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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Publications Editing Office (Administrative Code) Telephone: 515.281.3355 Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rulemaking—2025

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

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 business day 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 business days in advance of the deadline. The first possible notice submission deadline noted above may not allow sufficient time for this. **Agencies should plan accordingly.**

Note change of filing deadline

LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards—penalties for citations, 3.11(1) IAB 4/16/25 **ARC 9099C**	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	May 6, 2025 1 to 1:15 p.m. May 7, 2025 12:30 to 12:45 p.m.

NATURAL RESOURCE COMMISSION[571]

Resource enhancement and protection program: county, city, private open spaces and conservation education grant programs, 33.4(3), 33.19 to 33.30 IAB 4/2/25 **ARC 9061C**	Suite 200 6200 Park Avenue Des Moines, Iowa Virtual (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing	April 23, 2025 1:30 to 3:30 p.m. May 7, 2025 1:30 to 3:30 p.m.

PUBLIC HEALTH DEPARTMENT[641]

Swimming pools, spas, and spray pads, ch 15 IAB 4/2/25 **ARC 9048C**	6200 Park Avenue, Suite 100 Des Moines, Iowa	April 29, 2025 10 to 10:30 a.m. April 30, 2025 2:30 to 3 p.m.

PUBLIC SAFETY DEPARTMENT[661]

State building code; temporary emergency use of factory-built structures—commercial use, rescind chs 302, 303, 310, 315, 350; adopt chs 16, 300, 301, 322, 323 IAB 4/2/25 **ARCs 9049C, 9050C**, **9051C**, **9052C**, **9053C**	6200 Park Avenue, Suite 100 Des Moines, Iowa	April 22, 2025 10 to 10:30 a.m. April 23, 2025 2:30 to 3 p.m.
Fire marshal administration; fire safety; specific occupancies; fire safety for hospitals and health care facilities; smoke alarms/ detectors; carbon monoxide alarm, rescind chs 200 to 202, 205, 210, 211; adopt ch 201 IAB 4/2/25 **ARC 9047C**	Geode Conference Room 6200 Park Avenue Des Moines, Iowa Ledges Conference Room 6200 Park Avenue Des Moines, Iowa	April 22, 2025 9 to 9:30 a.m. April 23, 2025 11 to 11:30 a.m.

REVENUE DEPARTMENT[701]

Tax return preparers, 8.9 IAB 4/2/25 **Regulatory Analysis**	Via videoconference call meet.google.com/ibd-btoe-djw	April 22, 2025 2 to 2:30 p.m.
Inheritance tax; Iowa estate tax; generation skipping transfer tax, adopt ch 900; rescind chs 901, 902 IAB 4/2/25 **ARC 9072C**	Via videoconference call meet.google.com/foy-zciw-fkn Via videoconference call meet.google.com/ejj-jyxh-bvm	April 22, 2025 10:30 to 11 a.m. April 22, 2025 3 to 3:30 p.m.

SCHOOL BUDGET REVIEW COMMITTEE[289]

Organization and administrative procedures; petitions and procedure for rulemaking; declaratory rulings; public records and fair information practices; duties and operational procedures; waivers from rules, chs 1 to 6, 8 IAB 4/2/25 **ARCs 9054C**, **9055C**, **9056C**, **9057C**, **9058C**, **9059C**, **9060C**	State Board Room Grimes State Office Building Des Moines, Iowa	April 22, 2025 8 to 8:30 a.m. April 22, 2025 1 to 1:30 p.m.

STATE PUBLIC DEFENDER[493]

Red Tape Review, chs 1 to 7, 10 to 14 IAB 4/16/25 **Regulatory Analyses**	meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#	May 6, 2025 2 p.m.

TRANSPORTATION DEPARTMENT[761]

Motor vehicle and towable recreational vehicle dealers, manufacturers, distributors and wholesalers, ch 425 IAB 4/16/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 531 966 009	May 6, 2025 1 to 1:30 p.m.
Administrative rules; procedure for rulemaking and petitions for rulemaking, ch 10 IAB 4/16/25 **ARC 9092C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 636 704 457	May 6, 2025 10 to 10:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 713 691 108	May 8, 2025 11 to 11:30 a.m.
Waiver of rules, ch 11 IAB 4/16/25 **ARC 9095C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 583 323 417	May 6, 2025 11 to 11:30 a.m.
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Declaratory orders, ch 12 IAB 4/16/25 **ARC 9093C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 335 886 842	May 6, 2025 1 to 1:30 p.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 918 166 406	May 8, 2025 10 to 10:30 a.m.
Transporter plates, ch 424 IAB 4/16/25 **ARC 9098C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 369 983 88	May 7, 2025 1 to 1:30 p.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 213 892 773	May 8, 2025 1 to 1:30 p.m.

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Motor vehicle leasing licenses, ch 430 IAB 4/16/25 **ARC 9096C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 956 613 250	May 8, 2025 10 to 10:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 755 874 408	May 9, 2025 1 to 1:30 p.m.
Vehicle recyclers, ch 431 IAB 4/16/25 **ARC 9097C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 258 660 198	May 7, 2025 10 to 10:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 406 465 405	May 8, 2025 2 to 2:30 p.m.
Interstate registration and operation of vehicles, ch 500 IAB 4/2/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 597 383 8	April 25, 2025 9 to 9:30 a.m.
General information, rescind ch 600 IAB 4/16/25 **ARC 9094C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 904 555 110	May 7, 2025 11 to 11:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 429 069 001	May 8, 2025 3 to 3:30 p.m.

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877]

Workforce development board, ch 1 IAB 4/2/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 275 521 681 62 Passcode: aw3Kg9QX Or dial: +1 469.998.6043 Phone conference ID: 914 241 620#	April 22, 2025 9 a.m.
Administration, ch 2 IAB 4/2/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 213 058 158 260 Passcode: wD9Ln2NZ Or dial: +1 469.998.6043 Phone conference ID: 990 503 947#	April 22, 2025 10 to 10:30 a.m.

The following list will be updated as changes occur.

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

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

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

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Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 1
"Administration"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code section 13B.4 and chapter 815

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking repromulgates administrative rules based on the requirements of Executive Order 10. Chapter 1 provides information to the public about the organizational structure of the State Public Defender, its purpose, and its location.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, and employees of the State Public Defender will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Not applicable. There are no expected additional costs to the State or individuals.

- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. Changes have not been made to the substance of this chapter but rather to the language used.

- **Anticipated effect on state revenues:**

There is no anticipated effect.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified. The information and process set forth in this chapter are largely driven by existing statute.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ADMINISTRATION

493—1.1(13B) Scope. This chapter sets forth the organizational structure of the state public defender system and describes its purpose. Definitions of terms used in this chapter can be found in 493—Chapter 7.

493—1.2(13B) Function. The position of state public defender is established by Iowa Code chapter 13B. The state public defender is charged with the supervision of the operation of the state public defender system and with the coordination of the provision of legal defense representation of indigent persons in the state of Iowa.

493—1.3(13B) Overall organization and method of operations.

1.3(1) *State public defender system.* The state public defender system is administered by the state public defender. The system consists of three divisions: an administrative division, a local public defender division, and an appellate division.

1.3(2) *Types of cases.* Based on statutes and appropriate case law, the state public defender system provides representation for persons found to be indigent in the following types of cases:

a. Felonies;

b. Misdemeanors, if an accused faces the possibility of imprisonment under the applicable criminal statute or ordinance;

c. Juvenile matters, including delinquency, termination of parental rights, child in need of assistance (CINA), judicial bypass proceedings, filing by an indigent party of an adoption petition under Iowa Code section 600.3 to adopt a child who was the subject of a termination of parental rights proceeding under Iowa Code chapter 232, and juvenile commitments;

d. Probation and parole revocation cases;

e. Civil commitment proceedings under Iowa Code chapter 229A; and

f. Other matters authorized by law.

1.3(3) *State public defender.* The state public defender is appointed by the governor, subject to confirmation by the senate. The state public defender is the chief administrative officer of the state public defender system and in that capacity coordinates the legal representation of indigent clients in criminal, juvenile and related cases in Iowa. The duties of the state public defender include but are not limited to:

a. Supervising the operations of the local public defender offices;

b. Acting as chief legal officer of the state public defender system;

c. Preparing and submitting the annual budget, personnel and employment policies and preparing an annual report of the activities of the office;

d. Determining locations for establishing future local public defender offices;

e. All other duties as set forth in Iowa Code section 13B.4.

1.3(4) *Administrative division.* The administrative division carries out all the duties of the state public defender, including but not limited to budget preparation, processing claims for payment of public defender-related costs and expenses, coordinating hiring and disciplinary matters, maintaining statistics regarding case management and handling of cases, and all other administrative matters.

1.3(5) *Local public defender division.*

a. The local public defender division provides legal representation at the trial level to qualified persons charged with adult crimes or in juvenile matters in counties where local public defender services are provided. The division also provides representation to qualified persons in juvenile appeals and in civil commitment proceedings under Iowa Code chapter 229A at the trial and appellate levels and in any other matters authorized by law.

b. The local public defender division consists of independent local offices and branch offices. Each independent local office is under the direct supervision of a local public defender. A local public defender may supervise a branch office. If so, the branch office may be considered part of the local office.

