax. "Recreation" shall include all activities pursued for pleasure, including sports, games and activities that promote physical fitness, but shall not include admissions otherwise taxed under Iowa Code section 423.2.

216.3(1) Dance schools are the only schools the services of which are taxable under Iowa Code section 423.2(6). Rule 701—216.2(423) contains information on dance schools and dance studios. The sales price from any school providing training services in any activity pursued for pleasure or recreation shall not be subject to tax, unless the school is a dance school.

REVENUE DEPARTMENT[701](cont'd)

216.3(2) If a person provides both facilities for recreation and instruction in recreational activities, charges for instruction in the recreational activities shall not be subject to tax if all of the following circumstances exist:

a. The instruction charges are contracted for separately, separately billed, and reasonable in amount when compared to the taxable charges of providing facilities for recreation.

EXAMPLE: An ice skating rink offers three membership plans. The first membership plan provides only instruction in the activity of ice skating. The second plan allows for the use of the rink's facilities, but provides for no instruction in ice skating. The third plan allows the customer to participate in a certain number of ice skating classes and also allows use of the rink's facilities without instruction. Customer charges for the first plan would not be subject to tax. Customer charges for the second plan would be subject to tax. Charges for the third plan would be subject to tax if billed in one lump sum. If, under the third plan, charges to the customer for instruction and use are separately stated, and the charges for instruction are not unreasonable, the charges for instruction shall be exempt from tax. If it is necessary to pay for instruction to secure use of the facilities for recreation, charges for the instruction are a part of the gross receipts from commercial recreation and shall be subject to tax.

b. The persons receiving the instruction must be under the guidance and direction of a person training them in how to perform the recreational activity. If the persons receiving what purports to be "instruction" are allowed any substantial amount of time to pursue recreational activities, no instruction is taking place. The instruction should be received in what would ordinarily be thought of as a "class" with a fixed time and place for meeting. The instruction need not be received in what would ordinarily be thought of as a "classroom," but the instructor and the persons receiving instruction should be segregated from persons engaging in recreational activity insofar as this is possible. Instruction may still occur if complete or partial segregation is impossible.

EXAMPLE 1: A golf pro offers instruction to students on a golf course. The students cannot circulate around the golf course in a group with the golf pro because this would slow the play of golfers following such a group and lead to complaints. The students circulate on the course individually, and the golf pro observes the play of each student and comments upon it. Even though no segregation of the individual students into any sort of a class is possible, the students are receiving instruction from the golf pro and, therefore, no taxable event occurs.

EXAMPLE 2: A retailer maintains a golf driving range. There are separate tee-off positions for each customer to practice driving golf balls. There is also an instructor in driving present. The instructor cannot reserve individual tee-off positions for instruction of students because the positions are filled on a first-come, first-served basis. When students come for instruction, the instructor must make use of whatever tee-off positions are available. Even though segregation of students from other customers is impossible, instruction exists and, therefore, no taxable event occurs.

c. The "instruction" must impart to the learner a level of knowledge or skill in the recreational activity which would not be known to the ordinary person engaging in the recreational activity without instruction. Also, the person providing the instruction must have received some special training in the recreational activity taught if charges for that person's instruction are to be exempt from tax.

This rule is intended to implement Iowa Code section 423.2(6) "v."

ARC 6951C**TREASURER OF STATE[781]****Notice of Intended Action****Proposing rule making related to Iowa ABLE savings plan trust
and providing an opportunity for public comment**

The Treasurer of State hereby proposes to amend Chapter 20, "Iowa ABLE Savings Plan Trust," Iowa Administrative Code.

TREASURER OF STATE[781](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 12I.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 12I.

Purpose and Summary

This proposed rule making amends Chapter 20 to comply with provisions of the federal Consolidated Appropriations Act (CAA) of 2023, which included the SECURE 2.0 Act. Additionally, this rule making makes changes necessary for the continued efficient administration of the Iowa ABLE savings plan trust.

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 Treasurer of State for a waiver of the discretionary provisions, if any, pursuant to 781—Chapter 19.

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 Office of the Treasurer of State no later than 4:30 p.m. on March 28, 2023. Comments should be directed to:

Molly Widen
Office of the Treasurer of State
Lucas State Office Building, First Floor
321 East 12th Street
Des Moines, Iowa 50319
Email: molly.widen@tos.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:

TREASURER OF STATE[781](cont'd)

ITEM 1. Adopt the following **new** definition of “Resident” in rule **781—20.2(12I)**:

“*Resident*” means someone living in one location with the intent to remain there permanently or for a definite, indefinite or indeterminable length of time.

ITEM 2. Amend rule **781—20.2(12I)**, definitions of “Account owner,” “Authorized individual,” “Federal penalty tax,” “Fund” and “Section 529A,” as follows:

“*Account owner*” means the account owner ~~and designated beneficiary of the account as defined in Iowa Code section 12I.1.~~ An account owner must be an eligible individual. References herein to an account owner include an authorized individual ~~or an authorized agent~~ acting on behalf of an account owner.

“*Authorized individual*” means ~~an individual~~ a person or entity authorized to act on the account owner’s behalf with respect to the account in accordance with these rules and Section 529A. The authorized individual may neither have nor acquire any beneficial interest in the account during the account owner’s lifetime and must administer the account for the benefit of the account owner.

“*Federal penalty tax*” means ~~a 10 percent~~ the additional federal tax imposed on the earnings portion of certain nonqualified withdrawals.

“*Fund*” means the underlying investments that are mutual funds, ~~or~~ exchange-traded funds, bank products and any other investments in which assets of the plan are invested through the investment options.

“*Section 529A*” means Section 529A of the Internal Revenue Code and regulations promulgated or proposed thereunder.

ITEM 3. Rescind the definitions of “Authorized agent” and “Investment managers” in rule **781—20.2(12I)**.

ITEM 4. Amend subrule 20.4(1) as follows:

20.4(1) The plan shall have a form of participation agreement which must be used to establish ~~accounts~~ an account. The participation agreement shall be signed and dated in accordance with the requirements of the plan disclosure documents by the account owner to verify that the account owner agrees to the terms and conditions of the plan.

ITEM 5. Amend rule 781—20.5(12I) as follows:

781—20.5(12I) Eligible individual. An account owner must be an eligible individual. ~~An individual is an eligible individual for a taxable year if, during that year, either (1) the individual is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act (“benefits eligibility”), or (2) a disability certification meeting specified requirements is filed with the Secretary in accordance with Section 529A (“certification eligibility”). In all cases, the blindness or disability must have occurred before the individual’s twenty-sixth birthday.~~ This rule establishes the following other requirements for opening an account:

20.5(1) An account owner may be a resident of any state.

20.5(2) An account owner must be a U.S. citizen or resident alien.

20.5(3) An account owner must, ~~on signing a participation agreement, provide the plan administrator with~~ have a valid social security number or tax identification number.

20.5(4) An account owner must have a valid permanent U.S. street address.

20.5(5) No ~~account owner~~ eligible individual may have more than one account in an ABLE plan in existence at the same time. A prior ABLE account that has been closed does not prohibit the subsequent creation of another ABLE account for the same account owner. As part of the enrollment process, the person establishing the account owner will be required to certify under penalties of perjury that the eligible individual for whom the account owner is being established has no other ABLE account (except in the case of a rollover from an account that will terminate with the completion of the rollover).

20.5(6) If an individual desires to open an account based on benefits eligibility, the individual must make the following certifications under penalties of perjury that:

a. The individual is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act and has received a benefit verification letter from the Social Security Administration

TREASURER OF STATE[781](cont'd)

and agrees to retain and provide the letter (or a genuine copy of the letter or other evidence) to the plan, the plan administrator, the IRS, or the U.S. Department of the Treasury upon request; and

b. The individual's disability was present before the individual's twenty-sixth birthday meets the qualifications set forth in Section 529A.

20.5(7) If an individual desires to open an account based on certification eligibility, the individual must certify under penalties of perjury that the individual:

a. Has a medically determinable physical or mental impairment which results in marked or severe functional limitations and which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months;

b. Is blind (within the meaning of the Social Security Act); or

c. Has a condition listed in the "List of Compassionate Allowances Conditions" maintained by the Social Security Administration.

The individual must also certify that the disability, blindness, or compassionate allowances condition ~~occurred before the date of the individual's twenty-sixth birthday~~ meets the qualifications set forth in Section 529A, and that the individual has a copy of the individual's diagnosis relating to the relevant impairment(s), signed by a physician meeting the criteria of Social Security Act Section 1861(r)(1). The individual must also agree to retain and provide a copy of the diagnosis and related information to the plan upon request.

20.5(8) By maintaining an account, the account owner is making a continuing certification that the account owner is an eligible individual. It is the account owner's responsibility to notify the plan in writing if the account owner ceases to be an eligible individual. It is also the account owner's responsibility to notify the plan in writing if the account owner subsequently requalifies as an eligible individual.

ITEM 6. Amend rule 781—20.6(12I) as follows:

781—20.6(12I) Authorized individual.

20.6(1) An eligible individual may establish an account. If an eligible individual (whether a minor or adult) is unable to establish the individual's own account, an account may be established on behalf of the eligible individual by the eligible individual's agent under a power of attorney or, if none, by a conservator or legal guardian, spouse, parent, sibling, grandparent of the eligible individual, or a representative payee appointed for the eligible individual by the Social Security Administration, in that order, or as otherwise provided in Section 529A.

20.6(2) The plan may accept a certification, made under penalties of perjury, from the person seeking to establish an account (1) as to the basis for the person's authority to establish the account, and (2) that there is no other person with a higher priority, set forth in Section 529A, to establish the account.

20.6(3) An authorized individual may establish an account on behalf of the account owner and make investment decisions for the account owner. An authorized individual may neither have nor acquire any beneficial interest in the account during the account owner's lifetime and must administer the account for the benefit of the account owner. Whenever an action is required to be taken by an account owner in connection with an account, the authorized individual may take such action on behalf of the account owner.

~~**20.6(1) 20.6(4)** A parent or legal guardian of an account owner who is a minor may be the authorized individual for that account owner. An adult account owner with legal capacity may appoint an individual as an authorized individual. In addition, a conservator legally appointed for an adult account owner who lacks legal capacity may be an authorized individual.~~

~~**20.6(2) 20.6(5)** An authorized individual may be required to provide supporting documentation to the plan, including documentation of the authority of the individual to establish the account, in accordance with the plan disclosure documents. The plan may freeze an account until the plan receives the required documentation and is able to verify the authorized individual's authority to open, transact and maintain an account on behalf of the account owner.~~

TREASURER OF STATE[781](cont'd)

ITEM 7. Amend rule 781—20.7(12I) as follows:

781—20.7(12I) Authorized agent Interested party. An account owner with legal capacity or an authorized individual may designate an ~~authorized agent to act on the account. An authorized agent may be appointed with varying levels of authority in accordance with the plan disclosure documents. Certain levels of authority will require the completion of a power of attorney form~~ interested party to receive information on the account.

ITEM 8. Amend subrule 20.8(1) as follows:

20.8(1) Appropriate forms must be completed on paper, online or via telephone (whichever is applicable for the requested actions) to perform the actions set forth in and in accordance with the plan disclosure documents. Current forms are available online at IABLE.gov. Among the actions which require the completion of an appropriate form are opening and closing an account, transferring ownership rights of an account to another person, changing investments, requesting a full or partial withdrawal, requesting a rollover, and assigning an authorized ~~agent~~ individual.

ITEM 9. Amend paragraph **20.9(1)“a”** as follows:

a. Freeze an account, suspend account services or do both: (1) if the plan administrator receives notice of a dispute regarding account assets or account ownership, including notice of the death of an account owner (until appropriate documentation is received and the plan administrator reasonably believes that it is lawful to transfer account ownership); (2) if the plan administrator reasonably believes a fraudulent transaction may occur or has occurred; ~~or~~ (3) in the event of a challenge to the authority of an individual to establish or act on an account; or (4) when a minor account owner reaches the age of majority (until appropriate documentation is received);

ITEM 10. Rescind subrule **20.10(4)**.

ITEM 11. Amend rule 781—20.11(12I), catchwords, as follows:

781—20.11(12I) Substitution or change of beneficiary; balance transfer.

ITEM 12. Adopt the following **new** subrule 20.11(3):

20.11(3) All or a portion of an account owner's account balance may be transferred to another account within the plan but only during the life of the account owner. At the time of the transfer, the transferee must be an eligible individual and a member of the family of the transferor-account owner.

ITEM 13. Rescind rule 781—20.12(12I) and adopt the following **new** rule in lieu thereof:

781—20.12(12I) Transfer of account on death. The account owner has the right to designate a successor account owner in the event of the death of the account owner in accordance with these rules and the plan disclosure documents.

20.12(1) An account owner may designate a successor account owner to succeed to the ownership of the account upon the death of the account owner provided that the successor account owner must be another eligible individual who is a member of the family of the account owner. To designate a successor account owner at death, the account owner shall complete the appropriate form and provide any requested documentation.

20.12(2) Upon the death of the account owner, the successor account owner must notify the plan by submitting a completed participant enrollment form and a certified copy of the death certificate. The change in ownership of the account will become effective for the successor participant once this paperwork has been received and processed. The amount to be transferred is subject to payment of certain expenses as set forth in the Internal Revenue Code.

ITEM 14. Amend rule 781—20.13(12I) as follows:

781—20.13(12I) Qualified withdrawals. This rule establishes the procedures for the payment of qualified withdrawals. A qualified withdrawal is a withdrawal from an account that is used to pay for any qualified disability expenses of the account owner.

TREASURER OF STATE[781](cont'd)

20.13(1) The account owner must initiate the withdrawal for qualified disability expenses. The account owner must file the appropriate form with the plan administrator.

20.13(2) Qualified withdrawals will be paid as provided in the plan disclosure documents.

20.13(3) Each qualified withdrawal will be comprised partly of contributions and partly of earnings, based upon the same proportion that contributions and earnings comprise the account owner's account at the time of the withdrawal.

20.13(4) Funds that are distributed to or for the benefit of an account owner shall be reported to the IRS on a 1099-Q in the tax year in which the withdrawal is made. The account owner will receive the 1099-Q for any withdrawals made to or as instructed by the account owner. The account owner receiving the 1099-Q must determine whether the withdrawal was made for a qualified disability expense or was a nonqualified withdrawal.

ITEM 15. Amend rule 781—20.14(12I), introductory paragraph, as follows:

781—20.14(12I) Nonqualified withdrawals and participation agreement cancellation. An account owner may has the exclusive right to cancel a participation agreement and may do so at will. This rule establishes the criteria for nonqualified withdrawals from an account or for the cancellation of a participation agreement.

ITEM 16. Amend rule 781—20.15(12I) as follows:

781—20.15(12I) Account statements. Account owners will receive quarterly account statements, which will include the total value of the account and a list of transactions within the account for that quarterly period. Account owners will receive account statements, transaction confirmations, and other personal correspondence in paper format unless the account owner signs up for electronic delivery. Fees may vary as provided in the disclosure documents depending on the method of delivery selected.

ITEM 17. Amend rule 781—20.16(12I) as follows:

781—20.16(12I) State tax treatment. The maximum amount that may be deducted per year for Iowa income tax purposes by an individual who is a resident of this state for contributions to an account shall not exceed the maximum deductible amount determined for the year pursuant to Iowa Code section 12D.3(1). The adjusted annual maximum shall be communicated to account owners in the plans and to the public in any reasonable manner determined by the plan administrator. State inheritance tax treatment of interests in the plan shall be as provided in Iowa Code section 450.4(9).

ARC 6940C**DENTAL BOARD[650]****Adopted and Filed****Rule making related to licensing regulation, fees, veterans and military spouses**

The Dental Board hereby amends Chapter 11, “Licensure and Registration,” and Chapter 52, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76 and 2022 Iowa Acts, Senate File 2383.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

These amendments implement the licensure-related provisions of 2022 Iowa Acts, Senate File 2383. This rule making revises the requirements for licensure by verification and updates the requirements and parameters of licensure for veterans and their spouses.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6666C**. 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 27, 2023.

Fiscal Impact

This rule making will have limited fiscal impact. The provisions of this rule making waive the initial application and renewal fees for veterans who were honorably or generally discharged within the previous five years; however, the overall number of applications that meet these criteria is low.

Jobs Impact

After analysis and review of this rule making, there may be a positive impact on jobs since it streamlines and removes some of the requirements related to licensure by verification. Additionally, it clearly provides an alternative pathway to licensure of spouses of veterans when moving to Iowa.

Waivers

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

Review by Administrative Rules Review Committee

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

DENTAL BOARD[650](cont'd)

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

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 650—11.9(272C) as follows:

650—11.9(272C) Registration by verification. Registration by verification is available in accordance with the following:

11.9(1) Eligibility. A dental assistant may seek registration by verification if the person is currently licensed or registered as a dental assistant in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa, ~~the person has been licensed or registered for a minimum of one year in the other jurisdiction, and either:~~

- ~~a. The person relocates and establishes residency in the state of Iowa; or~~
- ~~b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.~~

11.9(2) Board application. The applicant must submit the following:

- ~~a. A completed application for registration.~~
- ~~b. Payment of the application fee.~~
- ~~c. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license or registration, verifying that the applicant's license or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.~~
- ~~d. Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency includes:~~
 - ~~(1) A residential mortgage, lease, or rental agreement;~~
 - ~~(2) A utility bill;~~
 - ~~(3) A bank statement;~~
 - ~~(4) A paycheck or pay stub;~~
 - ~~(5) A property tax statement;~~
 - ~~(6) A federal or state government document; or~~
 - ~~(7) Any other board-approved document that reliably confirms Iowa residency.~~
- ~~e. d. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.~~
- ~~f. e. Copies of complete criminal record, if the applicant has a criminal history.~~
- ~~g. f. A copy of the relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.~~
- ~~h. g. A written statement from the applicant detailing the scope of practice in the other state.~~
- ~~i. h. Copies of relevant laws setting forth the scope of practice in the other state.~~

11.9(3) to 11.9(5) No change.

This rule is intended to implement Iowa Code section 272C.12.

ITEM 2. Amend rule 650—11.14(272C) as follows:

650—11.14(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

11.14(1) Eligibility. A dentist or dental hygienist may seek licensure by verification if the person is currently licensed as a dentist or dental hygienist in at least one other jurisdiction that has a scope of

DENTAL BOARD[650](cont'd)

practice substantially similar to that of Iowa, ~~the person has been licensed for a minimum of one year in the other jurisdiction and either:~~

- ~~a. The person relocates and establishes residency in the state of Iowa; or~~
- ~~b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.~~

11.14(2) Board application. The applicant must submit the following:

- a. A completed application for licensure.
- b. Payment of the application fee.
- c. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.
- d. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.
- ~~e. Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency includes:~~
 - ~~(1) A residential mortgage, lease, or rental agreement;~~
 - ~~(2) A utility bill;~~
 - ~~(3) A bank statement;~~
 - ~~(4) A paycheck or pay stub;~~
 - ~~(5) A property tax statement;~~
 - ~~(6) A federal or state government document; or~~
 - ~~(7) Any other board-approved document that reliably confirms Iowa residency.~~
- ~~f. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.~~
- ~~g. Copies of complete criminal record, if the applicant has a criminal history.~~
- ~~h. A copy of the relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.~~
- ~~i. A written statement from the applicant detailing the scope of practice in the other state.~~
- ~~j. Copies of relevant laws setting forth the scope of practice in the other state.~~

11.14(3) to 11.14(5) No change.

This rule is intended to implement Iowa Code section 272C.12.

ITEM 3. Adopt the following **new** definition of "Spouse" in rule **650—52.1(272C)**:

"Spouse" means a spouse of an active duty member of the military forces of the United States.

ITEM 4. Amend rule 650—52.3(272C) as follows:

650—52.3(272C) Veteran and spouse reciprocity.

52.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

52.3(2) An application for licensure by reciprocity shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse of an active duty member of the military forces of the United States.

DENTAL BOARD[650](cont'd)

52.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the ~~professional or occupational licensing requirements of~~ scope of practice in the jurisdiction where the veteran applicant is licensed ~~are~~ is substantially equivalent to the ~~licensing requirements~~ scope of practice in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. ~~The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.~~

52.3(4) The board shall promptly grant a license to the ~~veteran if the veteran applicant if the applicant~~ applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose ~~licensure requirements are~~ scope of practice is substantially equivalent to ~~those required~~ the scope of practice in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

52.3(5) If the board determines that the ~~licensure requirements~~ scope of practice in the jurisdiction in which the veteran applicant is licensed ~~are~~ is not substantially equivalent to ~~those required~~ the scope of practice in Iowa, the board shall promptly inform the ~~veteran applicant~~ applicant of the additional ~~experience,~~ experience, education, or ~~examinations~~ training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a ~~veteran~~ applicant has not passed the required examination(s) for licensure, the ~~veteran applicant~~ applicant may not be issued a ~~provisional temporary~~ provisional temporary license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the ~~veteran applicant~~ applicant with the opportunity to satisfy the examination requirements.

b. If additional ~~experience or education or training~~ experience or education or training is required ~~in order for the applicant's qualifications to be considered substantially equivalent,~~ the applicant may request that the board issue a ~~provisional temporary~~ provisional temporary license for a specified period of time during which the applicant will successfully complete the necessary ~~experience or education or training~~ experience or education or training. The board shall issue a ~~provisional temporary~~ provisional temporary license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a ~~provisional temporary~~ provisional temporary license is granted.

c. If a request for a ~~provisional temporary~~ provisional temporary license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a ~~provisional temporary~~ provisional temporary license.

d. If a ~~provisional temporary~~ provisional temporary license is issued, the application for full licensure shall be placed in pending status until the necessary ~~experience or education or training~~ experience or education or training has been successfully completed or the ~~provisional temporary~~ provisional temporary license expires, whichever occurs first. The board may extend a ~~provisional temporary~~ provisional temporary license on a case-by-case basis for good cause.

52.3(6) ~~A veteran~~ An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a ~~provisional temporary~~ provisional temporary license or is aggrieved by the terms under which a ~~provisional temporary~~ provisional temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the ~~veteran applicant~~ applicant in connection with a contested case conducted pursuant to this subrule.

[Filed 2/15/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6926C**EDUCATION DEPARTMENT[281]****Adopted and Filed****Rule making related to community college accreditation**

The State Board of Education hereby amends Chapter 24, “Community College Accreditation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 260C.49.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2128.

Purpose and Summary

This rule making updates standards for community college accreditation, as required by 2022 Iowa Acts, Senate File 2128. These amendments modernize standards for faculty qualifications and faculty quality and development.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6756C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on February 9, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 12, 2023.

EDUCATION DEPARTMENT[281](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **24.5(1)“a”(3)** as follows:

(3) Instructors in the area of arts and sciences shall meet one of the following qualifications:

1. Possess a master's degree or higher from a ~~regionally~~ an accredited graduate school in each field of instruction in which the instructor is teaching classes.

2. Possess a master's degree or higher from a ~~regionally~~ an accredited graduate school and have completed a minimum of 18 graduate semester hours in a combination of the qualifying graduate fields identified as related to the field of instruction in which the instructor is teaching classes. These 18 graduate semester hours must include at least 6 credits in the specific course content being taught, with at least 12 credits required for courses that serve as prerequisites for junior-level courses at transfer institutions.

~~For the transition period ending September 1, 2017, an instructor deemed qualified to teach with a master's degree and 12 graduate semester hours within a field of instruction and who demonstrates adequate progress toward meeting the goals of the instructor's individual quality faculty plan shall remain qualified to teach until the date specified in the quality faculty plan or September 1, 2017, whichever comes first.~~

3. For courses identified as applied liberal arts and sciences, possess at least a bachelor's degree and a combination of formal training and professional tested experience equivalent to 6,000 hours. The instructor shall hold the appropriate registration, certification, or licensure in occupational areas in which such credential is necessary for practice.

For purposes of this subparagraph, “accredited” means that an institution of higher education meets the standards established by an accrediting agency recognized under 34 CFR Part 602 and by Title IV of the federal Higher Education Opportunity Act, Pub. L. No. 110-315.

ITEM 2. Amend subrule 24.5(7), introductory paragraph, as follows:

24.5(7) *Quality faculty plan.* The community college shall establish a quality faculty committee consisting of instructors and administrators to develop and maintain a plan for hiring and developing quality faculty. The committee shall have equal representatives of arts and sciences and career and technical faculty with no more than a simple majority of members of the same gender. Faculty shall be appointed by the certified employee organization representing faculty, if any, and administrators shall be appointed by the college's administration. If no faculty-certified employee organization representing faculty exists, the faculty shall be appointed by administration pursuant to Iowa Code section 260C.48(4). The committee shall submit the plan to the board of directors for consideration, approval and submittal to the department of education. Standards relating to quality assurance of faculty and ongoing quality professional development shall be the accreditation standards of similar accredited institutions of higher education that are consistent with the standards established pursuant to this rule and the faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies. For purposes of this subrule, “accredited” means that an institution of higher education meets the standards established by an accrediting agency recognized under 34 CFR Part 602 and by Title IV of the federal Higher Education Opportunity Act, Pub. L. No. 110-315.

ITEM 3. Amend subparagraph **24.5(7)“b”(9)** as follows:

(9) Compliance with the faculty accreditation standards of the Higher Learning Commission similar accredited institutions of higher education that are consistent with the standards established pursuant to Iowa Code section 260C.48 and with faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies. It is recommended that the plan provide for the uniform reports with substantiating data currently required for Higher Learning Commission accreditation. For purposes of this subparagraph, “accredited” means that an institution of higher education meets the standards established by an accrediting agency recognized

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under 34 CFR Part 602 and by Title IV of the federal Higher Education Opportunity Act, Pub. L. No. 110-315.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6928C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to work-based learning

The State Board of Education hereby amends Chapter 49, "Individual Career and Academic Plan," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 256.7 and 279.61.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

2022 Iowa Acts, Senate File 2383, division II, expanded opportunities for work-based learning in Iowa schools, including requiring work-based learning to be considered in a student's academic planning and requiring the Department of Education to gather data on each district's provision of work-based learning. These amendments implement the portion of division II within the Department's authority.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6758C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on February 9, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

EDUCATION DEPARTMENT[281](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **49.3(1)“c”** as follows:

c. Identify the coursework and work-based learning needed in grades 9 through 12 to support the student's postsecondary education and career options and goals.

ITEM 2. Adopt the following **new** paragraph **49.3(1)“e”**:

e. Prior to graduation, advise the student how to successfully complete the Free Application for Federal Student Aid.

ITEM 3. Amend subrule 49.7(2) as follows:

49.7(2) Reporting. ~~For the school year beginning July 1, 2016, and each succeeding school year,~~ The board of directors of each school district shall submit to the local community, and to the department as a component of the school district's comprehensive school improvement plan required by 281—Chapter 12, an annual report on student utilization of the district's career information and decision-making system. The board shall report to the department at least annually, and in a manner and frequency required by the department, regarding student participation in work-based learning programs established by the board, including registered apprenticeships, quality pre-apprenticeships, internships, on-the-job training, and projects through the Iowa clearinghouse for work-based learning.

[Filed 2/9/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6927C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to paraeducator preparation programs

The State Board of Education hereby amends Chapter 80, “Standards for Paraeducator Preparation Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7(22).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.7(22).

Purpose and Summary

The Department of Education's educator preparation team approved nine new programs in the fall of 2022. Due to state initiatives to expand alternative programs to teacher licensure, it is expected that

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the demand and interest in offering paraeducator preparation programs will continue to grow. Many of these new programs are offered by higher education institutions, which require additional rigorous standards. Due to the added number of the programs, it will be challenging to administer high-quality reviews that provide meaningful feedback for program change and growth within the required five-year cycle. Therefore, this rule making changes the review timeline to every seven years. This allows the educator preparation team to align the paraeducator preparation review with the educator preparation review. This makes the process more efficient for the programs and the Department consultants due to close alignment of other preparation standards with paraeducator standards.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6757C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on February 9, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 281—80.5(272) as follows:

281—80.5(272) Application; approval of programs. Approval of paraeducator preparation programs by the state board shall be based on the recommendation of the director after study of the factual and evaluative evidence of record about each program in terms of the standards contained in this chapter. Approval, if granted, shall be for a term of five seven years; however, approval for a shorter term may be granted by the state board if it determines conditions so warrant. If approval is not granted, the applicant institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution shall be given the opportunity to present factual information concerning its programs at the next regularly scheduled meeting of the state board. The institution may

EDUCATION DEPARTMENT[281](cont'd)

also reapply at its discretion to provide evidence of the actions taken toward suggested improvement. Any application submitted under this rule shall be submitted by the authorized official.

ITEM 2. Amend rule 281—80.7(272) as follows:

281—80.7(272) Reevaluation of paraeducator preparation programs. Each paraeducator preparation program shall be reviewed and reevaluated at least once every ~~five~~ seven years, at a shorter interval specified pursuant to rule 281—80.5(272), or at any time deemed necessary by the director. Recommendations as to whether to grant continued approval shall be governed by rule 281—80.5(272).

[Filed 2/9/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6933C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to Iowa health and wellness plan

The Human Services Department hereby rescinds Chapter 74, "Iowa Health and Wellness Plan," Iowa Administrative Code, and adopts a new Chapter 74 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 249A.4 and 249N.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 249A.4 and 249N.6.

Purpose and Summary

Chapter 74 was reviewed as part of the Department's five-year rules review. Chapter 74 defines and structures the Iowa health and wellness plan. The chapter is rescinded and replaced to eliminate rules that are outdated, redundant and inconsistent. Terminology is updated in the new chapter. The references to marketplace choice are removed since it no longer exists. Retroactive enrollment has been updated to include residential nursing facilities. The website has been added as a payment method for contributions. Members are no longer be required to pay premiums when no services were provided.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 28, 2022, as **ARC 6765C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on February 9, 2023.

Fiscal Impact

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

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

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

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, 2023.

The following rule-making action is adopted:

Rescind 441—Chapter 74 and adopt the following **new** chapter in lieu thereof:

CHAPTER 74 IOWA HEALTH AND WELLNESS PLAN

PREAMBLE

This chapter defines and structures the Iowa health and wellness plan, effective January 1, 2014, and administered by the department of human services (department) pursuant to Iowa Code chapters 249A and 249N. This chapter shall be construed to comply with all requirements for federal funding under Title XIX of the Social Security Act or under the terms of any applicable waiver granted by the Secretary. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.

441—74.1(249A,249N) Definitions. The following definitions apply to this chapter in addition to the definitions in 441—Chapter 75.

“Countable income” means “modified adjusted gross income” (MAGI) or “household income,” as applicable, determined pursuant to 42 U.S.C. §1396a(e)(14).

“Enrollment period” means the 12-month period for which Iowa health and wellness plan eligibility is established.

“Essential health benefits” means the essential health benefits defined at 42 U.S.C. §18022.

“Iowa dental wellness plan” means the managed care dental benefit program set forth in 441—Chapter 73.

“Iowa health and wellness plan” means the medical assistance program set forth in this chapter for individuals with countable income that does not exceed 133 percent of the federal poverty level.

“Iowa wellness plan” means the benefits and services provided to Iowa health and wellness plan members.

“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.

“Medically exempt individual” means an individual exempt from mandatory enrollment in an alternative benefit plan pursuant to 42 CFR 440.315 as amended to May 16, 2022.

“Minimum essential coverage” means health insurance defined in Section 5000A(f) of Subtitle D of the Internal Revenue Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

“*Prepaid ambulatory health plan*” has the meaning set forth in 42 CFR 438.2 as amended to May 16, 2022.

“*Qualified employer-sponsored coverage*” shall be defined pursuant to 42 U.S.C. §1396e1(b).

441—74.2(249A,249N) Eligibility factors. Except as more specifically provided in this chapter, Iowa health and wellness plan eligibility shall be determined according to the requirements of 441—Chapter 75.