1.3(6) *Appellate division.* The appellate division is administered by the state appellate defender, who reports directly to the state public defender. The appellate division provides legal representation to indigent clients in posttrial matters in the appellate courts of the state of Iowa.

493—1.4(13B) Information. Information concerning the office of the state public defender or the state public defender system may be obtained by contacting the Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321; by telephone at 515.218.2445; or by fax at 515.281.7289. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays. The state public defender's website address is spd.iowa.gov.

These rules are intended to implement Iowa Code chapter 13B.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 2
"Petitions for Rulemaking"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code section 13B.4 and chapter 815

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking repromulgates Chapter 2 pursuant to the requirements of Executive Order 10. Chapter 2 adopts the Petitions for Rulemaking segments of the Uniform Rules on Agency Procedure and sets forth amendments specific to the State Public Defender.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, and the general public will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Not applicable. There are no expected additional costs to the State or individuals.

- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. No changes to the chapter have been made.

- **Anticipated effect on state revenues:**

There is no anticipated effect.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
PETITIONS FOR RULEMAKING

The state public defender adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly's website.

493—2.1(17A) Petition for rulemaking. In lieu of the words "(designate office)", insert "the Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321". In lieu of the words "(AGENCY NAME)", the heading on the petition should read:

"BEFORE THE STATE PUBLIC DEFENDER"

493—2.3(17A) Inquiries. Inquiries concerning the status of a petition for rulemaking may be made to the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321; by telephone at 515.218.2445; or by email at spdadminoffice@spd.state.ia.us.

These rules are intended to implement Iowa Code section 17A.7.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 3
"Declaratory Orders"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code section 13B.4 and chapter 815

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking repromulgates Chapter 3 pursuant to the requirements of Executive Order 10. Chapter 3 adopts the Declaratory Orders segments of the Uniform Rules on Agency Procedure and details amendments specific to the State Public Defender.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, and the general public will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Not applicable. There are no expected additional costs to the State or individuals.

- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. No changes have been made to the chapter.

- **Anticipated effect on state revenues:**

There is no anticipated effect.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
DECLARATORY ORDERS

The state public defender adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly's website.

493—3.1(17A) Petition for declaratory order. In lieu of the words "(designate agency)", insert "state public defender". In lieu of the words "(designate office)", insert "the Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321". In lieu of the words "(AGENCY NAME)", the heading on the petition form should read:

BEFORE THE STATE PUBLIC DEFENDER

493—3.2(17A) Notice of petition. In lieu of the words "___ days (15 or less)", insert "15 days". In lieu of the words "(designate agency)", insert "state public defender".

493—3.3(17A) Intervention.

3.3(1) In lieu of the words "within ___ days", insert "within 15 days". Strike the words "(after time for notice under X.2(17A)". In lieu of the number "X.8(17A))", insert "3.8(17A)".

3.3(2) In lieu of the words "(designate agency)", insert "state public defender".

3.3(3) In lieu of the words "(designate office)", insert "the Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321". In lieu of the words "(designate agency)", insert "state public defender". In lieu of the words "(AGENCY NAME)", the heading on the petition form should read:

BEFORE THE STATE PUBLIC DEFENDER

493—3.4(17A) Briefs. In lieu of the words "(designate agency)", insert "state public defender".

493—3.5(17A) Inquiries. In lieu of the words "(designate official by full title and address)", insert "the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321".

493—3.6(17A) Service and filing of petitions and other papers.

3.6(2) In lieu of the words "(specify office and address)", insert "the Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321". In lieu of the words "(agency name)", insert "state public defender".

3.6(3) In lieu of the words "(uniform rule on contested cases X.12(17A))", insert "rule 481—10.12(17A)".

493—3.7(17A) Consideration. In lieu of the words "(designate agency)", insert "state public defender".

493—3.8(17A) Action on petition.

3.8(1) In lieu of the words "(designate agency head)", insert "state public defender".

3.8(2) In lieu of the words "(contested case uniform rule X.2(17A))", insert "rule 481—10.1(10A)".

493—3.9(17A) Refusal to issue order.

3.9(1) In lieu of the words "(designate agency)", insert "state public defender".

493—3.12(17A) Effect of a declaratory order. In lieu of the words "(designate agency)", insert "state public defender".

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

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 4
"Public Records and Fair Information Practices"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)

State or federal law(s) implemented by the rulemaking: Iowa Code section 13B.4 and chapters 22 and 815

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking repromulgates administrative rules based on the requirements of Executive Order 10. Chapter 4 adopts the Fair Information Practices segments of the Uniform Rules of Agency Procedure and details whether certain groups of records are confidential and how one may go about obtaining consent for certain groups of records.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, contract attorneys, and the general public will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Not applicable. There are no expected additional costs to the State or individuals.

- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State.

- **Anticipated effect on state revenues:**

There is no anticipated effect.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified. The information and process set forth in this chapter are largely driven by existing statute.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The state public defender adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly's website.

493—4.1(17A,22) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)", insert "state public defender".

493—4.3(17A,22) Requests for access to records.

4.3(1) *Location of record.* In lieu of the words "(insert agency head)", insert "state public defender". In lieu of the words "(insert agency name and address)", insert "Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321".

4.3(2) *Office hours.* In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays".

4.3(7) *Fees.*

c. *Supervisory fee.* In lieu of the words "(specify time period)", insert "one hour".

493—4.6(17A,22) Procedures by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)", insert "the office of the state public defender".

493—4.9(17A,22) Disclosures without the consent of the subject.

4.9(1) Open records are routinely disclosed without the consent of the subject.

4.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. The following are instances where disclosure, if lawful, will generally occur without the consent of the subject:

a. For a routine use as defined in rule 493—4.10(17A,22) or in the notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

d. To the legislative services agency under Iowa Code section 2A.3.

e. Disclosures in the course of employee disciplinary proceedings.

f. In response to a court order or subpoena.

493—4.10(17A,22) Routine use.

4.10(1) "Routine use" means the disclosure of a record without the consent of the subject or subjects for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law under Iowa Code chapter 22.

4.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

c. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

d. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

493—4.11(17A,22) Consensual disclosure of confidential records.

4.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records.

4.11(2) *Complaints to public officials.* A letter from the subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

493—4.12(17A,22) Release to subject.

4.12(1) A written request to review confidential records may be filed by the subject of the record. The agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. More information can be found in Iowa Code section 22.7(5).

d. Others authorized by law.

4.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the state public defender may take reasonable steps to protect confidential information relating to another subject.

493—4.13(17A,22) Availability of records.

4.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

4.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids pursuant to Iowa Code section 72.3.

b. Tax records made available to the agency pursuant to Iowa Code sections 422.20 and 422.72.

c. Records that are exempt from disclosure under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body pursuant to Iowa Code section 21.5(4).

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) *"d."*

f. Records that constitute attorney work product, that constitute attorney-client communications, or that are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa Rule of Civil Procedure 1.503; the rules of evidence; the Code of Professional Responsibility; and case law.

g. Criminal investigative reports pursuant to Iowa Code section 22.7(5).

h. A claim for compensation and reimbursement for legal assistance and supporting documents submitted to the state public defender for payment of costs incurred in the legal representation of an indigent person pursuant to Iowa Code section 13B.4B, except as disclosure is authorized under that section.

i. Any other records considered confidential by law.

493—4.14(22) Personally identifiable information. The state public defender maintains systems of records that contain personally identifiable information.

4.14(1) By authority of Iowa Code chapter 13B, the appellate defender division maintains information and records relating to criminal and postconviction relief cases that are being appealed. Records contain names and identifying numbers of persons involved in these cases. Case information is stored in a data processing system and may be compared with information in any data processing

system. By authority of Iowa Code section 915.36, the names of child victims shall not be disclosed. Confidential juvenile records under Iowa Code section 232.147 shall not be disclosed except as otherwise permitted by law. Presentence investigation reports in the possession of any public defender are confidential records pursuant to Iowa Code section 901.4.

4.14(2) Litigation files. Litigation files or records contain information regarding litigation or anticipated litigation, which include judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials that are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing to obtain copies of pleadings and other documents filed in litigation should obtain them from the clerk of the appropriate court that maintains the official copy.

4.14(3) Contracts. Contractual agreements are maintained by the state public defender. These records contain personally identifiable information when the agreement is with a specific individual. In those instances, the records include the name, address, and social security number of the contracting attorney. Other information in these records may include the proposal of the contracting attorney, budget figures, correspondence, and business information. Personally identifiable information is contained in a data processing system and may be compared with information in any data processing system.

4.14(4) Personnel files. Personnel files contain information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

493—4.15(17A,22) Other groups of records. Other groups of records are maintained by the state public defender. These records are routinely available to the public; however, the agency's files may contain confidential information. The records may contain information about individuals. All records are stored on paper and in some cases in automated data processing systems.

4.15(1) *Rulemaking.* Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is available for public inspection and is not stored in an automated data processing system.

4.15(2) *Statistical reports.* Periodic reports on the state public defender system and the delivery of indigent defense services are available from the office of the state public defender.

These rules are intended to implement Iowa Code sections 17A.3, 22.7 and 22.11.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 5
"Agency Procedure for Rulemaking"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code section 13B.4 and chapter 815

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking repromulgates Chapter 5 pursuant to Executive Order 10. Chapter 5 adopts the Procedure for Rulemaking segment of the Uniform Rules on Agency Procedure and sets forth amendments specific to the State Public Defender.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, and the general public will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Not applicable. There are no expected additional costs to the State or individuals.

- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State.

- **Anticipated effect on state revenues:**

There is no anticipated effect.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
AGENCY PROCEDURE FOR RULEMAKING

The state public defender adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly's website.

493—5.3(17A) Public rulemaking docket.

5.3(2) *Anticipated rulemaking.* In lieu of the words "(commission, board, council, director)", insert "state public defender".

493—5.4(17A) Notice of proposed rulemaking.

5.4(3) *Copies of notices.* In lieu of the words "(specify time period)", insert "one calendar year".

493—5.5(17A) Public participation.

5.5(1) *Written comments.* Strike the words "(identify office and address) or".

5.5(5) *Accessibility.* In lieu of the words "(designate office and telephone number)", insert "the office of the state public defender at 515.218.2445".

493—5.6(17A) Regulatory analysis.

5.6(2) *Mailing list.* In lieu of the words "(designate office)", insert "the Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321".

493—5.10(17A) Exemptions from public rulemaking procedures.

5.10(2) This subrule is not adopted.

493—5.11(17A) Concise statement of reasons.

5.11(1) *General.* In lieu of the words "(specify the office and address)", insert "the Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321".

493—5.13(17A) Agency rulemaking record.

5.13(2) *Contents.*

c. In lieu of the words "(agency head)", insert "state public defender".

These rules are intended to implement Iowa Code chapter 17A and section 25B.6.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 6
"Uniform Waiver Rules"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code section 13B.4 and chapter 815

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking repromulgates administrative rules based on the requirements of Executive Order 10. Chapter 6 provides information to the public regarding the process for requesting a waiver from the State Public Defender.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, contract attorneys, and the general public will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Not applicable. There are no expected additional costs to the State or individuals.

- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. No substantive changes to this chapter have been made.

- **Anticipated effect on state revenues:**

There is no anticipated effect.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
UNIFORM WAIVER RULES

493—6.1(13B,17A) Applicability. This chapter outlines a uniform process for the granting of waivers from rules adopted by the state public defender. The intent of this chapter is to allow persons to seek exceptions to the application of rules issued by the state public defender.

493—6.2(13B,17A) Interpretive rules. This chapter shall not apply to rules that merely define the meaning of a statute or other provision of law or precedent if the state public defender does not possess delegated authority to bind the courts to any extent with its definition.

493—6.3(13B,17A) Compliance with statute. The state public defender shall not grant a petition for waiver from a rule unless a statute or other provision of law has delegated authority to the state public

defender sufficient to justify that action and the waiver is consistent with the statute or other provision of law. No waiver may be granted from a requirement that is imposed by statute unless the statute itself specifically authorizes that action. Any waiver must be consistent with statute.

493—6.4(13B,17A) Criteria for waiver. At the sole discretion of the state public defender, the state public defender may issue an order, in response to a completed petition, granting a waiver from a rule adopted by the state public defender, in whole or in part, as applied to the circumstances of a specified person or a specific and narrowly drawn class of persons if the state public defender finds based on clear and convincing evidence that:

6.4(1) The application of the rule to the petitioner would pose an undue hardship on the person or class of persons for whom the waiver is requested;

6.4(2) The waiver from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person;

6.4(3) The provisions of a rule subject to a petition for a waiver are not specifically mandated by statute or another provision of law; and

6.4(4) Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

493—6.5(13B,17A) Filing of petition. A petition for a waiver must be submitted in writing to the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321. If the petition relates to a pending contested case, the petition shall also be filed in the contested case proceeding.

493—6.6(13B,17A) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

6.6(1) The name, address, and telephone number of the entity or person for whom a waiver is being requested and the case number of any related contested case.

6.6(2) A description and citation of the specific rule from which a waiver is requested.

6.6(3) The specific waiver requested, including the precise scope and operative period that the waiver will extend.

6.6(4) The relevant facts that the petitioner believes would justify a waiver. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

6.6(5) A history of any prior contacts between the state public defender and the petitioner relating to the regulated activity, representation or other assigned function of the state public defender that would be affected by the proposed waiver, including a description of each regulated activity, representation or other assigned function of the state public defender, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, representation or other assigned function of the state public defender within the last five years.

6.6(6) Any information known to the requester regarding the state public defender's treatment of similar cases.

6.6(7) The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of a waiver.

6.6(8) The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

6.6(9) The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

6.6(10) Signed releases of information authorizing persons with knowledge regarding the request to furnish the state public defender with information relevant to the waiver.

493—6.7(13B,17A) Additional information. Prior to issuing an order granting or denying a waiver, the state public defender may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the state public

defender may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the state public defender or state public defender's designee.

493—6.8(13B,17A) Notice. The state public defender shall acknowledge a petition upon receipt. The state public defender shall ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the state public defender may give notice to other persons. To accomplish this notice provision, the state public defender may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the state public defender attesting that notice has been provided.

493—6.9(13B,17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings shall apply to any petition for a waiver of a rule filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the state public defender so provides by rule or order or is required to do so by statute.

493—6.10(13B,17A) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

6.10(1) *State public defender discretion.* The decision on whether the circumstances justify the granting of a waiver shall be made at the discretion of the state public defender upon consideration of all relevant factors.

6.10(2) *Burden of persuasion.* The petitioner has the burden of persuasion when a petition is filed for a waiver from a state public defender rule. The standard of proof is clear and convincing evidence.

6.10(3) *Special waiver rules not precluded.* This chapter shall not preclude the state public defender from granting waivers in other contexts or on the basis of other standards if a statute authorizes the state public defender to do so and the state public defender deems it appropriate to do so.

6.10(4) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the state public defender shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all persons similarly situated.

6.10(5) *Conditions.* The state public defender may condition the granting of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means and in compliance with the following provisions:

a. Each petition for a waiver shall be evaluated by the state public defender based on the unique, individual circumstances set out in the petition;

b. A waiver, if granted, shall be drafted by the state public defender so as to provide the narrowest exception possible to the provisions of the rule;

c. The state public defender may place on a waiver a condition that the state public defender finds desirable to protect the public health, safety, and welfare;

d. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable; and

e. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the state public defender, a waiver may be renewed if the state public defender finds that all of the factors set out in rule 493—6.4(13B,17A) remain valid.

6.10(6) *Time for ruling.* The state public defender shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the state public defender has

the discretion to wait until the contested case is resolved before entering an order on the petition for waiver.

6.10(7) *When deemed denied.* Failure of the state public defender to grant or deny a petition within the required time period shall be deemed a denial of that petition by the state public defender.

6.10(8) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

493—6.11(13B,17A) Public availability. Subject to the provisions of Iowa Code section 17A.3, the state public defender shall maintain a record of all orders granting or denying waivers under this chapter. All final rulings in response to requests for waivers shall be indexed and available to members of the public at the state public defender's office.

493—6.12(13B,17A) Voiding or cancellation. A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The state public defender may at any time cancel a waiver upon appropriate notice and hearing if the state public defender finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the order.

493—6.13(13B,17A) Violations. Violation of conditions in the waiver approval is the equivalent of violation of the particular rule for which the waiver is granted and is subject to the same remedies or penalties.

493—6.14(13B,17A) Defense. After the state public defender issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

493—6.15(13B,17A) Appeals. Any request for an appeal from a decision granting or denying a waiver shall be in accordance with the procedures provided in Iowa Code chapter 17A and state public defender rules. An appeal shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

493—6.16(13B,17A) Sample petition for waiver.

BEFORE THE STATE PUBLIC DEFENDER		
Petition by (insert name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter).	}	No. _____ PETITION FOR WAIVER

Include the following information in the petition for waiver where applicable and known:

1. Provide the petitioner's (the person who is asking for the waiver) name, address and telephone number.
2. Describe and cite the specific rule from which a waiver is requested.
3. Describe the specific waiver requested, including the exact scope and time period that the waiver will extend.
4. Explain the important facts that the petitioner believes justify the waiver. Include in your explanation (a) why application of the rule would pose an undue hardship to the petitioner; (b) why granting the waiver would not prejudice the substantial legal rights of any person; (c) whether the provisions of a rule subject to this petition are specifically mandated by statute or another provision of law; and (d) whether public health, safety or welfare will be affected if the requested waiver is granted.

5. Provide history of prior contacts between the state public defender and the petitioner relating to the regulated activity, license, audit, investigation, inspection or representation that would be affected by the waiver. In that history, include a description of each affected regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the state public defender, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the state public defender within the last five years.

6. Provide information known to the petitioner regarding the state public defender's treatment of similar cases.

7. Provide the name, address and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of a waiver.

8. Provide the name, address and telephone number of any person or entity that would be adversely affected or disadvantaged by the granting of the waiver.

9. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the state public defender with information relevant to the waiver.

I hereby attest to the accuracy and truthfulness of the above information.

_____ _____

Petitioner's signature Date

These rules are intended to implement Iowa Code section 17A.9A.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 7
"Definitions"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code section 13B.4 and chapter 815

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking repromulgates Chapter 7 pursuant to the requirements of Executive Order 10. Chapter 7 provides definitions for use throughout the State Public Defender's rules.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, and contract attorneys will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Not applicable. There are no expected additional costs to the State or individuals.

- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. No changes to the chapter have been made.