74.2(1) Persons covered. Subject to the additional requirements of this chapter and of 441—Chapter 75, medical assistance under the Iowa health and wellness plan shall be available to persons 19 through 64 years of age who:

- a. Are not eligible for medical assistance in a mandatory group under 441—Chapter 75;
- b. Have countable income at or below 133 percent of the federal poverty level for their household size;
- c. Are not entitled to or enrolled in Medicare benefits under Part A or Part B of Title XVIII of the Social Security Act; and
- d. Are not pregnant at the time of application or reenrollment.

74.2(2) Parents or caretakers of dependent children. All children under the age of 21 living with a parent or caretaker who will be claimed as a dependent by the parent or caretaker for state or federal income tax purposes must be enrolled in Medicaid, in the Children’s Health Insurance Program (CHIP), or in other minimum essential coverage as a condition of the parent’s or caretaker’s eligibility for Iowa health and wellness plan benefits.

74.2(3) Citizenship. To be eligible for Iowa health and wellness plan benefits, a person must meet the citizenship requirements in 441—Chapter 75.

441—74.3(249A,249N) Application. Medicaid application policies and procedures described in 441—Chapter 76 shall apply to applications for the Iowa health and wellness plan.

441—74.4(249A,249N) Financial eligibility.

74.4(1) Countable income. Individuals are financially eligible for the Iowa health and wellness plan if their countable income is no more than 133 percent of the federal poverty level, as of the date of a decision on initial or ongoing eligibility.

74.4(2) Household size. For financial eligibility purposes, household size shall be determined according to the modified adjusted gross income (MAGI) methodology.

441—74.5(249A,249N) Enrollment period.

74.5(1) Effective dates of eligibility. Iowa health and wellness plan eligibility shall be effective on the first day of the month of application or the first day of the month all eligibility requirements are met, whichever is later. The enrollment period shall continue for 12 consecutive months unless the member is disenrolled in accordance with the provisions of rule 441—74.8(249A,249N).

74.5(2) Reinstatement. Enrollment for the Iowa health and wellness plan may be reinstated without a new application in accordance with 441—Chapter 76.

74.5(3) Presumptive eligibility. The enrollment period of 12 consecutive months shall not apply to individuals temporarily enrolled in Medicaid based on a presumptive eligibility determination by a qualified entity in accordance with 441—Chapter 76.

74.5(4) Retroactive enrollment. Medical assistance shall be available to a pregnant woman or an infant (under one year of age), or a resident of a nursing facility licensed under Iowa Code chapter 135C, for all or any of the three months preceding the month in which an application is filed when eligibility requirements are met in accordance with 441—Chapter 76.

441—74.6(249A,249N) Reporting changes.

74.6(1) Reporting requirements. In addition to the reporting requirements in 441—Chapter 76, as a condition of ongoing enrollment, a member shall report any of the following changes no later than ten calendar days after the change takes place:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- a. The member enters a nonmedical institution, including but not limited to a penal institution.
- b. The member abandons Iowa residency.
- c. The member turns 65.
- d. The member becomes entitled to or enrolled in Medicare Part A or Part B or both.
- e. A child under the age of 21 living with the member loses minimum essential coverage if the member is the child's parent or caretaker and will claim the child as a dependent for state or federal income tax purposes.
- f. The member is pregnant.

74.6(2) *Untimely report.* When a change is not timely reported as required by this rule, any program expenditures for care or services provided when the member was not eligible shall be considered an overpayment and be subject to recovery from the member in accordance with 441—Chapters 75 and 11. Program expenditures may include, but are not limited to, premiums and capitation payments.

74.6(3) *Effective date of change.* After enrollment, changes reported during the month that affect the member's eligibility shall be effective the first day of the next calendar month unless:

- a. Timely notice of adverse action is required as specified in 441—subrule 16.3(1); or
- b. The enrollment period has expired and the member is not eligible for a new enrollment period.

441—74.7(249A,249N) *Reenrollment.* A new eligibility determination is required for consecutive 12-month enrollment periods. The reenrollment process will follow the requirements in 441—Chapter 76.

441—74.8(249A,249N) *Terminating enrollment.* Iowa health and wellness plan enrollment shall end when any of the following occurs:

- 1. The enrollment period ends and coverage for the next enrollment period has not been renewed.
- 2. The member becomes eligible for medical assistance in a mandatory coverage group under 441—Chapter 75.
- 3. The member is found to have been ineligible for any reason.
- 4. The member dies.
- 5. The member turns 65.
- 6. The member abandons Iowa residency.
- 7. The member becomes entitled to or enrolled in Medicare Part A or Part B or both.
- 8. A child under the age of 21 living with the member loses minimum essential coverage, if the member is the child's parent or caretaker and will claim the child as a dependent for state or federal income tax purposes.
- 9. The member's countable income exceeds 133 percent of the federal poverty level.
- 10. The Iowa health and wellness plan is discontinued according to the requirements in rule 441—74.14(249A,249N).
- 11. The member does not pay monthly contributions as required by subrule 74.11(2).

441—74.9(249A,249N) *Recovery.* The department shall recover from a member all Medicaid funds incorrectly expended on behalf of the member in accordance with 441—Chapter 75.

74.9(1) The department shall recover Medicaid funds expended on behalf of a member from the member's estate in accordance with 441—Chapter 75.

74.9(2) Funds received from third parties, including Medicare, by a provider other than a state mental health institute shall be reported to the department or the managed care organization, and an adjustment shall be made to a previously submitted claim.

441—74.10(249A,249N) *Right to appeal.*

74.10(1) Decisions and actions by the department regarding eligibility or services provided under this chapter may be appealed to the extent permitted by 441—Chapter 7.

74.10(2) Members will not be entitled to an appeal hearing if the sole basis for denying or limiting services is discontinuance of the program pursuant to rule 441—74.14(249A,249N).

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—74.11(249A) Financial participation.

74.11(1) Copayment. Payment for nonemergency use of a hospital emergency department shall be subject to an \$8 copayment by the member, which shall be subtracted from the Iowa health and wellness plan payment otherwise due to the provider.

74.11(2) Monthly contributions. Members enrolled in the Iowa health and wellness plan with household income at or above 50 percent of the federal poverty level (FPL) are required to pay monthly contributions pursuant to this rule.

a. Monthly contribution amount. The monthly contribution amount for each member is based on the countable income of the member's household, determined pursuant to 441—Chapter 75, as a percentage of the FPL for the household. Monthly contribution amounts are as follows:

- (1) For a member with household income between 50 and 100 percent of the FPL, \$5;
- (2) For a member with household income above 100 percent of the FPL, \$10.

b. Waiver during the first year of enrollment. The monthly contribution will be waived during the member's first 12 months of continuous enrollment.

c. Monthly contribution exemptions. A member shall be exempt from monthly contribution payments when any of the following circumstances apply:

- (1) The member completed healthy behaviors pursuant to subrule 74.11(4) in the previous enrollment period.
- (2) The member is determined by the department to be a medically exempt individual pursuant to subrule 74.12(2).
- (3) The member has access to cost-effective, employer-sponsored coverage and is enrolled in the health insurance premium payment program pursuant to 441—Chapter 75.
- (4) The member is exempt from premiums pursuant to 42 CFR 447.56(a)(1)(x) as amended to May 16, 2022, as an Indian who is eligible to receive or has received an item or service furnished by an Indian health care provider or through referral under contract health services.

(5) The member claims a hardship exemption indicating that payment of the monthly contribution will be a financial hardship. The member may claim a hardship exemption by telephoning the call center designated by the department, by checking the hardship box on the billing statement (for the month of the billing statement), or by submitting a written statement to the address designated by the department. The member's hardship exemption must be received or postmarked within five working days after the monthly contribution due date. If the hardship exemption request is not made in a timely manner, the exemption shall not be granted.

d. Billing and payment. Form 470-5285 or 470-5285(S) shall be used for billing and collection of the monthly contribution.

(1) Method of payment. Members shall submit contribution payments to the following address: Iowa Medicaid, Iowa Health and Wellness Plan Monthly Contributions, P.O. Box 14485, Des Moines, Iowa 50306-3485. Members can also submit contributions through the department's website.

(2) Due date. When the department notifies a member of the amount of the monthly contribution, the member shall pay any monthly contributions due in accordance with the following:

1. The monthly contribution for each month is due on the last calendar day of the month that the monthly contribution is to cover.

2. If the last calendar day falls on a weekend or state or federal holiday, payment is due on the first working day following the weekend or holiday.

3. Monthly contribution payments must be received or postmarked by the due date.

(3) Application of payment. The department shall apply monthly contributions payments received to the oldest unpaid month in the current enrollment period. When monthly contributions for all months in the enrollment period have been paid, the department shall hold any excess and apply it to any months for which eligibility is subsequently established.

e. Failure to pay monthly contributions.

(1) An Iowa health and wellness plan member with household income between 50 and 100 percent of the FPL who fails to pay the assessed monthly contributions and who does not qualify for a monthly contribution exemption pursuant to subrule 74.11(2) shall owe the monthly contribution to the

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department as an unpaid premium subject to recovery in accordance with 441—Chapter 75. A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before the unpaid amount shall be subject to recovery.

(2) An Iowa health and wellness plan member with household income above 100 percent of the FPL who fails to pay the assessed monthly contribution and who does not qualify for a monthly contribution exemption pursuant to subrule 74.11(2) shall have the member's eligibility terminated. In addition, the member shall owe the monthly contribution to the department as an unpaid premium subject to recovery in accordance with 441—Chapter 75. A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before the unpaid amount shall be subject to recovery.

1. A member shall have no less than 90 days from the due date to pay any unpaid monthly contribution before eligibility will be terminated or the unpaid amount will be subject to recovery.

2. A member whose eligibility is terminated due to nonpayment of monthly contributions may reenroll for Medicaid benefits pursuant to 441—Chapter 76.

3. Unpaid premiums shall not be considered a collectible debt by the state if, at the member's next annual renewal date, the member does not apply for renewed eligibility, and the member has no claims for services delivered after the month of the last premium payment.

f. Refund of monthly contributions.

(1) Monthly contributions paid for any period shall be refunded if the member qualified for a monthly contribution exemption pursuant to paragraph 74.11(2) "c" or when a member's Iowa health and wellness plan coverage is terminated for the following reasons:

1. The member is no longer eligible for coverage in the Iowa health and wellness plan; or

2. The member dies.

(2) The amount of any refund shall be offset by any outstanding monthly contributions owed.

(3) The refund shall be paid within two calendar months from the date of termination from the program.

74.11(3) Aggregate annual limits on copayments and monthly contributions. The total aggregate annual amount of copayments and monthly contributions for an individual shall not exceed 5 percent of the household's countable annual income determined pursuant to 441—Chapter 75.

74.11(4) Healthy behaviors. An Iowa health and wellness plan member who completes a wellness examination and health risk assessment during any enrollment year shall have monthly contributions waived in the subsequent enrollment year.

a. Under healthy behaviors, a wellness examination may be related to either physical health or oral health. Physical examinations must be performed by a medical provider and must assess a member's overall physical health consistent with standard clinical guidelines for preventive physical examinations and as defined by the department. Oral examinations must be performed by a dental provider consistent with standard oral health guidelines for preventive dental examinations and as defined by the department.

b. A health risk assessment is an assessment offered by a managed care plan through which the member is receiving Iowa health and wellness plan benefits.

441—74.12(249A) Benefits and service delivery. Covered benefits and the service delivery method shall be determined by the member's health status.

74.12(1) Iowa wellness plan services. Members shall be enrolled in the Iowa health and wellness plan unless the member is determined by the department to be a medically exempt individual.

a. Covered Iowa wellness plan services are essential health benefits; all other benefits required pursuant to 42 U.S.C. §1396u-7(b)(1)(B), including prescription drugs; and dental services consistent with 441—Chapter 78.

b. Members enrolled in the Iowa health and wellness plan shall be subject to enrollment in managed care, other than program for all-inclusive care for the elderly (PACE) programs, pursuant to 441—Chapter 73.

c. Dental services shall be provided under the Iowa dental wellness plan as set forth in 441—Chapter 73 through a contract with one or more dental prepaid ambulatory health plans. The department may restrict member access to those dental prepaid ambulatory health plans with which

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the department contracts. The dental prepaid ambulatory health plan shall provide the member with a dental card identifying the member as eligible for dental services.

74.12(2) *Medically exempt individuals.* An Iowa health and wellness plan member who has been determined by the department to be a medically exempt individual shall be given the choice of the benefits and service delivery method provided by the Iowa wellness plan or receiving benefits and services pursuant to 441—Chapter 78.

a. A member may attest to being a medically exempt individual by submitting a completed Form 470-5194.

b. A provider with a current national provider identifier number, an employee of the department, a designee of the department of corrections, a managed care organization, or a mental health and disability services region established pursuant to Iowa Code sections 331.388 to 331.399 may refer a member for a medically exempt individual determination by submitting a completed Form 470-5198.

c. Upon receipt of Form 470-5194 or 470-5198, the department shall determine whether the member qualifies as a medically exempt individual in accordance with 42 CFR 440.315 as amended to May 16, 2022.

74.12(3) *Qualified employer-sponsored coverage.* An individual who has access to cost-effective, employer-sponsored coverage shall be subject to enrollment in the health insurance premium payment program pursuant to 441—Chapter 75.

441—74.13(249A,249N) Claims and reimbursement methodologies. Payment for services provided under the Iowa wellness plan services shall be provided in accordance with 441—Chapter 79 or as provided in a contract between the department or the member's managed care organization and the provider.

441—74.14(249A,249N) Discontinuance of program.

74.14(1) If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. §1396d(y), is modified through federal law or regulation, in a manner that reduces the percentage of federal assistance to the state, or if federal law or regulation affecting eligibility or benefits for the Iowa wellness plan is modified, the department may implement an alternative plan as specified in the medical assistance state plan or waiver for coverage of the affected population, subject to prior, statutory approval of implementation of the alternative plan.

74.14(2) If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. §1396d(y), is modified through federal law or regulation resulting in a reduction of the percentage of federal assistance to the state below 90 percent but not below 85 percent, the medical assistance program reimbursement rates for inpatient and outpatient hospital services shall be reduced by a like percentage in the succeeding fiscal year, subject to prior, statutory approval of implementation of the reduction.

These rules are intended to implement Iowa Code chapters 249A and 249N.

[Filed 2/14/23, effective 5/1/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6937C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to home- and community-based services

The Human Services Department hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

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Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

During the 2022 Legislative Session, 2022 Iowa Acts, House File 2578, appropriated funds to increase specific home- and community-based services (HCBS) waiver and HCBS habilitation provider reimbursement rates over the rates in effect June 30, 2022, as follows:

- Increase rates for behavioral health intervention services (BHIS) by 20.6 percent.
- Increase rates for applied behavior analysis (ABA) by 8.9 percent.
- Increase rates for home health agencies providers located in rural areas. These are the providers covered under the low utilization payment adjustment (LUPA) methodology, whose rates may vary depending on type of provider. LUPA is a standard per-visit payment for episodes of care with a low number of visits. Currently, LUPA occurs when there are four or fewer visits during a 60-day episode of care.

As part of the American Rescue Plan Act (ARPA), Section 9817, HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent. This rule making makes the following changes as a result of the rate changes:

- Increase the reimbursement rates and upper rate limits for providers of HCBS waiver and habilitation services beginning July 1, 2022, by 4.25 percent over the rates that are in effect on June 30, 2022.
- Increase the monthly caps on the total monthly cost of HCBS waiver and habilitation services.
- Increase the monthly cap on HCBS support employment and intellectual disabilities (ID) waiver respite services.
- Increase the annual or lifetime limitations for home and vehicle modifications and specialized medical equipment.

These amendments also correct the following technical errors:

- Remove the individual placement and support supported employment (IPS SE) from the HCBS waiver supported employment and add it under the HCBS habilitation supported employment services. IPS SE is only provided to individuals enrolled in the 1915(i) habilitation program.
- Align the total monthly cap on supported employment services under the HCBS habilitation program with the HCBS waiver employment service monthly cap, as is the current practice.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6736C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on February 9, 2023.