- **Anticipated effect on state revenues:**

There is no anticipated effect.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
DEFINITIONS

493—7.1(13B,815) Definitions. As used in these rules, unless the context otherwise requires, the following definitions apply:

"Affidavit of financial status" means a full written disclosure of all income, assets, liabilities, dependents, and other information required to determine if an applicant qualifies for legal assistance by an appointed attorney.

"Appeal" means a proceeding, other than an interlocutory appeal, application for discretionary review, or juvenile court petition on appeal, filed with the Iowa supreme court.

"Applicant" means a person requesting legal assistance by an appointed attorney.

"Appointed attorney" means an attorney appointed by the court to represent an indigent person.

"Assets" means all resources or possessions of the applicant.

"Attorney" means an individual licensed to practice law in Iowa.

"Attorney time" means the total time the attorney appointed to a case spends on in-court time, out-of-court time, and travel time attributable to that specific case. Attorney time does not include time spent performing clerical activities.

"Case" means all charges or allegations arising from the same transaction or occurrence or contained in the same trial information or indictment in a criminal proceeding or in the same petition in a civil or juvenile proceeding. A probation violation or contempt proceeding is a case separate from the case out of which the violation or contempt arose and separate from a criminal case alleging new criminal charges. Multiple probation revocation proceedings pending at the same time, involving the same client, and arising from the same transaction or occurrence are a single "case."

"Child" or *"juvenile"* means the same as defined in Iowa Code chapter 232.

"Claim" means an application or request for payment.

"Claimant" means an appointed attorney or other person seeking reimbursement of costs or fees payable from the indigent defense fund.

"Claims for other professional services" means claims submitted by nonattorneys, including but not limited to investigators, experts, certified shorthand reporters, and persons conducting medical or psychological evaluations.

"Contract" means a written agreement between the state public defender and an attorney to provide legal services to an indigent person. The contract may be for the provision of legal services at either the trial court level or the appellate court level.

"County base" means the amount of expenses in juvenile cases for which the county remains liable pursuant to Iowa Code section 232.141(2).

"Court-appointed attorney" means an attorney appointed by the court to represent an indigent person.

"Department" means the department of inspections, appeals, and licensing.

"Expert witness" or *"expert"* means a person who is retained to render an opinion regarding an issue relevant to a case, whether or not the person actually testifies in court.

"Family" or *"household"* means the applicant, applicant's spouse, including a common-law spouse, and applicant's children living in the same residence.

"Fee limitations" means the attorney fee limitations established by the state public defender for specific classes of cases as specified in rule 493—12.6(13B,815), together with out-of-pocket expenses approved by the state public defender, whether submitted by a public defender, by an appointed attorney pursuant to 493—Chapter 12, or by another professional pursuant to 493—Chapter 13.

"Fees" means the consideration paid to an appointed attorney to represent an indigent person.

"Fiscal year" means the 12-month period beginning July 1 and ending June 30.

"Governmental assistance program" means any public assistance program from which a person is receiving assistance.

"Income" means any money received from any source, including but not limited to remuneration for labor, products or services; money received from governmental assistance programs; tax refunds; prize winnings; pensions; investments; and money received from any other source.

"In-court time" means time spent by an appointed attorney engaged before a judge or jury, including but not limited to arraignments, bail hearings, pretrial conferences, pretrial motion hearings, evidentiary hearings, jury selection, trial, plea proceedings, posttrial hearings, and probation violation hearings. In-court time does not include time spent at foster care review board hearings, staffings, family drug court, or any other meetings with other state agencies.

"Indigent" means a person entitled to an appointed attorney pursuant to Iowa Code section 815.9.

"Juvenile proceeding" means a case in juvenile court wherein the attorney acts as guardian ad litem for the child in interest or provides legal counsel for the child, parent, guardian or custodian.

"Liabilities" means all living, business or farming expenses and fixed debts.

"Local public defender" means an attorney in the trial division of the state public defender system who performs the duties outlined in Iowa Code section 13B.9.

"Notice of action letter" means a letter sent by the state public defender to notify the claimant that the claimant's fees or expenses were reduced.

"Out-of-court time" means time actually spent by the attorney appointed to the case in drafting documents, case preparation, depositions and other discovery, client or witness interviews, investigation, research, brief drafting, conferences or negotiations with opposing counsel or the court, reviewing records, and other productive case-related time that is not in-court time or travel time. Out-of-court time does not include clerical activities.

"Paralegal time," which is payable from the indigent defense fund, means time spent in a Class A felony case at the trial court level in which only one attorney is appointed preparing pleadings and motions, reviewing transcripts, performing legal research, and interviewing witnesses and may include time spent in court assisting the appointed attorney. Paralegal time does not include typing, scheduling, answering the telephone, talking on the telephone except when interviewing witnesses, or other clerical activities or activities that duplicate work performed by the appointed attorney. Paralegal time is not payable in any other cases or in Class A felony cases in which two attorneys are appointed.

"Person" means an individual, corporation, limited liability company, government or governmental subdivision or association, or any legal entity.

"Poverty income guidelines" means the annual poverty income guidelines established by the U.S. Department of Health and Human Services (DHHS).

"Returned fee claim letter" means a letter in which the state public defender returns the claim and notifies the claimant as to the reason the claim was returned.

"Rules of criminal procedure" means the rules prescribed by the supreme court that govern criminal actions and proceedings in all courts in the state.

"State public defender" means the state public defender appointed pursuant to Iowa Code chapter 13B and those other persons authorized to act on behalf of the state public defender.

"State public defender system" means a system for providing defense services within the state by means of a centrally administered organization having a full-time staff.

"Written," as used in these rules, may include electronically transmitted communication except where a statute or rule expressly requires an original signature, mailing or any other special form of delivery other than electronic transmission.

This rule is intended to implement Iowa Code chapters 13B and 815.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 10
"Eligibility Guidelines for Court-Appointed Counsel"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 815 and section 13B.4

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking includes revisions of administrative rules based on the requirements of Executive Order 10. Chapter 10 provides information to the public about the organizational structure of the Office of the State Public Defender, its purpose, and its location.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, members of the judiciary, and contract attorneys will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Not applicable. There are no expected additional costs to the State or individuals.

- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. Changes have not been made to the substance of this chapter but to the language used.

- **Anticipated effect on state revenues:**

No effect on state revenues is anticipated.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified. The information and process set forth in this chapter are largely driven by existing statute.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
ELIGIBILITY GUIDELINES FOR COURT-APPOINTED COUNSEL

493—10.1(815) Eligibility. The eligibility of any person for legal assistance by an appointed attorney shall be determined in accordance with Iowa Code section 815.9 and with the guidelines set forth in these rules.

493—10.2(815) Income guidelines. Annually, the state public defender shall provide information to the court showing the most recently revised poverty income guidelines.

493—10.3(815) Designation of eligibility reviewer. The chief judge of each judicial district may designate the person(s) or entity to evaluate the eligibility of a person for legal assistance by an appointed attorney. However, the decision to appoint counsel remains with the court.

493—10.4(815) Application. Any person claiming to be entitled to legal representation by an appointed attorney shall have an indigency evaluation before being provided legal representation. The applicant should provide information on an affidavit of financial status. This form will be prescribed by the state public defender, but any form containing substantially the same information will be accepted.

10.4(1) *Affidavit.* The applicant shall provide information required by the affidavit of financial status under penalty of perjury.

10.4(2) *Family.* The applicant shall provide information that accurately represents the number of family members who are supported by or live with the applicant.

10.4(3) *Income.* The applicant shall provide information that accurately represents the total gross income received or reasonably anticipated to be received by the applicant.

10.4(4) *Household income.* The applicant shall provide information that accurately represents the gross income of the household in which the applicant lives. The income of a spouse need not be included if the spouse is the alleged victim of the offense charged. The income of a child member of the household need not be included unless the legal representation is sought for the child in a delinquency proceeding.

10.4(5) *Assets.* The applicant shall provide information that accurately represents the total assets owned, in whole or in part, by the applicant. This includes the requirement to disclose interest in real property and tangible and intangible personal property.

10.4(6) *Liabilities.* The applicant shall provide information that accurately represents the total monthly debts and expenses for which the applicant is responsible. Child support and alimony payments should be included only when payments have been made in a timely manner.

10.4(7) *Nature of proceedings.* In a criminal case, the affidavit of financial status shall contain a statement of the charge(s) against the defendant. In a juvenile or civil case, a statement of the nature of the proceedings shall be included.

10.4(8) *Child applicant.* If the applicant is a child, the child's parent, guardian or custodian shall complete the affidavit of financial status. The affidavit of financial status shall include a statement of the income, assets and liabilities of the person(s) having a legal obligation to support the child.

10.4(9) *Additional information.* The applicant shall provide such additional information as may be required by the court to determine the applicant's eligibility for appointed counsel. The applicant has a continuing duty to update information provided in the affidavit of financial status to reflect changes in the information previously provided.

493—10.5(815) Evaluation of affidavit of financial status. In determining whether counsel should be appointed to represent the applicant, the court should consider the following:

10.5(1) *Family size.* The total size of the applicant's household shall be used to determine eligibility for appointed counsel.

10.5(2) *Household income.* The applicant's income, or the combined income of the applicant and the applicant's spouse if they are living in the same residence, shall be used in determining an applicant's household income, subject to the following:

a. The income of the applicant's spouse shall not be considered if the spouse is the alleged victim of the offense charged.

b. The income of a child shall not be considered unless the child is requesting representation in a delinquency case or unless the child is under a conservatorship or is the beneficiary of trust proceeds.

c. In a juvenile proceeding, the income of both parents shall be considered in determining whether the child is entitled to appointed counsel. If a child's parents are divorced, the household income of each parent shall be considered separately.

10.5(3) *Federal Department of Health and Human Services (DHHS) poverty income guidelines.* The applicant's family size and household income shall be compared to the DHHS poverty income guidelines to determine whether the applicant's household income is 125 percent or less of the federal poverty level; between 125 percent and 200 percent of the federal poverty level; or 200 percent or greater of the federal poverty level as set forth in Iowa Code section 815.9(1)*"a"* through *"c."*

10.5(4) *Applicability to juvenile cases.* In evaluating whether to appoint counsel for a parent in a juvenile proceeding, the court shall consider not only the applicant's income but also the availability of any assets subject to execution and the nature of the proceeding in determining whether the parent is financially unable to employ counsel.

493—10.6(815) Forms. The state public defender shall promulgate forms to be used in court proceedings, including an Adult Affidavit of Financial Status, Juvenile Affidavit of Financial Status, Wage Assignment, and such other forms as the state public defender deems appropriate. Such forms shall be available at the administrative office of the state public defender and published on the state public defender's website at spd.iowa.gov.

These rules are intended to implement Iowa Code chapters 13B and 815.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 11
"Attorney Fee Contracts"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 815 and section 13B.4

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking includes revisions of administrative rules based on the requirements of Executive Order 10. Chapter 11 provides information that sets forth the rules for attorneys to enter into contracts with the Office of the State Public Defender to provide legal services to indigent clients.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, and contract attorneys will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Not applicable. There are no expected additional costs to the State or individuals. The agency already incurs personnel costs for employees to review applications for contracts and maintain contracts and assist contract attorneys with any issues they may have with their contracts.

- **Qualitative description of impact:**

The rules in this chapter are the vehicle by which the Office of the State Public Defender provides contract attorneys to support the employees and the public defender system as a whole. The public defender system would likely fail without contract attorneys.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. Changes have not been made to the substance of this chapter but rather to the language used. The agency already incurs personnel costs for employees to review applications for contracts and maintain contracts and assist contract attorneys with any issues they may have with their contracts.

- **Anticipated effect on state revenues:**

No effect on state revenues is anticipated.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
ATTORNEY FEE CONTRACTS

493—11.1(13B) Scope. This chapter sets forth the rules for private attorneys entering into contracts for indigent defense legal services with the state public defender. Definitions of terms used in this chapter can be found in 493—Chapter 7.

493—11.2(13B) Contracts. An attorney may enter into a contract with the state public defender for the provision of legal services to indigent persons.

11.2(1) *Eligibility.* To be eligible to contract with the state public defender, an attorney must be licensed to practice law in the state of Iowa and must meet the minimum qualification requirements for contracting as set forth in rule 493—11.3(13B) for the types of cases for which the attorney is contracting.

11.2(2) *Contract copy.* A copy of an original contract is available from the Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321; by telephoning 515.218.2445; or online at spd.iowa.gov.

11.2(3) *Notice of contract opportunities.* The state public defender will give notice to attorneys of the availability of contracts for indigent defense legal services in a manner reasonably calculated to make attorneys aware of the availability of the contracts.

11.2(4) *Contract types.* Unless the attorney and state public defender agree in writing to a contract covering a different type of case, the contract shall cover one or more of the following categories of case types:

a. Juvenile cases, including juvenile petitions on appeal;

b. Appellate cases, including direct appeals of criminal cases, appeals from postconviction relief proceedings, and any other case for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level;

c. Postconviction relief cases at the trial level;

d. Class A and B felony cases at the trial level;

e. Class C and D felony cases at the trial level, and Class A felony cases in which another attorney who meets the minimum requirements for such cases is also appointed as the lead counsel;

f. Misdemeanor cases, probation and parole revocation cases, contempt proceedings, and any other adult criminal or civil cases for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level.

11.2(5) *Written approval required.* A contract can only be in force and effect when a contract acceptance form is signed by the contracting attorney and approved by the state public defender. The approved contract is only effective for those types of cases and those counties requested by the attorney and approved by the state public defender in writing on the acceptance and approval form, renewal form, or a subsequent written amendment. Nevertheless, a contract covering appellate cases is effective for all 99 counties.

11.2(6) *Independent contractor.* The contracting attorney shall be an independent contractor and shall not be an agent or employee of the state of Iowa. The attorney shall exercise the attorney's best independent professional judgment on behalf of clients to whom the attorney is assigned.

11.2(7) *Notification to clerks.* On a monthly basis, the state public defender shall notify the clerks of court in each county of those attorneys who have an approved contract for each type of case in each respective county.

11.2(8) *Contract terms.* A contract between the state public defender and an attorney shall cover but is not limited to the following subjects:

a. The types of cases in which the attorney is to provide services;

b. The counties in which the attorney is to provide services;

c. The term of the contract and the responsibility of the attorney for provision of services in cases undertaken pursuant to the contract;

d. Identification of the attorney who will perform legal representation under the contract;

e. A prohibition against assignment of the obligations undertaken pursuant to the contract and a description of the manner in which temporary substitute counsel may be utilized;

f. The qualifications of the contracting attorney to undertake legal representation pursuant to the contract;

g. A description of the compensation to be paid and the manner of payment;

h. A description of any expenses that may be provided under the contract;

i. A description of the recordkeeping and reporting requirements under the contract;

j. A description of the manner in which the contract may be terminated;

k. A description of the manner of disposition of ongoing obligations following termination of the contract.

11.2(9) *Compensation.* Unless the contract provides for a different rate or manner of payment, the attorney shall be compensated pursuant to Iowa Code section 815.7.

11.2(10) *Contract form.* Unless the attorney and state public defender agree in writing to vary the terms of the contract between them, the terms contained in the Indigent Defense Legal Services Contract No. 493-14 shall constitute the agreement between the parties for the provision of legal services.

11.2(11) *No guarantee of appointments.* An attorney under contract with the state public defender is not guaranteed any minimum number of court appointments. The process by which attorneys under contract with the state public defender are appointed to specific cases is governed by Iowa Code chapters 814 and 815. The state public defender shall retain sole authority to determine the length of each contract or contract renewal.

493—11.3(13B) Attorney minimum qualifications. To be eligible to contract with the state public defender for a type of case, the attorney must meet the minimum qualification requirements established by this rule for the particular type of case. Prior to contracting with the state public defender, an attorney shall certify the attorney's compliance with these requirements and, prior to renewal of the contract, shall certify compliance with any ongoing requirements. Satisfying these minimum requirements does not guarantee an attorney a contract with the state public defender. The state public defender retains the discretion to deny or terminate contracts if the state public defender determines that such action is in the best interests of the state.

11.3(1) *Juvenile cases.* To be eligible to contract to represent indigent persons in juvenile cases, including juvenile petitions on appeal, an attorney must be in compliance with Rule 8.36 of the Iowa Rules of Juvenile Procedure, regardless of whether the attorney seeks to represent parents or children or serve as guardian ad litem in juvenile court. An attorney contracting to represent indigent persons in juvenile cases must:

a. Participate in three hours of continuing legal education related to juvenile court proceedings prior to contracting with the state public defender; and

b. Continue to participate in three hours of continuing legal education related to juvenile court proceedings each year.

The state public defender shall review juvenile contract renewals and may apply juvenile-related continuing legal education hours in the same manner as criminal-related continuing legal education hours.

11.3(2) *Appellate cases.* To be eligible to contract to represent indigent persons in appellate cases, including direct appeals of criminal cases, appeals from postconviction relief proceedings, and appeals from any other case for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level except in cases where the attorney is statutorily appointed for purposes of the appeal, an attorney must:

a. Participate in the basic criminal appeals training sponsored by the state public defender within one year of entering into the contract unless the attorney has already handled a criminal appeal in Iowa state court; and

b. Participate in three hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract.

11.3(3) *Postconviction relief cases.* To be eligible to contract to represent indigent persons in postconviction relief cases at the trial level, an attorney must:

a. Have practiced criminal law or served as a judicial law clerk for two years or more in any state or federal court;

b. Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract;

c. Participate in a postconviction relief basic training sponsored by the state public defender prior to entering into the contract unless the attorney has previously handled at least three postconviction relief proceedings to completion; and

d. Provide the names of at least three judges or magistrates who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in postconviction relief cases. An attorney who has not met all the requirements may provide the state public defender additional detail regarding the attorney's experience and qualifications and the circumstances preventing the attorney from meeting all the requirements, and may be approved for contracting by the state public defender at the state public defender's sole discretion.

11.3(4) *Class A felonies.* To be eligible to contract to represent indigent persons in Class A felony cases at the trial level, an attorney must:

a. Have practiced criminal law for four years or more in any state or federal court;

b. Have tried at least five criminal jury trials involving indictable offenses to completion either as lead counsel or as a pro bono second attorney in a criminal jury trial if the service as pro bono second attorney is approved in advance for credit under this rule by the state public defender;

c. Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract; and

d. Provide the names of at least three judges or magistrates who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in Class A felony cases.