Fiscal Impact

During the 2022 Legislative Session, House File 2578 appropriated funds to increase home health agency rates for providers operating in rural areas and to increase BHIS and ABA provider rates. As part of the ARPA, Section 9817, HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Jobs Impact

These amendments raise the rate of reimbursement for rural home health agencies, behavioral health intervention and ABA. These amendments also raise the rate of reimbursement for HCBS waiver and HCBS habilitation service providers. This rate change will directly benefit HCBS members accessing consumer directed attendant care (CDAC) and consumer choices option (CCO) by enabling them to offer an increased wage to potential employees, which may increase the recruitment and retention rates of CDAC workers and CCO employees. This increase could assist HCBS providers with recruitment and retention efforts, which may provide improved quality of services for HCBS members. These amendments may have a positive influence on private-sector jobs and employment opportunities in Iowa.

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **78.27(10)“f”(2)** as follows:

(2) In absence of a monthly cap on the cost of waiver services, the total monthly cost of all supported employment services may not exceed ~~\$3,167.89~~ \$3,302.53 per month.

ITEM 2. Amend paragraph **78.34(9)“g”** as follows:

g. Service payment shall be made to the enrolled home or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home or vehicle modification provider following completion of the approved modifications. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to certified providers upon satisfactory completion of the service.

ITEM 3. Amend paragraph **78.41(2)“i”** as follows:

i. Payment for respite services shall not exceed ~~\$7,595~~ \$7,917.79 per the member's waiver year.

ITEM 4. Amend paragraph **78.43(5)“g”** as follows:

g. Service payment shall be made to the enrolled home or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home or vehicle modification provider following completion of the approved modifications. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to certified providers upon satisfactory completion of the service.

ITEM 5. Amend paragraph **78.43(8)“c”** as follows:

c. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service.

ITEM 6. Amend paragraph **78.46(2)“g”** as follows:

g. Service payment shall be made to the enrolled home or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home or vehicle

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modification provider following completion of the approved modifications. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to certified providers upon satisfactory completion of the service.

ITEM 7. Amend paragraph **78.46(4)“c”** as follows:

c. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service.

ITEM 8. Adopt the following new provider category in subrule **79.1(2)**:

Applied behavior analysis	Fee schedule	Fee schedule in effect 7/1/22.
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ITEM 9. Amend subrule **79.1(2)**, provider categories of “Behavioral health intervention,” “HCBS waiver service providers,” “Home- and community-based habilitation services” and “Home health agencies,” as follows:

Behavioral health intervention	Fee schedule	Fee schedule in effect 7/1/23 <u>7/1/22</u> .
HCBS waiver service providers, including: 1. Adult day care	For AIDS/HIV, brain injury, elderly, and health and disability waivers: Fee schedule	Effective 7/1/24 <u>7/1/22</u> , for AIDS/HIV, brain injury, elderly, and health and disability waivers: Provider’s rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute, half-day, full-day, or extended-day rate. If no 6/30/21 <u>6/30/22</u> rate: Veterans Administration contract rate or \$4.52 <u>\$1.58</u> per 15-minute unit, \$24.30 <u>\$25.33</u> per half day, \$48.38 <u>\$50.44</u> per full day, or \$72.55 <u>\$75.63</u> per extended day if no Veterans Administration contract.
	For intellectual disability waiver: Fee schedule for the member’s acuity tier, determined pursuant to 79.1(30)	Effective 7/1/24 <u>7/1/22</u> , for intellectual disability waiver: The provider’s rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute or half-day rate. If no 6/30/21 <u>6/30/22</u> rate, \$2.03 <u>\$2.12</u> per 15-minute unit or \$32.38 <u>\$33.76</u> per half day.

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		For daily services, the fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).
2. Emergency response system:		
Personal response system	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: Initial one-time fee: \$53.89 <u>\$56.18</u> . Ongoing monthly fee: \$41.94 <u>\$43.69</u> .
Portable locator system	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: Initial one-time fee: \$53.89 <u>\$56.18</u> . Ongoing monthly fee: \$41.94 <u>\$43.69</u> .
3. Home health aides	Fee schedule	For AIDS/HIV, elderly, and health and disability waivers effective 7/1/21 <u>7/1/22</u> : Lesser of maximum Medicare rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> or maximum Medicaid rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . For intellectual disability waiver effective 7/1/21 <u>7/1/22</u> : Lesser of maximum Medicare rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> or maximum Medicaid rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to an hourly rate.
4. Homemakers	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$5.38 <u>\$5.61</u> per 15-minute unit.
5. Nursing care	Fee schedule	For AIDS/HIV, health and disability, elderly and intellectual disability waiver effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: \$91.11 <u>\$94.98</u> per visit.
6. Respite care when provided by:		
Home health agency:		

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Specialized respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: Lesser of maximum Medicare rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate, not to exceed \$326.28 <u>\$340.15</u> per day.
Basic individual respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: Lesser of maximum Medicare rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate, not to exceed \$326.28 <u>\$340.15</u> per day.
Group respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.64 <u>\$3.76</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.
Home care agency: Specialized respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$9.28 <u>\$9.67</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.
Basic individual respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$4.95 <u>\$5.16</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.
Group respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.64 <u>\$3.76</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.

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Nonfacility care:		
Specialized respite	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$9.28 <u>\$9.67</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.
Basic individual respite	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$4.95 <u>\$5.16</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.
Group respite	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.
Facility care:		
Hospital or nursing facility providing skilled care	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed the facility's daily Medicaid rate for skilled nursing level of care.
Nursing facility	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed the facility's daily Medicaid rate.
Camps	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.
Adult day care	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed rate for regular adult day care services.

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Intermediate care facility for persons with an intellectual disability	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed the facility's daily Medicaid rate.
Residential care facilities for persons with an intellectual disability	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed contractual daily rate.
Foster group care	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed daily rate for child welfare services.
Child care facilities	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed contractual daily rate.
7. Chore service	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$4.19 <u>\$4.37</u> per 15-minute unit.
8. Home-delivered meals	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: \$8.39 <u>\$8.75</u> per meal. Maximum of 14 meals per week.
9. Home and vehicle modification	Fee schedule. See 79.1(17)	For elderly waiver effective 7/1/21 <u>7/1/22</u> : \$1,098.78 <u>\$1,145.48</u> lifetime maximum. For intellectual disability waiver effective 7/1/21 <u>7/1/22</u> : \$5,493.88 <u>\$5,727.37</u> lifetime maximum. For brain injury, health and disability, and physical disability waivers effective 7/1/21 <u>7/1/22</u> : \$6,592.66 <u>\$6,872.85</u> per year.

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10. Mental health outreach providers	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: On-site Medicaid reimbursement rate for center or provider. Maximum of 1,440 units per year.
11. Transportation	Fee schedule	Fee schedule in effect 7/1/21 <u>7/1/22</u> .
12. Nutritional counseling	Fee schedule	Effective 7/1/21 <u>7/1/22</u> for non-county contract: Provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$9.07 <u>\$9.46</u> per 15-minute unit.
13. Assistive devices	Fee schedule. See 79.1(17)	Effective 7/1/21 <u>7/1/22</u> : \$119.72 <u>\$124.81</u> per unit.
14. Senior companion	Fee schedule	Effective 7/1/21 <u>7/1/22</u> for non-county contract: Provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$1.96 <u>\$2.04</u> per 15-minute unit.
15. Consumer-directed attendant care provided by:		
Agency (other than an elderly waiver assisted living program)	Fee agreed upon by member and provider	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$5.54 <u>\$5.78</u> per 15-minute unit, not to exceed \$128.25 <u>\$133.70</u> per day.
Assisted living program (for elderly waiver only)	Fee agreed upon by member and provider	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$5.54 <u>\$5.78</u> per 15-minute unit, not to exceed \$128.25 <u>\$133.70</u> per day.
Individual	Fee agreed upon by member and provider	Effective 7/1/21 <u>7/1/22</u> , \$3.71 <u>\$3.87</u> per 15-minute unit, not to exceed \$86.32 <u>\$89.99</u> per day. When an individual who serves as a member's legal representative provides services to the member as allowed by 79.9(7) "b," the payment rate must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.
16. Counseling:		

HUMAN SERVICES DEPARTMENT[441](cont'd)

Individual	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$11.86 \$12.36 per 15-minute unit.
Group	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$11.85 \$12.35 per 15-minute unit. Rate is divided by the actual number of persons who comprise the group.
17. Case management	Fee schedule	For brain injury and elderly waivers effective 7/1/21 , provider's rate: Fee schedule in effect 6/30/21 6/30/22 plus 3.55% 4.25%.
18. Supported community living	For brain injury waiver: Retrospectively limited prospective rates. See 79.1(15)	For brain injury waiver effective 7/1/21 7/1/22: \$9.61 \$10.02 per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day plus 7.477% 11.727%.
	For intellectual disability waiver: Fee schedule for the member's acuity tier, determined pursuant to 79.1(30). Retrospectively limited prospective rate for SCL 15-minute unit. See 79.1(15)	For intellectual disability waiver effective 7/1/21 7/1/22: \$9.61 \$10.02 per 15-minute unit. For daily service, the fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).

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19. Supported employment:		
Individual placement and support.	Fee schedule	Fee schedule in effect 7/1/21.
Individual supported employment	Fee schedule	Fee schedule in effect 7/1/21 <u>7/1/22</u> . Total monthly cost for all supported employment services not to exceed \$3,167.89 <u>\$3,302.53</u> per month.
Long-term job coaching	Fee schedule	Fee schedule in effect 7/1/21 <u>7/1/22</u> . Total monthly cost for all supported employment services not to exceed \$3,167.89 <u>\$3,302.53</u> per month.
Small-group supported employment (2 to 8 individuals)	Fee schedule	Fee schedule in effect 7/1/21 <u>7/1/22</u> . Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed \$3,167.89 <u>\$3,302.53</u> per month.
20. Specialized medical equipment	Fee schedule. See 79.1(17)	Effective 7/1/21 <u>7/1/22</u> , \$6,592.66 <u>\$6,872.85</u> per year.
21. Behavioral programming	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: \$11.86 <u>\$12.36</u> per 15 minutes.
22. Family counseling and training	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$11.85 <u>\$12.35</u> per 15-minute unit.
23. Prevocational services, including career exploration	Fee schedule	Fee schedule in effect 7/1/21 <u>7/1/22</u> .
24. Interim medical monitoring and treatment:		
Home health agency (provided by home health aide)	Fee schedule	Effective 7/1/21 <u>7/1/22</u> : Lesser of maximum Medicare rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate.
Home health agency (provided by nurse)	Fee schedule	Effective 7/1/21 <u>7/1/22</u> : Lesser of maximum Medicare rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate.

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Child development home or center	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit.
Supported community living provider	Retrospectively limited prospective rate. See 79.1(15)	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$9.61 <u>\$10.02</u> per 15-minute unit, not to exceed the maximum ICF/ID rate per day plus 7.477% <u>11.727%</u> .
25. Residential-based supported community living	Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)	Effective 7/1/21 <u>7/1/22</u> : The fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).
26. Day habilitation	Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)	Effective 7/1/21 <u>7/1/22</u> : Provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.63 <u>\$3.78</u> per 15-minute unit. For daily service, the fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).
27. Environmental modifications and adaptive devices	Fee schedule. See 79.1(17)	Effective 7/1/21 <u>7/1/22</u> , \$6,592.66 <u>\$6,872.85</u> per year.
28. Family and community support services	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$9.61 <u>\$10.02</u> per 15-minute unit.
29. In-home family therapy	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$25.73 <u>\$26.82</u> per 15-minute unit.
30. Financial management services	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: \$71.42 <u>\$74.46</u> per enrolled member per month.
31. Independent support broker	Rate negotiated by member	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: \$16.64 <u>\$17.35</u> per hour.

HUMAN SERVICES DEPARTMENT[441](cont'd)

32. to 34. No change.

35. Assisted living on-call service providers (elderly waiver only)

Fee agreed upon by member and provider

~~\$27.04~~ \$28.16 per day.

Home- and community-based habilitation services:

1. Case management

Fee schedule. ~~See 79.1(24) "d"~~

Effective ~~7/1/21~~ 7/1/22: Fee schedule in effect ~~6/30/21~~ 6/30/22 plus ~~3.55%~~ 4.25%.

2. Home-based habilitation

~~See 79.1(24) "d"~~ Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22.

3. Day habilitation

~~See 79.1(24) "d"~~ Fee schedule

Effective ~~7/1/21~~ 7/1/22: ~~\$3.42~~ \$3.57 per 15-minute unit or ~~\$66.57~~ \$69.40 per day.

4. Prevocational habilitation
Career exploration

Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22.

5. Supported employment:

Individual supported employment

Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22. Total monthly cost for all supported employment services not to exceed ~~\$3,136.53~~ \$3,302.53 per month.

Long-term job coaching

Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22. Total monthly cost for all supported employment services not to exceed ~~\$3,136.53~~ \$3,302.53 per month.

Small-group supported employment (2 to 8 individuals)

Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22. Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed ~~\$3,136.53~~ \$3,302.53 per month.

Individual placement and support supported employment

Fee schedule

Fee schedule in effect 7/1/22. Total monthly cost for all supported employment services not to exceed \$3,302.53 per month.

Home health agencies

1. Skilled nursing, physical therapy, occupational therapy, speech therapy, home health aide, and medical social services; home health care for maternity patients and children

Fee schedule. See 79.1(26). For members living in a nursing facility, see 441—paragraph 81.6(11) "r"

Effective ~~7/1/21~~ 7/1/22: The Medicaid LUPA fee schedule rate published on the department's website.

2. and 3. No change.

ITEM 10. Amend paragraph **83.2(2) "b"** as follows:

b. Except as provided below, the total monthly cost of the health and disability waiver services, excluding the cost of home and vehicle modification services, shall not exceed the established aggregate monthly cost for level of care as follows:

Skilled level of care	Nursing level of care	ICF/ID
\$2,891.79 <u>\$3,014.69</u>	\$993.56 <u>\$1,035.79</u>	\$3,875.80 <u>\$4,040.52</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

For members enrolled in the health and disability waiver in accordance with subrule 83.2(1), when a member turns 21 years of age, the average monthly cost of services received through 441—subrule 78.9(10) (state plan private duty nursing or personal care services for persons aged 20 and under) shall be used to increase the monthly waiver budget in accordance with the following:

(1) to (5) No change.

ITEM 11. Amend paragraph **83.42(2)“b”** as follows:

b. The total monthly cost of the AIDS/HIV waiver services shall not exceed the established aggregate monthly cost for level of care. The monthly cost of AIDS/HIV waiver services cannot exceed the established limit of ~~\$1,943.43~~ \$2,026.03.

ITEM 12. Amend paragraph **83.102(2)“b”** as follows:

b. The total cost of physical disability waiver services, excluding the cost of home and vehicle modifications, shall not exceed ~~\$730.90~~ \$761.95 per month.

ITEM 13. Amend paragraph **83.122(6)“b”** as follows:

b. The total cost of children’s mental health waiver services needed to meet the member’s needs, excluding the cost of environmental modifications, adaptive devices and therapeutic resources, may not exceed ~~\$2,077.57~~ \$2,165.87 per month.

[Filed 2/14/23, effective 5/1/23]

[Published 3/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6935C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to nursing facility renovations and Medicaid utilization rates

The Human Services Department hereby amends Chapter 81, “Nursing Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2578.

Purpose and Summary

2022 Iowa Acts, House File 2578, reduced to \$750,000 the cost that an improvement project to an existing licensed and certified nursing facility must exceed for the project to meet the definition of “major renovations.”

The previous amount was \$1.5 million. This rule making lowers the threshold to the \$750,000 amount. These amendments also include HVAC projects as qualifying projects. Calculation of Medicaid utilization rates is also established as part of this rule making.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 28, 2022, as **ARC 6767C**. No public comments were received. No changes from the Notice have been made.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on February 9, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—81.1(249A)**, definition of “Major renovations,” as follows:

“Major renovations” means new construction or facility improvements to an existing licensed and certified nursing facility in which the total depreciable asset value of the new construction or facility improvements exceeds ~~\$1.5 million~~ \$750,000. The ~~\$1.5 million~~ \$750,000 threshold shall be calculated based on the total depreciable asset value of new construction or facility improvements placed into service during a two-year period ending on the date the last asset was placed into service. When the property costs of an asset have been included in a facility’s financial and statistical report that has already been used in a biennial rebasing, the costs of that asset shall not be considered in determining whether the facility meets the ~~\$1.5 million~~ \$750,000 threshold.