If an attorney satisfies the requirements for Class B felonies or Class C and Class D felonies, the attorney may contract to serve as the second attorney representing an indigent person in a Class A felony in a case where the first appointed attorney meets these requirements. An attorney who does not meet all the requirements may provide the state public defender additional detail regarding the attorney's experience and qualifications and the circumstances preventing the attorney from meeting all the requirements and may be approved for contracting by the state public defender at the state public defender's sole discretion.

11.3(5) *Class B felonies.* To be eligible to contract to represent indigent persons in Class B felony cases at the trial level, an attorney must:

a. Have practiced criminal law for three years or more in any state or federal court;

b. Have tried at least three criminal jury trials involving indictable offenses to completion either as lead counsel or as a pro bono second attorney in a criminal jury trial if the service as pro bono second attorney is approved in advance for credit under this rule by the state public defender;

c. Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract; and

d. Provide the names of at least three judges or magistrates who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in Class B felony cases.

An attorney who has not met all requirements may provide the state public defender additional detail regarding the attorney's experience and qualifications and the circumstances preventing the attorney from meeting all the requirements and may be approved for contracting by the state public defender at the state public defender's sole discretion.

11.3(6) *Class C and D felonies.* To be eligible to contract to represent indigent persons in Class C and Class D felony cases at the trial level, an attorney must:

a. Have practiced criminal law for two years or more in any state or federal court;

b. Have tried at least one criminal jury trial to completion either as lead counsel or as a pro bono second attorney in a criminal jury trial if the service as pro bono second attorney is approved in advance for credit under this rule by the state public defender;

c. Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract; and

d. Provide the names of at least three judges or magistrates who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in Class C and Class D felony cases.

An attorney who has not met all requirements may provide the state public defender additional detail regarding the attorney's experience and qualifications and the circumstances preventing the attorney from meeting all the requirements and may be approved for contracting by the state public defender at the state public defender's sole discretion.

11.3(7) *Misdemeanor and other cases.* To be eligible to contract to represent indigent persons in misdemeanor cases, probation and parole revocation cases, contempt proceedings, and any other adult criminal or civil cases for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level, an attorney must:

a. Participate in the basic criminal defense training sponsored by the state public defender within one year of entering into the contract, unless the attorney already has an active indigent defense contract or has practiced criminal law for more than two years; and

b. Participate in three hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract.

However, an attorney who has a contract to handle any felony offense may accept appointments in misdemeanor cases, probation and parole revocation cases, and contempt cases for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level, but the attorney with the contract to handle the felony offense will not be added to the list disseminated to the clerks of court to handle misdemeanor cases, probation and parole cases, or contempt cases unless the attorney has secured an amendment to the attorney's contract to handle those types of cases.

11.3(8) *Amended charges.* An attorney who is appointed to a case that is initially within the scope of the attorney's contract but is subsequently amended to contain more serious charges that are outside the scope of the attorney's contract shall request that the court authorize the attorney's withdrawal from the case and appoint an attorney with a contract that covers the amended charges in the county in which the action was pending unless the court determines that no such attorney with an applicable contract is available or the state public defender consents to the continued representation by the original attorney.

493—11.4(13B) Contract approval or denial.

11.4(1) The state public defender or a person designated by the state public defender may confer with judges, attorneys and others with knowledge of a potential contracting attorney's competence, effectiveness, trustworthiness, compliance with the minimum qualification requirements set forth in rule 493—11.3(13B), and ability to provide services to eligible individuals and may conduct such additional investigation as deemed warranted in the sole discretion of the state public defender. The information received may be taken into consideration in determining whether it would be in the best interests of the state to enter into an initial or renewal contract with the potential contracting attorney.

11.4(2) The state public defender or a person designated by the state public defender may hold discussions with, or otherwise obtain information from, a potential contracting attorney to determine the attorney's qualifications and ability to perform the conditions of an initial or renewal contract.

11.4(3) The state public defender or a person designated by the state public defender may hold discussions with, or otherwise obtain information from, a potential contracting attorney to establish under an initial or renewal contract the types of cases the contracting attorney will handle and the geographic area in which the cases will be handled.

11.4(4) The state public defender may decline to award an initial or renewal contract to a proposed contracting attorney if the state public defender determines that the contract would not be in the best interests of the state as described in rule 493—11.8(13B). The state public defender may limit the contract to specific types of cases, a specified geographic area, or both. The state public defender

shall give written notice of this action to the attorney. The attorney may seek reconsideration of this decision in the manner prescribed in rule 493—11.9(13B).

11.4(5) Nothing contained in this rule shall obligate the state public defender to enter into an initial or renewal contract if the state public defender determines that it is not in the best interests of the state to enter into such contract.

493—11.5(13B) Contract renewal. Prior to renewal of any contract, the state public defender may contact judges, attorneys, court personnel, and others to determine if any existing contract is being properly fulfilled and may conduct such additional investigation as is described in rule 493—11.4(13B). If the state public defender has determined that a contract renewal is in the best interests of the state, the state public defender may offer a new contract to the contracting attorney. The contracting attorney may accept the new contract by signing the contract renewal and returning it to the state public defender prior to the date that the existing contract expires. If the contracting attorney does not sign and return the contract renewal, the contract shall terminate on its expiration date without regard to whether the contracting attorney receives any further notice. If a contracting attorney is not offered a contract renewal, the state public defender shall give the contracting attorney written notice of this action. The attorney may seek reconsideration of this decision in the manner prescribed in rule 493—11.9(13B).

493—11.6(13B) Termination.

11.6(1) Termination at will. Either the state public defender or the contracting attorney may terminate a contract upon 30 days' advance written notice to the other party for any reason or no reason. Such termination may affect the entire contract or may relate solely to a particular county or geographical area, or particular type of case.

11.6(2) Termination for cause.

a. License suspension or revocation. A contract for indigent defense shall automatically terminate without notice upon the suspension or revocation of the attorney's license to practice law in the state of Iowa.

b. Default. The state public defender may issue a notice of default based on any of the grounds described in rule 493—11.8(13B). A notice of default shall state the grounds of default and, if feasible, request that the contracting attorney remedy the default within ten days of the date of the notice. If the events triggering the notice of default continue to be evidenced more than ten days beyond the date of written notice, the state public defender may immediately terminate the contract without further notice by issuing a notice of termination. An attorney may seek reconsideration of the state public defender's decision to terminate a contract based on the attorney's default in the manner described in rule 493—11.9(13B).

c. Improper billing practices. The state public defender may notify the attorney that the state public defender is considering the exercise of the state public defender's contract right to terminate the contract for improper billing practices. The notification shall explain the basis for the state public defender's concern and provide the attorney at least 14 days to provide a response. After consideration of the response, the state public defender may terminate the contract for improper billing practices if the state public defender determines that the attorney has engaged in a pattern of willful, intentional, reckless, or negligent submission of false, abusive, or unreasonably excessive fee claims. An attorney may seek reconsideration of the state public defender's decision to terminate a contract for improper billing practices in the manner described in rule 493—11.9(13B).

11.6(3) Termination by mutual consent. Upon the mutual consent, confirmed in writing, of the state public defender and the contracting attorney, the contract may be terminated on less than 30 days' notice. Such termination may affect the entire contract or may relate solely to a particular county or geographical area or to a particular type of case.

493—11.7(13B) Grounds to deny or terminate a contract. In determining whether the award, renewal, or termination of a contract is in the best interests of the state, the state public defender may take into consideration factors such as but not limited to the following:

1. The attorney's eligibility for contracting pursuant to rule 493—11.2(13B) for the type of case in which the attorney is to provide services or the attorney's failure to comply with such requirements;
2. The attorney's compliance with the terms of an existing or prior contract to represent indigent persons;
3. Any form of dishonesty or deception directed to judicial officials, the state public defender, indigent persons, other clients, or any other person in the practice of law;
4. Unprofessional or unethical conduct, or other act or omission that is or may be detrimental or harmful to indigent representation;
5. An attorney's failure to attend, or untimely attendance at, hearings, depositions, or other case-related proceedings;
6. An attorney's failure to abide by a court order, applicable statutes or administrative rules governing indigent representation, or local or state rules of procedure applicable to the cases in which the attorney has been appointed;
7. Repetitive, willful, deceptive, unexplained or uncorrected errors in claims for fees;
8. Disciplinary action against a legal or other professional license or conviction of a crime in any jurisdiction when the disciplinary action or conviction implicates an attorney's honesty, trustworthiness, or competence to practice law, or is otherwise related to the practice of indigent defense;
9. Use of alcohol or controlled substances during court proceedings or in a manner impairing competent performance;
10. Judicial orders or rulings finding that an attorney engaged in untruthful, incompetent, unprofessional, or unethical behavior in the practice of indigent defense, submission of fee claims, or otherwise in the practice of law; or
11. Any other behavior implicating an attorney's competence, effectiveness, or trustworthiness in the practice of indigent defense.

493—11.8(13B,17A) Reconsideration.

11.8(1) *Written notice.* A request for reconsideration is perfected by giving written notice of the request for reconsideration to the state public defender within ten business days of the date of mailing of the notice of denial of an initial or renewal contract or the notice of termination. A request for reconsideration must be in writing and must specify the factual or legal errors the attorney contends were made by the state public defender. The attorney may provide such additional information, explanation or documentation as the attorney believes would be relevant to the reconsideration decision. The request for reconsideration is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service on the state public defender.

11.8(2) *Exhaustion of administrative remedies.* A request for reconsideration of the state public defender's decision to deny or terminate a contract is an administrative prerequisite to seeking any form of judicial review pursuant to Iowa Code chapter 17A.

11.8(3) *Informal conference.* Upon receipt of a request for reconsideration, the state public defender or a person designated by the state public defender may schedule an informal conference with the attorney if in the state public defender's judgment such a conference may foster resolution of the dispute. To the extent that the participation of the state public defender or a person designated by the state public defender in an informal conference could be considered personal investigation as that term is used in Iowa Code section 17A.17, an attorney agreeing to participate in an informal conference waives the right to seek to disqualify the state public defender or a person designated by the state public defender from acting as presiding officer or advising the presiding officer in a subsequent contested case proceeding based solely on the ground of personal investigation during an informal conference. The attorney does not waive the right to raise any other type of disqualification.

11.8(4) *Reconsideration decision.* The state public defender shall issue a written reconsideration decision that may uphold, reverse, or modify the initial decision to deny or terminate a contract. The reconsideration decision is final agency action unless an attorney timely requests a contested case hearing pursuant to rule 493—11.10(13B,17A).

493—11.9(13B,17A) Contested case hearing.

11.9(1) Written request for contested case hearing. An attorney who is aggrieved by a reconsideration decision and who desires to contest the factual basis for the reconsideration decision shall request a contested case hearing within ten days of the date the reconsideration decision is mailed. The request for contested case hearing shall identify the fact issues in dispute and any other claimed error and shall state the manner in which the state public defender is alleged to have relied upon erroneous facts.

11.9(2) Procedures. The request for contested case hearing is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service on the state public defender. A contested case hearing shall be conducted pursuant to the procedures set forth in 481—Chapter 10.

11.9(3) A timely request for contested case hearing is an administrative prerequisite to seeking any form of judicial review pursuant to Iowa Code chapter 17A.

11.9(4) Presiding officer. The state public defender or a person designated by the state public defender may preside over the contested case hearing and issue a final decision, or the state public defender may request that the hearing be conducted by an administrative law judge from the department of inspections, appeals, and licensing who shall issue a proposed decision subject to review by or appeal to the state public defender. If the notice of hearing does not identify an administrative law judge as the presiding officer, an attorney may file a written request that an administrative law judge serve as the presiding officer at hearing. Such request must be filed within 20 days after service of the notice of hearing by certified mail, return receipt requested, to the attorney's last-known address. The state public defender may deny the request only upon a finding that one or more of the following apply:

a. There is a compelling need to expedite issuance of a final decision.

b. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

c. Funds are unavailable to pay the costs of an administrative law judge and possible resulting interagency appeal.

d. The request was not timely made.

e. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

493—11.10(13B,17A) Judicial review.

11.10(1) The final decision by the state public defender to deny an attorney's request to enter into an initial or renewal contract for indigent representation, to terminate such a contract for cause following issuance of a notice of default, or to terminate such contract for improper billing practices is reviewable pursuant to Iowa Code chapter 17A.

11.10(2) Nothing in this rule shall prevent the informal resolution of a decision to deny or terminate an initial or renewal contract through mutually agreeable settlement at any stage of the proceeding.

These rules are intended to implement Iowa Code chapters 13B and 185.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 12
"Claims for Indigent Defense Services"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 815 and section 13B.4

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking repromulgates administrative rules based on the requirements of Executive Order 10. Chapter 12 provides rules for submission, review, and payment of claims for attorney fees for indigent defense services.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, and contract attorneys will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are no expected additional costs to the State or individuals. The agency already incurs personnel costs for employees to review claims for other professional services and assist claimants with any issues they may have with their claims. This process has been automated to the extent possible to reduce costs to the agency. Claims for fees are paid out of the Indigent Defense Fund.

- **Qualitative description of impact:**

The rules in this chapter are the vehicle by which legal services are provided to indigent persons and claimants are paid. By law, these services must be provided, so these rules provide a clear means of doing that equitably. Indigent persons and the attorneys who defend them benefit greatly from the ability to have these resources provided.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. The agency already incurs personnel costs for employees to review claims for other professional services and assist claimants with any issues they may have with their claims. This process has been automated to the extent possible to reduce costs to the agency. Claims for fees are paid out of the Indigent Defense Fund.

- **Anticipated effect on state revenues:**

No effect is anticipated.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified. The information and processes set forth in this chapter are largely driven by existing statute.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
CLAIMS FOR INDIGENT DEFENSE SERVICES

493—12.1(13B,815) Scope. This chapter sets forth the rules for submission, payment and court review of indigent defense fee claims. See 493—Chapter 7 for definitions of terms used in this chapter.

12.1(1) The state public defender will pay from the indigent defense fund attorney fees and costs for the case types set forth in Iowa Code sections 815.10 and 815.11, including indigent's right to transcript on appeal under Iowa Code section 814.9; indigent's application for transcript in other cases under Iowa Code section 814.10; and special witnesses for indigents under Iowa Code section 815.4.

12.1(2) The Iowa Code requires the state public defender to approve only those indigent defense fee claims that are reasonable and appropriate under applicable statutes. In exercising this duty, the state public defender publishes rules and makes judgments considering what is statutorily permitted, fair for claimants, fair for indigent clients (who, by law, are required to reimburse the state for the costs of their defense to the extent they are reasonably able to pay such costs), and consistent with good stewardship of public appropriations.

493—12.2(13B,815) Submission and payment of attorney claims.

12.2(1) *Required claim documents.* Court-appointed attorneys shall submit electronic indigent defense fee claims to the state public defender for review, approval and payment. These claims shall include the following:

a. The completion of the appropriate claim type on the online submission website of the state public defender, spdclaims.iowa.gov.

(1) Adult fee claims, including all trial-level criminal and postconviction relief proceedings, misdemeanor appeals to district court, and applications for discretionary review or applications for interlocutory appeals to the Iowa supreme court, must be submitted on an Adult form. Juvenile fee claims, including petitions on appeal and applications for interlocutory appeals, must be submitted on a Juvenile form. Appellate fee claims, including claims for all criminal and postconviction relief appeals, work performed after the granting of an application for discretionary review or for interlocutory appeal, and work performed after full briefing is ordered following a juvenile petition on appeal, must be submitted on an Appellate form.

(2) The state public defender, at the state public defender's sole discretion, may grant limited exceptions to the requirement that claims be submitted electronically via the online claims website.

b. A copy of all orders appointing the attorney to the case.

(1) The appointment order must be signed by the court and either be dated by the court or have a legible file stamp.

(2) If, at the time of appointment, the attorney does not have a contract to represent indigent persons in the type of case and the county in which the action is pending, the appointment order must include either a finding that no attorney with a contract to represent indigent persons in that specific type of case and that county is available or a finding that the state public defender was consulted and consented to the appointment.

(3) Claims for probation or parole violations and contempt actions are considered new cases, and the attorney must submit a copy of an appointment order for these cases.

(4) If the venue is changed in a juvenile case, an order appointing the attorney in the new county must be submitted.

(5) A new appointment order is not necessary for trial counsel to request or resist an interlocutory appeal or an application for discretionary review.

(6) A new appointment order is not necessary to pursue or respond to a juvenile petition on appeal if the attorney was properly appointed to represent the client in juvenile court. If the original trial counsel withdraws or is removed from the case, the new appellate counsel must attach an order appointing the attorney for the appeal.

(7) An appointment order is not necessary if the state public defender determines the appointment order is unnecessary.

c. A copy of any application and court order authorizing the attorney to exceed the attorney fee limitations.

d. A copy of any court order that affects the amount to be paid or the client's right to counsel.

e. A copy of the dispositional order, the order granting a motion to withdraw prior to disposition, procedendo, or other court order documenting the "date of service" for the claim.

f. An itemization detailing all work performed on the case for which the attorney seeks compensation and all expenses incurred for which the attorney seeks reimbursement.

(1) The itemization must state the date and amount of time spent on each activity. Time must be reported in tenths of an hour. Time shall be rounded to the nearest tenth of an hour. For example, an attorney spending ten minutes performing an activity shall bill 0.2 hours, while an attorney spending seven minutes performing an activity shall bill 0.1 hours. The time spent on each activity must be separately itemized, except that one or more activities on the same day, each taking less than 0.1 hours, must be aggregated together with other activities so that the aggregate amount billed is at least 0.1 hours. If an attorney performs only a single activity taking less than 0.1 hours for a client on a day, the attorney may bill 0.1 hours regardless of the precise length of time spent on the activity. If an attorney performs multiple related activities on the same day, such as multiple email or telephone exchanges, the activities must be aggregated together if separately itemizing the activities would result in claiming more time than the attorney actually spent performing the activities.

(2) The itemization shall separately designate time claimed for in-court time, out-of-court time, paralegal time and travel time.

(3) If another attorney performed any of the work, the itemization shall specify the name of the attorney performing each activity and the named attorney's AT number.

(4) The itemization must be in chronological order.

(5) If the attorney seeks reimbursement for expenses incurred, the itemization must separately state each expense incurred, including any specific information required by rule 493—12.8(13B).