ITEM 2. Amend subparagraph **81.6(16)“h”(2)** as follows:

(2) Eligible projects. To qualify for either the capital cost per diem instant relief add-on or the enhanced non-direct care rate component limit, a facility must have undertaken a complete replacement, new construction, or major renovations for the purpose of:

1. Rectification of a violation of Life Safety Code requirements; or
2. Development of home- and community-based waiver program services; or
3. Improving infection control by replacing or enhancing an HVAC system, as defined in Iowa Code section 105.2.

ITEM 3. Amend subparagraph **81.6(16)“h”(3)** as follows:

(3) Additional requirements for all requests. To qualify for additional reimbursement, a facility with an eligible project must also meet the following requirements:

1. The facility has Medicaid utilization at or above 40 percent ~~for the two-month period before the request for additional reimbursement is submitted.~~ Medicaid utilization for this purpose is calculated as total nursing facility Medicaid patient days divided by total licensed bed capacity as reported on the facility’s most current financial and statistical report. Medicaid patient day utilization for this purpose

HUMAN SERVICES DEPARTMENT[441](cont'd)

is calculated as total nursing facility Medicaid patient days divided by total patient days as reported on the facility's most current financial and statistical report. Medicaid hospice patient days shall be counted toward the total nursing facility Medicaid patient days.

2. to 4. No change.

[Filed 2/14/23, effective 5/1/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6934C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to quality incentive payment program

The Human Services Department hereby amends Chapter 81, "Nursing Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

This rule making provides for a quality incentive payment program (QIPP) for non-state government owned (NSGO) nursing facilities to promote, maintain and improve quality of care and health outcomes. These amendments identify the criteria the NSGO facility must meet to qualify for participation in the program. The goal is to issue additional payments for quality of care above what is required by the Centers for Medicare and Medicaid Services. There is no fiscal impact anticipated because the provider/nursing facility will be paying the state share of the add-on rate, similar to other intergovernmental transfer programs.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 28, 2022, as **ARC 6766C**. No public comments were received. Item 4 was removed because the amendment was already being addressed in Item 1, and Item 5 was renumbered as Item 4. No other changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on February 9, 2023.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. However, there will be a fiscal impact to counties or other local governmental agencies because they will be responsible for providing the provider's state share, which is completed through the intergovernmental transfer process.

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

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

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, 2023.

The following rule-making actions are adopted:

ITEM 1. Strike “non-state-owned nursing facility” and “non-state-operated nursing facility” wherever they appear in **441—Chapter 81** and insert “non-state government owned nursing facility” in lieu thereof.

ITEM 2. Strike “non-state-owned nursing facilities,” “non-state-owned facilities,” and “non-state-operated nursing facilities” wherever they appear in **441—Chapter 81** and insert “non-state government owned nursing facilities” in lieu thereof.

ITEM 3. Adopt the following **new** definition of “Non-state government owned nursing facility” in rule **441—81.1(249)** as follows:

“*Non-state government owned nursing facility*” or “*NSGO nursing facility*” is a nursing facility owned by a governmental entity that is not the state.

ITEM 4. Adopt the following **new** paragraph **81.6(16)“i”**:

i. Quality incentive payment program (QIPP). The QIPP add-on rate shall be made to a qualified non-state government owned nursing facility (NSGO nursing facility) to promote, maintain, and improve resident quality of care and health outcomes.

(1) An NSGO nursing facility shall qualify for participation in the QIPP if all the following conditions are met:

1. The NSGO nursing facility has executed a participation agreement with the department.
2. The NSGO nursing facility has provided proof that the entity holds the NSGO nursing facility's license and has complete operational responsibility for the NSGO nursing facility.
3. The NSGO nursing facility has filed a certification of eligibility application for the QIPP add-on rate program with the department and has received approval from the department for participation in the program.
4. The NSGO nursing facility is in compliance with all care criteria requirements.
5. The non-state government entity (NSGE) has executed a nursing facility provider contract with an NSGO nursing facility.
6. The NSGE has provided and identified the source of state share dollars for the intergovernmental transfer (IGT).
7. The NSGO nursing facility has provided proof of ownership, if applicable, as the licensed operator of the NSGO nursing facility.
8. The NSGO nursing facility has provided to the department an executed management agreement between the NSGE and the NSGO nursing facility manager if applicable.

(2) If at any time a provider is determined not eligible due to not meeting survey standards, the provider will be disqualified for the remainder of the year.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) An NSGO nursing facility shall qualify for participation in the QIPP if all the following quality measures are met:

Quality Measures	Metrics	Tracking/Scoring	Data Resource
Staffing	<p>Metric 1: Nursing facility maintains an additional four or more hours of registered nurse (RN) coverage per day beyond the CMS minimum standard (8 hrs/day). Does not include managerial hours.</p> <p>Metric 2: Nursing facility's per-resident day certified nursing assistants (CNAs), rehabilitation aid, and other contracted aid services are at or above one-half standard deviation above the statewide mean of per-resident-day CNA hours. CNA hours include those of CNAs, rehabilitation aid, and other contracted aide services. CNA hours shall be normalized to remove variations in staff hours associated with different levels of resident case mix.</p> <p>Metric 3: Nursing facility's per-resident day total nursing hours are at or above one-half standard deviation above the statewide mean of per-resident-day total nursing hours. Nursing hours include those of RNs and licensed practical nurses (LPNs) including restorative nurses. Nursing hours shall be normalized to remove variations in staff hours associated with different levels of resident case mix.</p>	Staffing metrics 1, 2, and 3 must be met for facility to be eligible for per diem rate add-on payment.	Payroll-based journal (PBJ) or cost reports
Infection Control	<p>Metric 1: Nursing facility has an infection control program that includes antibiotic stewardship. The program incorporates policies and training as well as monitoring, documenting, and providing staff with feedback.</p> <p>Metric 2: Percentage of residents with urinary tract infections (UTIs) at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on minimum data set (MDS) data as applied to the nationally reported quality measures.</p> <p>Metric 3: Percentage of residents with up-to-date pneumonia vaccine measured against a fixed benchmark that is set as the most recently published national average for the related MDS quality metric.</p>	Infection control metrics 1, 2, and 3 must be met for facility to be eligible for per diem rate add-on payment.	Nursing facility will be required to provide its infection control policy and procedure. In addition, facilities will need to provide information regarding training, monitoring, documentation and monitoring of required elements to meet this metric on a periodic basis CASPER Report MDS Assessment Care Compare
Quality Measures	<p>Metric 1: Percentage of high-risk residents with pressure ulcers (for longer-term stay residents) are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.</p> <p>Metric 2: Percentage of residents who had a fall with major injury (for longer-term stay residents) are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.</p>	Quality measures metrics 1, 2, 3, and 4 must be met for the facility to be eligible for per diem rate add-on payment.	CASPER Report MDS Assessment Care Compare

HUMAN SERVICES DEPARTMENT[441](cont'd)

Metric 3: Percentage of residents who received antipsychotic medications are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.

Metric 4: Percentage of residents who required increased activities of daily living (ADL) assistance (for longer-term stay residents) are at rates one-half standard deviation or more below the mean percentage of occurrences for all facilities, based on MDS data as applied to the nationally reported quality measures.

State Survey Results	Number of deficiencies is at or below the state of Iowa average number of nursing facility deficiencies AND the facility has no deficiencies with a scope of F, H, I, J, K, or L.	State survey results must be met for the facility to be eligible for per diem rate add-on payment.	Department of inspections and appeals (DIA) surveys
Quality Assurance Performance Improvement (QAPI) Report	Nursing facility must submit QAPI reports on quarterly basis.	QAPI results must be submitted for the facility to be eligible for per diem rate add-on payment.	QAPI reports

(4) A provider must submit the Intent to Participate Agreement on or before September 30 each year and include all necessary documentation related to the quality measures.

1. Upon receipt of the participation agreement, the department will complete a determination of eligibility based on the care criteria defined above.

2. Providers will be notified of their eligibility annually within 60 days of the agreement due date.

(5) The nursing facility QIPP add-on rate provided to a participating NSGO nursing facility under the QIPP shall not exceed Medicare payment principles pursuant to 42 CFR 447.272 and shall be calculated pursuant to 42 CFR 438.6. The QIPP add-on rate shall be calculated and paid as follows:

1. The methodology utilized to calculate the upper payment limit shall be based on the data available during the calculation period.

2. The eligible amount used in determining the QIPP add-on rate shall be the difference between the state Medicaid payment and the Medicare upper payment limit as determined, on an annual basis, using all Medicaid claims, including fee-for-service (FFS) and Medicaid managed care claims.

3. The difference calculated under numbered paragraph "2" shall be divided by total patient days pursuant to subrule 81.6(7).

4. The QIPP add-on rate shall be paid prospectively.

(6) A participating NSGO nursing facility shall notify the department of any change of ownership that may affect the participating NSGO nursing facility's continued eligibility for the QIPP a minimum of 30 days prior to such change.

1. If a participating NSGO nursing facility changes ownership to a privately owned entity, on or after the first day of the QIPP add-on rate calculation period, the privately owned provider is no longer eligible for the QIPP add-on rate.

2. A participating facility must meet the CMS and Iowa Medicaid requirements to be classified as an NSGO nursing facility. All changes of ownership must be a fair market value transaction.

3. If it is determined that a provider is not a qualified NSGO nursing facility per CMS and Iowa Medicaid, the provider shall repay all QIPP add-on payments to the department.

(7) Providers that do not meet eligibility requirements above will be notified of the metrics that were not met.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(8) A participating NSGO nursing facility shall secure allowable intergovernmental transfer funds from a participating NSGE to provide the state share amount. The process for the intergovernmental transfer shall comply with the following:

1. The department, or the department's designee, shall notify the participating NSGO nursing facility of the state share amount to be transferred in the form of an intergovernmental transfer for purposes of seeking federal financial participation for the QIPP add-on rate, within 15 business days after the end of each month. The participating NSGO shall have until the end of the month to remit payment of the state share amount in the form of an intergovernmental transfer to the department or the department's designee.

2. If there is any outstanding intergovernmental transfer amount at the end of the payment period, the provider will not be able to participate in the QIPP the following year.

[Filed 2/14/23, effective 5/1/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6936C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to family-centered services

The Human Services Department hereby amends Chapter 172, "Family-Centered Services," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

This chapter was reviewed as part of the Department's five-year rules review. Chapter 172, governing family-centered services, defines and describes procedures for delivery of services for the child, parent or kinship caregiver when the needs of any one of these individuals are directly related to the safety, permanency or well-being of the child, or to prevent the child from entering foster care. The outcome of the services may be to maintain the child with a parent or in the home of the kinship caregiver, to reunify the child safely with a parent or kinship caregiver, or to achieve permanent family connections for the child.

These amendments add and update definitions of services. These amendments remove Solution Based Casework® as a requirement for non-agency-involved cases. In addition, the purpose and scope of the chapter are clarified.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 28, 2022, as **ARC 6768C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on February 9, 2023.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of “Kinship navigator services” and “Solution focused meeting” in rule **441—172.1(234)**:

“*Kinship navigator services*” means the services and supports providing information, referral, and follow-up to kinship caregivers who are caring for and raising children to link kinship caregivers to benefits and other resources they need.

“*Solution focused meeting*” means a gathering of family members, friends, and formal and informal supports, with the assistance of a trained facilitator, to draw on past successes of the family in problem solving and work in partnership with the family to enhance safety of the children.

ITEM 2. Amend rule 441—172.2(234), introductory paragraph, as follows:

441—172.2(234) Purpose and scope. Family-centered services are services designed for the child, parent, or kinship caregiver of the child to prevent the child from entering foster care and to assist the family when the needs of the child, parent, or kinship caregiver for the services are directly related to the safety, permanency, or well-being of the child, or to preventing the child from entering foster care. The outcome of the services may be to maintain the child with a parent or in the home of the kinship caregiver, to reunify the child safely with a parent or kinship caregiver, or to achieve permanent family connections for the child.

ITEM 3. Amend subrule 172.2(5) as follows:

172.2(5) Family-centered services shall include SBC for agency child welfare service cases ~~and non-agency involved cases~~ when criteria in subrule 172.2(1) are met.

ITEM 4. Amend subrule 172.2(6) as follows:

172.2(6) Based on child and family needs, a child and family with an open agency child welfare service case that are receiving SBC may also be approved to receive the following additional services, which are referred separately:

- a. SafeCare®.
- b. Family preservation services.

HUMAN SERVICES DEPARTMENT[441](cont'd)

c. ~~Family team decision-making (FTDM)~~ Solution focused meeting (SFM) and youth transition decision-making (YTDM) meeting facilitation.

[Filed 2/14/23, effective 5/1/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6949C

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Adopted and Filed

Rule making related to five-year rules review

The Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 1, "Organization," Chapter 4, "Employers," Chapter 6, "Covered Wages," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 12, "Calculation of Monthly Retirement Benefits," 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 and rescinds rules that are outdated, redundant, inconsistent, or no longer in effect to meet the requirements of the statutory five-year review of rules for Chapters 1 through 5; implements contribution rates for all classes of members; corrects an inaccuracy within rule 495—1.3(97B) as to the assignment of the duty to establish funding policy; further clarifies in subrule 6.3(15) which earnings constitute reemployment earnings; aids in the continued effort to eliminate confusion while ensuring consistency between similar rules and processes as in amended subrules 11.5(1) and 12.7(3); and seeks to better reflect actual current practice with the process described in paragraph 16.2(3)"i."

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 11, 2023, as **ARC 6823C**. An in-person public hearing was held, with synchronous online access, on February 1, 2023, 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 16, 2023.

Fiscal Impact

IPERS' enabling legislation requires that employer and employee contribution rates for each member class be updated every fiscal year. No fiscal impact is found for regular and protection occupation member classes. A contribution rate change is reflected for the sheriffs and deputies member class resulting in a decreased fiscal impact.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition 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 April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 495—1.3(97B) as follows:

495—1.3(97B) Administration. The chief executive officer, through the chief investment officer and the chief benefits officer, shall administer Iowa Code chapters 97, 97B, and 97C. The chief executive officer shall execute contracts on behalf of IPERS and shall, after consultation with the board and other agency staff, establish and administer the budget, ~~funding policy~~ and such other duties as are required or permitted in Iowa Code section 97B.4. The chief executive officer may make expenditures, reports, and investigations as necessary to carry out the powers and duties created in Iowa Code chapter 97B and may obtain, as necessary, the specialized services of individuals or organizations on a contract-for-service basis. The chief executive officer shall be the agency's statutory designee with respect to rule-making power.

1.3(1) and 1.3(2) No change.

ITEM 2. 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, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023
Combined rate	15.73%	15.73%	15.73%	15.73%	15.73%	<u>15.73%</u>
Employer	9.44%	9.44%	9.44%	9.44%	9.44%	<u>9.44%</u>
Employee	6.29%	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.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023
Combined rate	19.52%	19.02%	18.52%	18.02%	17.52%	17.02%
Employer	9.76%	9.51%	9.26%	9.01%	8.76%	8.51%
Employee	9.76%	9.51%	9.26%	9.01%	8.76%	8.51%

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023
Combined rate	17.02%	16.52%	16.02%	15.52%	15.52%	15.52%
Employer	10.21%	9.91%	9.61%	9.31%	9.31%	9.31%
Employee	6.81%	6.61%	6.41%	6.21%	6.21%	6.21%

ITEM 3. Amend subrule 6.3(15) as follows:

6.3(15) *Employer contributions as remuneration counted against the reemployment earnings limit.* Employer contributions made on behalf of retired reemployed members to tax qualified and nonqualified retirement and deferred compensation plans and to other fringe benefit arrangements, excluding health insurance plans and programs, shall constitute remuneration from employment which shall be applied to the reemployment earnings limits and reductions set forth under rule 495—12.8(97B). Such contributions, even if counted as remuneration hereunder, shall not be counted as covered wages, unless the facts in the particular case indicate that, under the circumstances, the arrangement should be treated as covered wages under rules 495—6.1(97B) through 495—6.5(97B). Nonelective employer contributions to the following shall constitute remuneration when determining reemployment earnings limits: tax qualified retirement and deferred compensation plans; all nonqualified retirement plans and deferred compensation arrangements; IRAs; rabbi, secular, and other trust arrangements; split dollar and other life insurance arrangements; and long-term care insurance. Bonuses and allowances will also be counted as reemployment earnings.

ITEM 4. Amend subrule 11.5(1) as follows:

11.5(1) *Bona fide retirement—general.* To receive retirement benefits, a member under the age of 70 must officially leave employment with all IPERS-covered employers, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. The qualification period begins with the member's first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. Notwithstanding the foregoing, the continuation of group insurance coverage at employee rates for the remainder of the school year for a school employee who retires following completion of services by that individual shall not cause that person to be in violation of IPERS' bona fide retirement requirements.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement. A member also will not be considered to have a bona fide retirement if the member has, prior to or during the member's first month of entitlement, entered into verbal or written arrangements with the member's former employer(s) to return to employment after the expiration of the four-month bona fide retirement period.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee's compensated duties cease for that employer will that employee be considered terminated.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

The bona fide retirement period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) "a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) "a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the retirement benefit. Such an elected official or legislator may remain in the elective office and receive an IPERS retirement without violating IPERS' bona fide retirement rules. If such elected official or legislator terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a retirement as of the date of hire, the retirement shall not be made. Furthermore, if such elected official or legislator is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the elected official or legislator shall not be eligible for new IPERS coverage for such elected position. The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official or legislator is reelected to the same position without an intervening term out of office.

The bona fide retirement period will be waived if the member has been elected to public office ~~which as a part-time elected official or a member of the general assembly and the member's term begins during the normal four-month bona fide retirement period.~~ This includes elected officials who shall be covered under this chapter as defined in Iowa Code section 97B.1A. This waiver does not apply if the member was an elected official who was reelected to the same position for another term.

Effective July 1, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered under this chapter, is terminated for at least one month, and the member does not return to covered employment for an additional three months. In order to receive retirement benefits, the member must file a completed application for benefits before returning to any employment with a covered employer.

Effective July 1, ~~2018~~ 2023, a member will not have a bona fide retirement if the member enters into a verbal or written arrangement to perform duties for the member's former employer(s) as an independent contractor prior to or during the member's first month of entitlement ~~or performs, and the member shall not perform~~ any duties for the member's former employer(s) as an independent contractor prior to receiving ~~four months~~ one month of retirement benefits.

ITEM 5. Amend subrule 11.5(4) as follows:

11.5(4) *Members of the national guard who are called into state active duty.* Effective May 25, 2008, members of the national guard who are called into state active duty as defined in Iowa Code section 29A.1 in noncovered positions during the required period of complete severance will not be in violation of the bona fide retirement requirements of Iowa Code section 97B.52A ~~as amended by 2010 Iowa Acts, House File 2518, section 33.~~

ITEM 6. Amend subrule 11.7(6) as follows:

11.7(6) *Offsets against amounts payable.* IPERS may, in addition to other remedies and after notice to the recipient, request an offset against amounts owing to the recipient by the state according to the offset procedures pursuant to Iowa Code sections 8A.504 and 421.17, or section 421.65 as enacted by 2020 Iowa Acts, House File 2565, section 16, as applicable.

ITEM 7. Amend subrule 12.7(1) as follows:

12.7(1) Effective July 1, 1998, the monthly benefit payments for a member under the age of 65 who has a bona fide retirement and is then reemployed in covered employment shall be reduced by 50 cents for each dollar the member earns in excess of the annual limit. ~~Effective July 1, 2002~~ March 23, 2022, this reduction is not required until the member earns the amount of remuneration permitted for a calendar year for a person under the age of 65 before a reduction in federal social security retirement benefits is required, or earns \$30,000, whichever is greater ~~as defined in Iowa Code section 97B.48A.~~ The foregoing reduction shall apply only to IPERS benefits payable for the applicable year that the member has reemployment earnings and after the earnings limit has been reached. Said reductions shall be applied as provided in subrule 12.7(2).

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

Effective January 1, 1991, this earnings limitation does not apply to covered employment as an elected official. A member aged 65 or older who has completed at least four full calendar months of bona fide retirement and is later reemployed in covered employment shall not be subject to any wage-earning disqualification.

ITEM 8. Amend subrule 12.7(3) as follows:

12.7(3) A member who is reemployed in covered employment after retirement may, after again retiring from employment, request a recomputation of benefits. The member's retirement benefit shall be increased, if possible, by the addition of a second annuity, which is based on years of reemployment service, reemployment covered wages and the benefit formula in place at the time of the recomputation. A maximum of 30 years of service is creditable to an individual retired member. If a member's combined years of service exceed 30, a member's initial annuity may be reduced by a fraction of the years in excess of 30, divided by 30. The second retirement benefit will be treated as a separate annuity by IPERS.

Effective July 1, 1998, a member who is reemployed in covered employment after retirement may, after again terminating employment for at least ~~one full calendar month~~ 30 days, elect to receive a refund of the employee and employer contributions made during the period of reemployment in lieu of a second annuity. If a member requests a refund in lieu of a second annuity, the related service credit shall be forfeited.

Effective July 1, 2007, employer contributions described in 495—subrule 6.3(13) shall constitute “remuneration” for purposes of applying the reemployment earnings limit and determining reductions in the member's monthly benefits but shall not be considered covered wages for IPERS benefits calculations.

It is the member's responsibility to apply for the recomputation or lump sum by completing and submitting the form specified by IPERS.

ITEM 9. Amend paragraph **16.2(3)“i”** as follows:

i. A domestic relations order shall not become effective until ~~it is approved by IPERS qualification~~. If a member is receiving a retirement allowance at the time a domestic relations order is ~~received~~ deemed qualified by the system, the order shall be effective only with respect to payments made after ~~the order is determined to be a QDRO~~ the appropriate appeal period has elapsed or been waived by the signature of both parties or their respective counsel. Payment to the alternate payee will be withheld from the member's next monthly payment ~~the month after the date~~ 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~~ qualified by IPERS and ~~the member~~ the member subsequently 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 either party's respective 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 within that time period, IPERS shall release the hold.

[Filed 2/17/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6941C**MEDICINE BOARD[653]****Adopted and Filed****Rule making related to bronchodilator canisters, bronchodilator canisters and spacers, and opioid antagonists**

The Board of Medicine hereby amends Chapter 13, “Standards of Practice and Principles of Medical Ethics,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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 280.16 and 280.16A and 2022 Iowa Acts, House File 771.

Purpose and Summary

On June 14, 2022, House File 771 was signed into law. The law included bronchodilator canisters, bronchodilator canisters and spacers, and opioid antagonists among those medications and devices that may be prescribed in the name of a “facility” as defined in Iowa Code section 135.185(1), school district, or accredited nonpublic school. This rule making updates rule 653—13.12(135,147,148,272C,280) to conform to the legislation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6694C**. The Board received a comment from the American Lung Association in support of the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 27, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 653—Chapter 3.

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).

MEDICINE BOARD[653](cont'd)

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making action is adopted:

Amend rule 653—13.12(135,147,148,272C,280) as follows:

653—13.12(135,147,148,272C,280) Standards of practice—prescribing epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of an authorized facility.

13.12(1) Definitions Definition. For purposes of this rule:

“Authorized facility” means any nonpublic school which is accredited pursuant to Iowa Code section 256.11, any school directly supported in whole or in part by taxation, a food establishment as defined in Iowa Code section 137F.1, a carnival as defined in Iowa Code section 88A.1, a recreational camp, a youth sports facility, or a sports area a facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school.

“Epinephrine auto-injector” means a device for immediate self-administration or administration by another trained person of a measured dose of epinephrine to a person at risk of anaphylaxis.

“Physician” means a person licensed pursuant to Iowa Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery.

13.12(2) Notwithstanding any other provision of law to the contrary, a physician may prescribe epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of an authorized facility to be maintained for use pursuant to Iowa Code sections 135.185, 135.190, 280.16 and 280.16A.

13.12(3) A physician who prescribes epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of an authorized facility to be maintained for use pursuant to Iowa Code sections 135.185, 135.190, 280.16 and 280.16A, provided the physician has acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists.

[Filed 2/15/23, effective 4/12/23]

[Published 3/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6929C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to lifetime trout fishing license for disabled veterans and annual fishing and hunting licenses for veterans

The Natural Resource Commission (Commission) hereby amends Chapter 15, “General License Regulations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455A.5(6)“a” and 483A.1(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate Files 581 and 2383.

NATURAL RESOURCE COMMISSION[571](cont'd)

Purpose and Summary

Chapter 15 establishes hunting, fishing, and trapping license fees and governs license sales and refunds, among other topics. Iowa law requires most persons, whether residents or nonresidents, to obtain an applicable license and pay a fee prior to fishing, hunting, or trapping. Recent legislation created or modified several licenses. First, 2022 Iowa Acts, Senate File 581, expanded eligibility for lifetime trout fishing licenses to Iowa residents who “qualif[y] for the disabled veteran homestead credit under section 425.15.” Second, 2022 Iowa Acts, Senate File 2383, established a new annual armed forces fishing license and a new annual armed forces hunting and fishing combined license. These new licenses are available for Iowa residents who have served in the armed forces of the United States on federal active duty (collectively, “veteran licenses”). The legislation provided that the fee for the new veteran licenses shall be no more than \$5.

Iowa Code section 483A.1 requires that all license fees be promulgated in rule. Accordingly, this rule making adds these new licenses to Chapter 15 and establishes a \$5 fee for each of the new veteran licenses. The lifetime trout fishing fee of \$63 already exists in Chapter 15.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6754C**. A public hearing was held on January 24, 2023, at 10 a.m. via video/conference call. No one attended the public hearing.

One hundred thirty-four comments regarding Senate File 2383 and 148 comments regarding Senate File 581 were received. Approximately three-fourths of the comments expressed support for the rule making. Comments not supporting the rule making primarily focused on the cost of the new license offerings. These comments suggested fees ranging from no fee at all to no reduction in fees (i.e., charging the same fees as for the standard resident licenses). Because the licenses are established by law, no changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on February 9, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. 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).

NATURAL RESOURCE COMMISSION[571](cont'd)

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making action is adopted:

Adopt the following new paragraphs **15.12(1)“hh,” “ii” and “jj”**:

- hh.* Trout fishing license, lifetime, disabled veteran — \$63.
- ii.* Fishing license, annual, veteran — \$5.
- jj.* Combination hunting and fishing license, annual, veteran — \$5.

[Filed 2/10/23, effective 4/12/23]

[Published 3/8/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6950C

NURSING BOARD[655]

Adopted and Filed

Rule making related to bronchodilator canisters, bronchodilator canisters and spacers, and opioid antagonists

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

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2022 Iowa Acts, House File 771.

State or Federal Law Implemented

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

Purpose and Summary

2022 Iowa Acts, House File 771, amended Iowa Code sections 280.16 and 280.16A to authorize schools to obtain prescriptions for bronchodilator canisters and bronchodilator canisters and spacers. 2022 Iowa Acts, House File 2573, amended Iowa Code section 135.190 to authorize school districts to obtain prescriptions for opioid antagonists. This rule making updates the Board’s advanced registered nurse practitioner rules regarding prescribing to schools to include these new authorizations.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6697C**. A public hearing was held on December 21, 2022, at 9 a.m. at the Board Office, Suite B, 400 S.W. Eighth Street, Des Moines, Iowa.

The American Lung Association requested more information in the title of the rule. The Association’s request to include “school district or accredited nonpublic schools” is already incorporated into subrules 7.8(2) and 7.8(4).

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 18, 2023.

NURSING BOARD[655](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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 April 12, 2023.

The following rule-making action is adopted:

Amend rule 655—7.8(152) as follows:

655—7.8(152) Prescribing epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of a facility or school.

7.8(1) An ARNP may issue a prescription for one or more epinephrine auto-injectors in the name of a facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school.

7.8(2) An ARNP may issue a prescription for one or more bronchodilator canisters or bronchodilator canisters and spacers in the name of a school district or an accredited nonpublic school.

7.8(3) An ARNP may issue a prescription for one or more opioid antagonists in the name of a school district.

7.8(2) 7.8(4) An ARNP who prescribes epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of an authorized facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school, to be maintained for use pursuant to Iowa Code sections 135.185, ~~260.16 and 260.16A~~, 135.190, 280.16, and 280.16A, provided the ARNP has acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector, bronchodilator canister, bronchodilator canister and spacer, or opioid antagonist.

[Filed 2/15/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6938C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to five-year review of psychologist rules

The Board of Psychology hereby amends Chapter 5, “Fees,” Chapter 240, “Licensure of Psychologists,” Chapter 241, “Continuing Education for Psychologists,” Chapter 242, “Discipline for Psychologists,” and Chapter 243, “Practice of Psychology,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76 and 2022 Iowa Acts, House File 2246.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.76 and 2022 Iowa Acts, House File 2246.

Purpose and Summary

The Board reviewed Chapters 240 through 244 as part of a rolling five-year review to update outdated, redundant, or inconsistent rules. These amendments change the process of applying for endorsement or reactivation by requiring an applicant to only provide verification of licensure from the jurisdiction in which the applicant was most recently licensed and to disclose public or pending complaints in any other jurisdiction in which the applicant is licensed.

This rule making also incorporates revisions to add provisional licensing for predoctoral psychologists pursuant to 2022 Iowa Acts, House File 2246. These amendments change the provisional license to include persons who are completing a predoctoral internship or postdoctoral residency and clarify title designations and update the fee for a provisional license. They also clarify examination eligibility, postdoctoral residency requirements, continuing education requirements for provisional license renewal, and psychologists’ supervision of unlicensed individuals. In addition, these amendments clarify that test materials should only be released to other psychologists with written consent.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 28, 2022, as **ARC 6769C**. A public hearing was held on January 17, 2023, at 9 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

Several changes from the Notice have been made, including two to provide additional clarity and one to correct a typographical error. In the rule regarding postdoctoral residency in Item 7, the expectations for the number of supervisees for each supervisor have been clarified. In Item 9, the title of a rule has been revised to clarify that the rule also applies to provisionally licensed predoctoral licensees. In Item 17, “to” was changed to “effective” to correct a typographical error. In addition, in Item 8, the name of the National Register of Health Service Providers in Psychology was changed to the National Register of Health Service Psychologists to reflect a name change, and in Item 18, the website at which to report name and address changes to the Board was corrected.

Adoption of Rule Making

This rule making was adopted by the Board on February 3, 2023.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 5.16(14) as follows:

5.16(14) Provisional license renewal fee is ~~\$170~~ **\$120**.

ITEM 2. Amend rule ~~645—240.1(154B)~~, definition of “Provisional license,” as follows:

“Provisional license” means a license issued to a person who ~~has met the educational qualifications~~ is completing a predoctoral internship or postdoctoral residency under supervision in order to satisfy the requirements for licensure and is engaged in professional experience under supervision.

ITEM 3. Rescind paragraph ~~240.3(2)“b.”~~

ITEM 4. Reletter paragraphs ~~240.3(2)“c” and “d”~~ as ~~240.3(2)“b” and “c.”~~

ITEM 5. Amend subrule 240.4(1) as follows:

240.4(1) To be eligible to take the national examination, the applicant shall:

a. Meet all requirements of subrules 240.2(1) to 240.2(3); and

b. Provide official copies of academic transcripts sent directly from the school to the board of psychology; and verifying completion of a doctoral degree in psychology in accordance with rule 645—240.3(154B).

~~*e.* Provide the completed supervision registration form according to the instructions on the form.~~

ITEM 6. Amend rule ~~645—240.5(154B,147)~~ as follows:

645—240.5(154B,147) Title designations.

240.5(1) Students who are enrolled in an education program that satisfies the requirements of subrule 240.3(1) and who are completing the predoctoral internship may be designated “psychology intern” or “intern in psychology.”

240.5(1) 240.5(2) Applicants for licensure who have met educational requirements and who are ~~fulfilling the experience requirements specified herein~~ completing the postdoctoral residency to be eligible for licensure may be designated “psychology resident,” ~~or~~ “resident in psychology,” “psychology postdoctoral fellow,” or “postdoctoral fellow in psychology.” The designation of “resident”

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

shall not be used except ~~in the employment and supervised experience~~ during a postdoctoral residency that ~~meet~~ meets the requirements of ~~subrules 240.6(1) and 240.6(2)~~ rule 645—240.6(154B).

~~240.5(2)~~ **240.5(3)** Persons who possess provisional licenses shall add the designation “provisional license in psychology” following the “resident,” “intern,” or “fellow” designation.

~~240.5(3)~~ **240.5(4)** A licensed psychologist who possesses a doctoral degree may use the prefix “Dr.” or “Doctor” but shall add after the person’s name the word “psychologist.”

ITEM 7. Rescind rule 645—240.6(154B) and adopt the following new rule in lieu thereof:

645—240.6(154B) Postdoctoral residency.

240.6(1) The postdoctoral residency may begin after all academic requirements for the doctoral degree, including completion of the predoctoral internship, have been completed. The postdoctoral residency shall consist of a minimum of 1,500 hours that are completed in no less than ten months.

240.6(2) During the postdoctoral residency, the supervisee shall competently apply the principles of psychology under the supervision of a licensed psychologist who is actively licensed in the jurisdiction where the supervision occurs in accordance with the following:

a. The supervisee and supervisor shall complete a supervision plan using the form provided by the board. The supervision plan must be submitted to the board if the supervisee is applying for or utilizing a provisional license.

b. A supervisor shall not have more than three concurrent full-time supervisees or the equivalent in part-time supervisees. Full-time is defined as 40 hours per week.

c. The supervisee and supervisor shall meet individually in person or via videoconferencing during each week in which postdoctoral residency hours are accrued, for no less than a total of 45 hours during the postdoctoral residency. Group supervision hours cannot count toward the 45 hours of individual supervision required.

d. The supervisor shall provide supervision at all times, which means the supervisor shall be readily available on site, or via electronic or telephonic means, at all times when the supervisee is providing services so that the supervisee may contact the supervisor for advice, assistance, or instruction. A supervisor shall identify one or more licensed mental health providers who can be contacted for advice, assistance, or instruction during times in which the supervisor will not be readily available.

e. The supervisee and supervisor shall have a crisis plan in place any time the supervisee is providing services and the supervisor is not on site in the same physical setting as the supervisee.

f. The supervisor shall establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.

g. The supervisor shall provide training that is appropriate to the functions to be performed. The supervisee shall have the background, training, and experience that is appropriate to the functions performed. The supervisor shall not permit the supervisee to engage in any psychological practice that the supervisor cannot perform competently.

h. The supervisor and supervisee shall ensure clients are informed regarding the supervisee’s status and the sharing of information between the supervisee and supervisor.

i. The supervisor must have reasonable access to the clinical records corresponding to the work being supervised. The supervisor shall countersign all written reports, clinical records and clinical communications as “Reviewed and Approved” by the supervisor.

j. All services must be offered in the name of the supervisor. The supervisee and supervisor must ensure that the supervisee uses a title in accordance with rule 645—240.5(154B,147).

k. The fee schedule and receipt of payment shall remain the sole domain of the supervisor or employing agency.

l. The supervisor shall maintain an ongoing record of supervision that details the types of activities in which the supervisee is engaged, the level of the supervisee’s competence in each, and the type and outcome of all procedures.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

m. The supervisor is responsible for determining the competency of the work performed by the supervisee and must honestly and accurately complete the supervision report at the conclusion of providing supervision.

This rule is intended to implement Iowa Code section 154B.6.

ITEM 8. Amend paragraph **240.7(1)“a”** as follows:

a. Verify at least one year of clinical experience in an organized health service training program that meets the requirements of subrule 240.7(2) and at least one year of clinical experience in a health service setting that meets the requirements for ~~supervised professional experience~~ postdoctoral residency stated in subrules 240.6(1) and 240.6(2) rule 645—240.6(154B). Alternatively, an applicant may submit verification of current registration at the doctoral level by the National Register of Health Service Providers in Psychology Psychologists to verify completion of the required clinical experience.

ITEM 9. Amend rule 645—240.9(154B) as follows:

645—240.9(154B) Psychologists’ supervision of unlicensed persons other than postdoctoral residents in a practice setting.

240.9(1) This rule applies when a psychologist is supervising individuals who are not licensed or who are provisionally licensed and completing the predoctoral internship. This rule does not apply to supervision of an individual completing a postdoctoral residency in accordance with rule 645—240.6(154B), regardless of whether the individual is provisionally licensed or not.

240.9(2) The supervising psychologist shall:

1. *a.* Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

2. *b.* Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors shall also be available for emergency consultation and intervention.

3. *c.* Provide work assignments that shall be commensurate with the skills of the supervisee. All procedures shall be planned in consultation with the supervisor.

4. *d.* Work in the same physical setting as the supervisee, unless the supervisee is receiving formal training pursuant to the requirements for licensure as a psychologist. For supervisees working ~~off-site~~ off site while receiving formal licensure training, ensure the off-site location has a licensed mental health provider or primary care provider ~~on-site~~ on site whenever the supervisee is working for purposes of providing emergency consultation.

5. *e.* Make public announcement of services and fees; contact with laypersons or the professional community shall be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

6. *f.* Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person’s status and information regarding the person’s qualifications and functions.

7. *g.* Inform clients of the possibility of periodic meetings with the supervising psychologist at the client’s, the supervisee’s or the supervisor’s request.

8. *h.* Provide for setting and receipt of payment that shall remain the sole domain of the employing agency or supervising psychologist.

9. *i.* Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

10. *j.* Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description shall be made available to representatives of the board and service recipients upon request.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~11.~~ k. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

~~12.~~ l. Maintain an ongoing record of supervision ~~which~~ that details the types of activities in which the unlicensed person is engaged, the level of competence in each, and the type and outcome of all procedures.

~~13.~~ m. Countersign all written reports, clinical records and clinical communications as “Reviewed and Approved” by the supervising psychologist.

ITEM 10. Amend subrule 240.10(3) as follows:

240.10(3) Provides verification of ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least five years of an independent license as described in subrule 240.10(4), sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- a. Licensee’s name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

ITEM 11. Rescind rule 645—240.12(85GA,ch1043) and adopt the following new rule in lieu thereof:

645—240.12(154B) Requirements for provisional license.

240.12(1) *Predoctoral internship.* An applicant for a provisional license for purposes of completing a predoctoral internship shall provide the following:

- a. A completed provisional license application. Applications are obtained and submitted via the board’s website at ibplicense.iowa.gov.
- b. The provisional application fee payable to the Board of Psychology. The fee is nonrefundable.
- c. A copy of the applicant’s acceptance letter for the predoctoral internship.
- d. Identification of the training director and the training director’s contact information.
- e. Evidence that the applicant is enrolled in an educational program that meets the requirements of rule 645—240.3(154B).

240.12(2) *Postdoctoral residency.* An applicant for a provisional license for purposes of completing a postdoctoral residency shall provide the following:

- a. A completed provisional license application. Applications are obtained and submitted via the board’s website at ibplicense.iowa.gov.
- b. The provisional application fee payable to the Board of Psychology. The fee is nonrefundable.
- c. Official copies of academic transcripts sent directly from the school establishing that the requirements stated in rule 645—240.3(154B) are met.
- d. A completed supervision plan on the prescribed board form, signed by the applicant’s supervisors. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

240.12(3) *Duration.* The provisional license is effective for two years from the date of issuance. A provisional license issued for purposes of completing a predoctoral internship can be used for purposes of completing a postdoctoral residency until the provisional license expires. The provisional licensee shall submit a completed supervision plan on the prescribed board form, signed by the licensee’s supervisors, prior to beginning the postdoctoral residency. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form. A provisional license may be renewed one time for a period of two years upon submission of the following:

- a. A provisional license renewal application;
- b. A provisional license renewal fee; and

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. A current supervision plan as required in these rules.
This rule is intended to implement Iowa Code section 154B.6.

ITEM 12. Amend subrule 240.13(7) as follows:

240.13(7) Late renewal.

a. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.16(3).

~~*b.*~~ To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

~~*b.*~~ No continuing education shall be required.

ITEM 13. Rescind rule 645—240.14(17A,147,272C) and adopt the following **new** rule in lieu thereof:

645—240.14(147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

240.14(1) Submit a reactivation application on a form provided by the board.

240.14(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

240.14(3) Provide verification of the license from the jurisdiction in which the applicant has most recently been licensed sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a.* Licensee's name;
- b.* Date of initial licensure;
- c.* Current licensure status; and
- d.* Any disciplinary action taken against the license.

240.14(4) Provide verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

This rule is intended to implement Iowa Code section 147.11.

ITEM 14. Amend rule **645—241.1(272C)**, definition of "Licensee," as follows:

"Licensee" means any person licensed to practice independently as a psychologist in the state of Iowa and does not include persons with provisional licenses.

ITEM 15. Adopt the following **new** subrule 241.2(6):

241.2(6) No hours of continuing education are required to renew a provisional license.

ITEM 16. Amend subrule 241.3(2) as follows:

241.3(2) *Specific criteria.*

a. For the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members ~~appointed to a first term beginning May 1, 2013, or later,~~ a maximum of 2 of these hours may be obtained by providing service as a member of the board as follows:

(1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or

(2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the license biennium.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. Effective July 1, 2014, a A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.13(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 241.3(1).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(5) Completing home study courses for which a certificate of completion is issued.

(6) Completing electronically transmitted courses for which a certificate of completion is issued.

(7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 241.3(1). Two hours of credit will be awarded for each hour of presentation.

d. A combined maximum of 30 hours of credit per biennium may be used for scholarly research, preparation of new courses, and presentations to other professionals.

ITEM 17. Amend subrule 242.2(1) as follows:

242.2(1) Failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of *American Psychologist* and including amendments effective January 1, 2017, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association's website at www.apa.org.

ITEM 18. Amend subrule 242.2(26) as follows:

242.2(26) Failure to report a change of name or address within 30 days after it occurs. Name and address changes may be reported on the form provided by the board at: www.idph.state.ia.us/licensure hhs.iowa.gov/licensure.

ITEM 19. Adopt the following **new** definition of "Test materials" in rule **645—243.1(154B)**:

"*Test materials*" means the test questions, scoring keys, protocols, and manuals that do not include personally identifying information about the subject of the test.

ITEM 20. Adopt the following **new** subrule 243.4(3):

243.4(3) *Release of test materials.* A licensee shall not disclose test materials to any person, except for another licensed psychologist who has been designated in writing by the subject of a psychological

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

test to receive the records associated with the psychological testing of the subject. A licensee shall not disclose test materials in any administrative, judicial, or legislative proceeding.

[Filed 2/10/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6939C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to licensing regulation, fees, veterans and military spouses

The Plumbing and Mechanical Systems Board hereby amends Chapter 28, "Plumbing and Mechanical Systems Board—Licensure Fees," and Chapter 35, "Plumbing and Mechanical Systems Board—Alternative Licensure Pathways," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 105 and 2022 Iowa Acts, Senate File 2383.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

These amendments implement the licensure-related provisions of 2022 Iowa Acts, Senate File 2383. This rule making revises the requirements for licensure by verification and updates the requirements and parameters of licensure for veterans and their spouses.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6646C**. The Board received six public comments relevant to these amendments. One commenter was supportive of the amendments. One commenter questioned why the fee waiver was limited to people discharged in the last five years and did not apply to all honorably discharged veterans. Two commenters were not supportive of any fee waiver for any veteran. One commenter was not supportive of the fee waiver for those under the federal poverty level. One commenter questioned whether the amendment related to license by verification was intended to make it harder for out-of-state contractors to work in Iowa. In response to all of these comments, the Board again states that this rule making is necessary to comply with and implement 2022 Iowa Acts, Senate File 2383. Therefore, no changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 24, 2023.

Fiscal Impact

This rule making will have limited fiscal impact. The provisions of this rule making waive the initial application and renewal fees for veterans who were honorably or generally discharged within the previous five years; however, the overall number of applications that meet these criteria is low.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Jobs Impact

After analysis and review of this rule making, there may be a positive impact on jobs since it streamlines and removes some of the requirements related to licensure by verification. Additionally, it clearly provides an alternative pathway to licensure of spouses of veterans when moving to Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to the Board's general waiver provisions contained in 641—Chapter 31.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—28.3(105) as follows:

641—28.3(105) Waiver of fees. Fee waivers are available under the following circumstances:

a. The board shall waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

b. For an applicant who has been honorably or generally discharged from federal active duty or national guard duty, the board shall waive an initial application fee and one renewal fee if those fees would otherwise be charged within five years of the discharge.

ITEM 2. Amend subrule 35.4(1) as follows:

35.4(1) Eligibility. A person may seek licensure by verification if all of the following criteria are satisfied:

a. The person is licensed, certified, or registered in at least one other issuing jurisdiction;

b. ~~The person has been licensed, certified, or registered by another issuing jurisdiction for at least one year;~~

e. b. The scope of practice in the transferring jurisdiction is substantially similar to the scope of practice in Iowa;

~~*c.*~~ *c.* The person's license, certification, or registration is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration; and

~~*e. d.*~~ *d.* The person either:

(1) Establishes residency in the state of Iowa; or

(2) Is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station.

[Filed 2/15/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6931C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to the Iowa Byways program**

The Transportation Department hereby amends Chapter 132, “Iowa Byways Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 306D.4 and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 306D.

Purpose and Summary

This rule making makes various updates within Chapter 132 to clarify the purpose of the Iowa Byways program so that prospective byway applicants will better understand the program’s intent prior to seeking designation.

The defined evaluation process is modified from a formal review process to a stakeholder review and Department evaluation to provide for more flexibility for representatives of existing byways and other stakeholders to participate in the process in order to leverage their expertise in reviewing proposed new routes. This amendment includes removal of the definition of “advisory council” and the addition of the definition of “stakeholder.”

The Department’s and roadway jurisdiction’s responsibilities for sign replacement costs are clarified for signs, materials, and labor.

These amendments also remove a formal four-year application cycle and move to a discretionary solicitation so that the Department is not administratively burdened and potential applicants meeting the purpose of the program may not need to wait four years to apply.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6749C**. 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 14, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—132.1(306D) as follows:

761—132.1(306D) Purpose, overview and information.

132.1(1) Purpose. The purpose of the Iowa Byways program is to designate and support qualifying Iowa roads as byways on the basis of scenic byway, heritage byway, or a combination of scenic and heritage byway qualities. These designations are intended ~~both~~ to preserve the state's scenic, natural, and historic resources; ~~and~~ to support economic development through travel and tourism; to highlight distinctive experiences; and to maintain the integrity of the Iowa Byways program.

132.1(2) Overview. Under the Iowa Byways program, proposed routes are identified via an application process. The department inventories ~~and evaluates~~ the proposed routes. ~~The advisory council recommends the routes to be designated by the department~~ and consults with program stakeholders before evaluating those routes for designation. The department provides identifying signs for the designated routes. Routes designated as an Iowa Byway are part of Iowa's scenic byway program and are therefore subject to the prohibition set forth in 23 U.S.C. Section 131(s).

132.1(3) Information and forms. Information, instructions and application forms may be obtained from the ~~Office of Systems Planning Bureau~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; by telephone at (515)239-1664; or through the department's website at www.iowadot.gov.

ITEM 2. Rescind the definition of "Advisory council" in rule **761—132.2(306D)**.

ITEM 3. Adopt the following new definition of "Stakeholder" in rule **761—132.2(306D)**:

"*Stakeholder*" means a group, state agency, local jurisdiction or organization with a vested interest in the Iowa Byways program or that may be impacted by the designation of a route. Examples may include but are not limited to an adjacent scenic, natural or historic resource or other tourism attraction; other designated Iowa Byways; private associations related to economic development or outdoor advertising; and organizations charged with the marketing of the state, regions or localities for tourism purposes.

ITEM 4. Amend subrule 132.3(5) as follows:

132.3(5) The initial installation of signs identifying an Iowa Byway including the accompanying posts and hardware necessary for installation shall be paid for and furnished by the department. Each roadway jurisdiction is responsible for the inventory; and maintenance; ~~and reinstallation~~ of signs provided by the department following the initial installation. The department will provide replacement signs for those that are damaged or missing and will be responsible for reinstallation on primary roads. The roadway jurisdiction will be responsible for reinstallation on secondary roads and city streets.

ITEM 5. Amend rule 761—132.4(306D) as follows:

761—132.4(306D) Application and approval process.

132.4(1) Program cycle. ~~The Iowa Byways program shall operate on a four-year cycle, with applications due by October 1, 2020, and every fourth year thereafter~~ department may periodically announce a solicitation of applications for designation as demand and interest requires. Field

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inventories, evaluation, and rating of proposed routes will ~~follow with~~ precede the designation of any new routes ~~completed by the next application deadline.~~

132.4(2) Application. Application to designate a route as an Iowa Byway or to propose an extension or loop to an existing route shall be on a form provided by the department and shall be received by the department by the stated application deadline included in the solicitation. The application must be accompanied by a formal resolution described in subrule 132.3(4). Applications must provide some discussion of the planned administration and governance of the proposed Iowa Byway as well as how the byway will be marketed to visitors.

132.4(3) Initial review. Applications shall be reviewed by the ~~advisory council to acquaint the council members with the proposed routes and to allow the members an opportunity to provide the department with information from their areas of expertise.~~ Such input may provide details related to Program stakeholders will be consulted to gather information on the existence and quality of scenic, archaeological, cultural, historic, natural, and recreational resources along a proposed route; the proposed route's contribution to a diversity of experiences along designated routes; and the overall impact of the proposed route on the program's integrity.

132.4(4) and 132.4(5) No change.

132.4(6) Selection. ~~The advisory council shall review the evaluations and recommend routes to be designated as Iowa Byways based on this information and any other information the council may have obtained regarding the routes.~~

132.4(7) 132.4(6) Designation. The department shall review the evaluations and will consider designating routes ~~recommended by the advisory council~~ as Iowa Byways based on this information.

132.4(8) 132.4(7) Signing. Upon the designation of Iowa Byways, the department will proceed with the initial design and installation of signage identifying new Iowa Byways.

[Filed 2/14/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6930C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to the RISE program

The Transportation Department hereby amends Chapter 163, "RISE Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 315.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 315.

Purpose and Summary

This rule making adds a definition for "traffic impact analysis," which is often a necessary part of a project transportation justification required at the time of application, and clarifies the Department's annual reporting requirements to state that the report will indicate the amount and percentage of funds committed during the previous year, which is consistent with current accounting practice. This rule making explains that only the city portion of uncommitted Revitalize Iowa's Sound Economy (RISE)

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funds is carried over from year to year, whereas uncommitted county RISE funds are credited to the Secondary Road Fund annually.

These amendments make modifications to the eligible costs associated with principal and interest payments to explicitly exclude any administrative or legal expenses and to clarify that the term of a bond associated with a RISE project may not exceed the useful life of the roadway consistent with Iowa Code section 315.4A. New eligible costs are added to include certain modifications to railroad facility adjustments required by construction of a RISE roadway, which require an executed agreement between the railroad and the roadway jurisdiction.

Application requirements are added consistent with current practice to require that economic development efforts, zoning, platting, subdivision boundaries, corporate limits, and future development plans be identified in narratives or through the submittal of maps. A detailed description of what is required for a transportation justification is added, noting that a traffic impact analysis may be required by the Department.

These amendments also add a requirement in subrule 163.11(2) for applications to summarize nonroadway factors, such as utility provision, fire protection or permits, for consistency with subrule 163.10(6); move to subrules 163.10(2) and 163.11(2) the requirement that any business that is assisted by the project and acquires or merges with an Iowa corporation within three years of the RISE application makes a good-faith effort to hire existing workers of the merged or acquired corporation; and add that a formal resolution is required to state that land provided access by the improvement will be developed consistent with the purpose of the RISE program.

Finally, the application format is changed for consistency with current Department practice in order to allow more flexibility rather than require hard-copy submission of the application and the identification of job creation or other development contingencies and procedures for compliance in the project agreement.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6750C**. 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 14, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of “Traffic impact analysis” in rule **761—163.1(315)**:
“*Traffic impact analysis*” means an analysis identifying system and immediate impacts associated with a proposed development to allow an assessment of the existing and future highway system’s safety, performance, maintenance, and capacity needs and includes all necessary information as required by the department.

ITEM 2. Amend rule 761—163.2(315) as follows:

761—163.2(315) Information and forms. Information, instructions and application forms may be obtained from the ~~Office of~~ Systems Planning Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; by telephone at (515)239-1664; or through the department’s website at www.iowadot.gov.

ITEM 3. Amend subrule 163.4(3) as follows:

163.4(3) The department shall annually prepare a written report indicating the amount and percentage of funds ~~expended~~ committed during the previous year on primary roads, secondary roads, city streets, state park roads and county conservation parkways.

ITEM 4. Amend paragraph **163.5(2)“g”** as follows:

g. Carryover of funds. The commission need not commit the spending of all RISE funds available during a programming cycle. Uncommitted city funds may be carried over to the next programming cycle or used for immediate opportunity projects. On June 30 of each year, all uncommitted county funds shall be credited to the secondary road fund.

ITEM 5. Amend subrule 163.8(1) as follows:

163.8(1) Eligible activities. Project activities or costs eligible for RISE funding, and which may be counted as part of the non-RISE participation in immediate opportunity and local development roadway projects, include only the following:

a. to h. No change.

i. County and city bond principal and interest payments associated only with RISE projects. No financing expenses incurred prior to funding commitment shall be eligible, and no administrative or legal expenses may be reimbursed. The bond term may not exceed the expected useful life of the roadway.

j. to l. No change.

m. Costs of modifications to railroad facilities required to construct the RISE roadway, including but not limited to construction, hiring flaggers, and engineering performed by the railroad or the railroad’s contractor, that are consistent with an executed agreement between the railroad and the roadway jurisdiction.

ITEM 6. Amend subrule 163.10(2) as follows:

163.10(2) Contents of applications. Each application for an immediate opportunity project must contain the following:

a. General information, including ~~applicant~~ the applicant’s name, contact person, mailing address, telephone number, local economic development area and history of efforts in the area, and other information of a general nature about the project proposal and the associated economic development activity.

b. and c. No change.

d. A preliminary project concept statement for the roadway project, including a ~~location map~~, maps showing site characteristics, such as zoning, platting, subdivision boundaries, and corporate limits; a sketch plan; and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment. The

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transportation justification should address topics such as the current condition of existing roadways or bridges, the relationship of the project to connecting roads, and ingress to and egress from the site, as well as the current flow of traffic on the development site, anticipated total traffic and large truck traffic, proposed major design features of the proposed improvement, the intended roadway function, how the proposed improvement is consistent with other local plans, and the reason the proposed alternative was selected over other alternatives. In consultation with the department, a traffic impact analysis may be required to supplement the transportation justification.

e. No change.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution shall state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project and that land provided access by the proposed improvement will be developed according to rule 761—163.3(315). The resolution must also certify that the project meets the threshold criteria cited in paragraph ~~163.10(6) “a.”~~ 163.10(6) “a” and that any business assisted by the project which acquires or merges with an Iowa corporation within three years following the RISE application shall make a good-faith effort to hire the workers of the merged or acquired company.

g. No change.

ITEM 7. Amend subrule 163.10(3) as follows:

163.10(3) *Submission of applications.* ~~An original and one copy of each completed application~~ Applications shall be submitted ~~to~~ on a form provided by the department. Applications may be submitted at any time.

Once an application has been submitted, no further information concerning that application shall be accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications shall be dated accordingly.

ITEM 8. Amend subrule 163.11(2) as follows:

163.11(2) *Contents of applications.* Each application for a local development project must contain the following:

a. General information, including ~~applicant~~ the applicant's name, contact person, mailing address, telephone number, local economic development program and history of efforts in the area, and other information of a general nature about the project proposal and the associated economic development activity.

b. and *c.* No change.

d. A preliminary project concept statement for the roadway project, including ~~a location map,~~ maps showing site characteristics such as zoning, platting, subdivision boundaries, and corporate limits; a sketch plan; and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment. The transportation justification should address topics such as the current condition of existing roadways or bridges, the relationship of the project to connecting roads, and ingress to and egress from the site, as well as the current flow of traffic on the development site, anticipated total traffic and large truck traffic, proposed major design features of the proposed improvement, the intended roadway function, how the proposed improvement is consistent with other local plans, and the reason the proposed alternative was selected over other alternatives. In consultation with the department, a traffic impact analysis may be required to supplement the transportation justification.

e. No change.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution shall state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project and that land provided access by the proposed improvement will be developed according to rule 761—163.3(315). The resolution must also certify that any business assisted by the

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project which acquires or merges with an Iowa corporation within three years following the RISE application shall make a good-faith effort to hire the workers of the merged or acquired company.

g. A summary showing that necessary arrangements have been made for nonroadway factors (e.g., zoning, sewer, water, police and fire protection, financing, and permits) essential for the proposed economic development activity.

ITEM 9. Amend subrule 163.11(3), introductory paragraph, as follows:

163.11(3) *Submission of applications.* ~~An original and one copy of each completed application~~ Applications shall be submitted to on a form provided by the department.

ITEM 10. Amend subrule 163.12(1) as follows:

163.12(1) *Agreement.* After a funding commitment has been made for a project, the department shall enter into a project agreement with the applicant. The agreement shall delineate responsibilities for project planning, design, right-of-way, contracting, construction and materials inspection, and documentation. The agreement shall ~~require that a business assisted by the project which acquires or merges with an Iowa corporation within three years following the RISE application shall make a good-faith effort to hire the workers of the merged or acquired company~~ identify any additional requirements for the project relating to specific jobs to be created or retained and land identified as being required to be developed consistent with rule 761—163.3(315). Procedures for documenting compliance with these requirements will also be identified in the agreement. The agreement shall require the applicant to comply with all local, state, and federal laws, and rules and regulations that may apply to the project.

[Filed 2/14/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6932C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to foreign certificates of title

The Transportation Department hereby amends Chapter 400, "Vehicle Registration and Certificate of Title," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.23(3) as amended by 2022 Iowa Acts, House File 2341.

Purpose and Summary

This rule making updates Chapter 400 to conform the rules with 2022 Iowa Acts, House File 2341. This legislation created a new exception from the requirement that a holder of a foreign certificate of title with an Iowa nontransferable registration must first obtain an Iowa title before transferring the vehicle. Iowa Code section 321.23 requires that an owner who has registered a foreign vehicle in Iowa, but has a foreign certificate of title, cannot transfer the vehicle before applying for and receiving an Iowa certificate of title. The new exception will allow an owner to transfer the foreign certificate of title to an insurance carrier authorized to do business in Iowa if at the time of transfer the foreign certificate of title is held by a secured party and the insurance carrier has forwarded to the secured party the sum necessary to

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discharge the security interest. This same exception currently exists for motor vehicle dealers who have forwarded the funds to discharge the security interest in these situations. This amendment expands the exception to insurance carriers authorized to do business in Iowa as authorized in the legislation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 28, 2022, as **ARC 6770C**. No public comments were received.

Since publication of the Notice of Intended Action, 2022 Iowa Acts, House File 2341, has been codified. Therefore, a reference to this legislation has been removed from Item 1. Likewise, Item 2, which added a reference to this legislation but no other proposed amendments in the implementation sentence for rule 761—400.4(321), has been removed. No other changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 14, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making action is adopted:

Amend paragraph **400.4(3)“d”** as follows:

d. A person who registers a foreign vehicle under Iowa Code ~~subsection~~ section 321.23(3) shall be issued a nontransferable-nonnegotiable registration. To transfer ownership of the vehicle, the owner must first obtain an Iowa certificate of title except as follows: If ownership is transferred to an Iowa licensed motor vehicle dealer or an insurance carrier authorized to do business in Iowa as provided in Iowa Code ~~subsection~~ section 321.23(3), the foreign certificate of title may be assigned to the dealer or

TRANSPORTATION DEPARTMENT[761](cont'd)

the insurance carrier; the owner is not required to obtain an Iowa title. The dealer may then reassign the foreign title, as provided in Iowa Code ~~subsection~~ section 321.48(2) and rule 761—400.27(321,322).

[Filed 2/14/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.

ARC 6925C

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to equipment distribution program

The Utilities Board hereby amends Chapter 37, "Equipment Distribution Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 477C.

Purpose and Summary

The Board conducted a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2) and initiated this rule making to identify and update provisions in Chapter 37 that are outdated or otherwise inconsistent or incompatible with statutes, rules, or current Board practices. The Board is adopting these amendments to update income eligibility figures, to update the application process and the eligibility requirements, and to make other nonsubstantive changes.

On September 20, 2022, the Board issued an order commencing this rule making. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2022-0037.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 19, 2022, as **ARC 6596C**. A public hearing was held on December 16, 2022, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The Office of the Consumer Advocate (OCA), a division of the Iowa Department of Justice, attended the hearing and stated it supported all the proposed changes, except that it took no position on the proposed amendment to subrule 37.4(8). Deaf Services Unlimited also attended, stating it supported all the proposed amendments.

During the written comment period, the Board received one written comment from the OCA, which mirrored the position it expressed at the public hearing.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on February 3, 2023.

Fiscal Impact

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

UTILITIES DIVISION[199](cont'd)

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 199—37.1(477C) as follows:

199—37.1(477C) Purpose. This chapter describes the board's program established pursuant to Iowa Code section 477C.4 to secure, finance, and distribute telecommunications devices ~~for the deaf~~. The board's equipment distribution program serves eligible individuals who are deaf or ~~hard-of-hearing~~ hard-of-hearing or who have difficulty with speech.

The equipment distribution program will be limited by revenue considerations and annual budget amounts set by the board, with the advice of the dual party relay council established in Iowa Code section 477C.5. Before submitting a proposed annual budget to the board, the board's equipment distribution program project manager shall provide the council with the proposed budget for the council's review and discussion at a council meeting. The project manager will advise the board of any council recommendations regarding the proposed budget. When the budgeted amounts for a period are committed or expended, no further vouchers for equipment will be issued until the next period when the board budgets additional amounts.

ITEM 2. Amend rule 199—37.4(477C), introductory paragraph, as follows:

199—37.4(477C) Application process and eligibility. Applications will be processed in queue as determined by the program administrator. No person will be entitled to equipment at a particular time merely because that person meets the eligibility requirements. Additional vouchers will not be issued during a period if unpaid vouchers are outstanding for the remaining funds budgeted for the period. To be eligible to receive a voucher for equipment under the program, a person must satisfy the following requirements. By signing the application form or otherwise averring to the accuracy of the information contained in the application, an applicant or the applicant's power of attorney certifies that the information provided therein is true.

ITEM 3. Amend subrules 37.4(6) to 37.4(8) as follows:

37.4(6) An applicant's gross annual family income must be equal to or less than ~~\$65,000~~ \$76,000 for a family of two. Family sizes above or below two will increase or decrease that amount in ~~\$9,000~~ \$10,000 increments per family member change.

37.4(7) The applicant will be limited to a voucher for one type of equipment or equipment package. ~~If there are individuals in the same household who have different communication impairments that require different types of equipment, the individuals may make a joint request or separate requests to~~

UTILITIES DIVISION[199](cont'd)

~~the program administrator. The program administrator may grant those portions of the requests that satisfy the eligibility requirements in this rule.~~

37.4(8) Reapplication. Prior voucher recipients may reapply through the program to replace existing equipment or to obtain new equipment, as appropriate. Reapplication will be limited by a ~~five-year~~ three-year waiting period. The reapplication period may be shortened by the board's equipment distribution program project manager in an individual case for good cause shown. At the time of reapplication for equipment, it is not necessary for the applicant's need for the equipment to be reverified by an appropriate professional. The program administrator shall verify that the applicant reapplying for equipment previously qualified for and continues to qualify for a voucher.

[Filed 2/6/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.