(6) The itemization shall be submitted electronically via the Attorney Hours grid on the appropriate claims submission page on the online claims website. Separate electronic attachments of itemizations will not be accepted.

g. If the attorney was privately retained to represent the client prior to appointment, a copy of any representation agreement, a written notice of the dollar amount paid to the attorney, and an itemization of services performed and how any funds provided were spent during the period prior to the court appointment. The state public defender will review the amount paid and hours spent before and after the court appointment in determining the appropriate attorney compensation on the claim.

12.2(2) *Failure to submit required documents.* Submitted claims for which the entire claim form has not been properly completed or that do not include the documents required by subrule 12.2(1) may be returned to the attorney for additional information and resubmission within the time required by paragraph 12.2(3)*"d."* If the attorney fails to submit all the required documentation to support a claim, the state public defender may request additional information or may deny all or a portion of the claim.

12.2(3) *Timely claims required.* Claims submitted prior to the date of service shall be returned to the claimant unpaid and may be resubmitted to the state public defender after the date of service. Claims that are not submitted within 45 days of the date of service as defined in this subrule may be denied, in whole or in part, as untimely unless the delay in submitting the claim is excused by paragraph 12.2(3)*"f."* Attorney fees and expenses that are submitted on a claim denied as untimely under this subrule may be resubmitted on a subsequent claim that is timely submitted with respect to a subsequent date of service in the same case. For purposes of this subrule, a probation, parole, or contempt proceeding is not the same case as the underlying proceeding.

a. Adult claims. For adult claims, "date of service" means the date of filing of an order indicating that the case was dismissed or the client was acquitted or sentenced, the date of filing of an order granting a deferred judgment or prosecution, the date of filing of a final order in a postconviction relief case, the date of mistrial, the date on which a warrant was issued for the client, or the date of filing of a court order authorizing the attorney's withdrawal from a case prior to the date of

a dismissal, acquittal, sentencing, or mistrial. The filing of a notice of appeal is not a date of service. If a motion for reconsideration is filed, either the date of filing of the motion or the date on which the court rules on that motion is the date of service. In a probation, parole or contempt proceeding, the date of service is the date of filing of the disposition order or an order granting a continued disposition. In a subsequent review or compliance proceeding under the same appointment, a new date of service is created if the new proceeding generates an order. In a probation revocation proceeding that results in the revocation of a deferred judgment, a judgment of conviction is entered and the date of service is the date of the judgment. For interim adult claims authorized by subrule 12.3(3) or 12.3(4), the date of service is the last day on which the attorney claimed time on the itemization of services.

b. Juvenile claims. For juvenile claims, "date of service" means the date of filing of an order as a result of the dispositional hearing or most recent postdispositional hearing that occurs while the client is still an active party in the case, the date on which the client ceased to be a party, the date of a court order authorizing the attorney's withdrawal from a case prior to the filing of the final ruling with respect to the client, the date jurisdiction is waived to adult court, the date on which the venue is changed, the date of dismissal, or the file-stamped date of a procedendo resulting from a petition on appeal. The date of a family drug court meeting, a family team meeting, a staffing, or a foster care review board hearing is not a date of service.

c. Appellate claims. For appellate claims, "date of service" means the date of a court order authorizing the attorney's withdrawal prior to the filing of the proof brief, the date on which the proof brief was filed, or the date on which the procedendo was issued.

d. Notices of action and returned claims. For claims of any type that are filed as a result of a notice of action letter or a returned fee claim letter, "date of service" means the date of the notice of action letter or returned fee claim letter. But a claim that is denied as untimely does not become timely merely because it was resubmitted within 45 days of a returned fee claim letter. A timely claim returned to the attorney for additional information shall continue to be deemed timely only if resubmitted with the required information within 45 days of being returned by the state public defender.

e. Court orders. For claims of any type that are filed as a result of a court order after hearing for review of the fee claim, "date of service" means the file-stamped date of the order.

f. Exceptions to the 45-day rule. The state public defender may, in the state public defender's sole discretion, approve a claim that was not submitted within 45 days of the date of service only if the delay in submitting the claim was caused by one of the following circumstances:

(1) The death of the attorney;

(2) The death of the spouse of the attorney, a child of the attorney, or an employee of the attorney who was responsible for assisting in the preparation of the attorney's fee claims;

(3) A serious illness, injury, or other medical condition that prevents the attorney from working for more than 3 consecutive days and occurs in the last 5 days before the expiration of the 45-day period for timely claims;

(4) The attorney's need to care for the attorney's spouse or child with a serious illness, injury, or other medical condition that prevents the spouse or child from working, attending school, or performing other regular daily activities for more than 3 consecutive days and occurs in the last 5 days before the expiration of the 45-day period for timely claims;

(5) Other circumstances in which the state public defender determines, in the sole discretion of the state public defender, that enforcement of the 45-day rule would impose an undue burden and that payment of the claim should in fairness be made, in whole or in part. The state public defender, in the exercise of such discretion, may consider factors, including but not limited to:

1. The extent to which the 45-day rule was violated;
2. The justification provided by the attorney;
3. The attorney's claim history;

4. The extent of prejudice likely to be experienced by the attorney, the state public defender, and any party to the proceeding, including the attorney's client.

Any claim submitted pursuant to subparagraph 12.2(3)"f"(1) must be submitted within 45 days of the death of the attorney. Any claim submitted pursuant to subparagraph 12.2(3)"f"(2) must be submitted within 30 days of the death that caused the delay. Any claim submitted pursuant to subparagraph 12.2(3)"f"(3) or 12.2(3)"f"(4) must be submitted within 15 days of the end of the illness, injury, or medical condition that caused the delay. An attorney claiming an exception to the 45-day rule shall submit with the claim a letter explaining the applicable exception and written documentation supporting the exception.

12.2(4) *Valid appointment required.* Claims for compensation from an attorney appointed as counsel or guardian ad litem may be denied if the attorney was appointed contrary to Iowa Code section 814.11 or 815.10. Claims for which court-appointed counsel at state expense is not statutorily authorized or that are not payable from the indigent defense fund created by Iowa Code section 815.11 shall be denied.

a. Appellate appointments. Claims for compensation from an attorney whose appointment as counsel or guardian ad litem at the appellate level does not comply with Iowa Code section 814.11 may be denied in whole or in part.

b. Trial-level designations. Claims by an attorney whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after July 1, 2009, may be denied in whole or in part if the state public defender filed a designation effective at the time of the appointment designating a local public defender, nonprofit corporation, or attorney to represent indigent persons in that type of case in the county in which the case was filed, unless the appointment order and any supporting documentation submitted with the claim demonstrate that:

(1) The state public defender's designee and any successor designee have withdrawn from the case or have been offered and declined to take the case; or

(2) The state public defender's designee and any successor designee would have withdrawn from or would have declined to take the case had the appointment been offered.

c. Trial-level contract attorney preference. Claims by an attorney whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after February 1, 2012, may be denied in whole or in part unless:

(1) At the time of the appointment, the attorney had a contract with the state public defender to represent indigent persons in that specific type of case and that county in which the action was pending; or

(2) The appointment order includes a specific finding that no attorney with a contract to represent indigent persons in that specific type of case and that county in which the action was pending is available or a finding that the state public defender was consulted and consented to the appointment; or

(3) After the appointment, the attorney entered into a contract with the state public defender, or amended the attorney's existing contract, to represent indigent persons in the specific type of case and the county in which the action was pending, in which case only the portion of the claim for the services performed prior to the effective date of the contract shall be denied.

12.2(5) *Scope of appointment.* Claims shall only be paid for services rendered and expenses incurred within the scope of the attorney's court appointment. Any other fees or expenses claimed shall be denied.

a. Services prior to appointment. Claims for services rendered or expenses incurred prior to the effective date of the attorney's appointment are not payable within the scope of the attorney's appointment and shall be denied.

b. Representation of parents after termination of parental rights. Claims for services rendered or expenses incurred by an attorney for representing a parent in a child in need of assistance case or termination of parental rights case for work performed after the date on which the termination of that

parent's parental rights becomes final, either on appeal or because no appeal was taken, are not payable within the scope of the attorney's appointment and shall be denied.

c. Guardian ad litem for children over the age of 18. Claims for services rendered or expenses incurred by a guardian ad litem for a child who is aged 18 or older and involved in a juvenile court proceeding are only within the scope of appointment if the court enters an order appointing the guardian ad litem for the limited purposes of continuing a relationship with the child and to provide advice to the child relating to the child's transition plan under Iowa Code section 232.2 beyond the child's eighteenth birthday. The appointment shall end on the date a court order relieving the guardian ad litem of further duties or the date of a court order closing the juvenile case, whichever occurs first, and claims for services rendered or expenses incurred after such date shall be denied. Neither a parent nor guardian of the child in interest is entitled to court-appointed counsel during the post-age 18 transition period.

12.2(6) *Rate of compensation.* Claims for compensation in excess of the applicable rate of compensation established by Iowa Code section 815.7 or in the attorney's contract with the state public defender are not payable and shall be reduced to the applicable rate of compensation.

12.2(7) *Excessive claims.* The amount of a claim for services provided or expenses incurred that is excessive shall be reduced by the state public defender to an amount that is not excessive. Only reasonable and necessary compensation and expenses will be approved for payment.

12.2(8) *Review of claims after contract termination for improper billing practices.* A claim submitted by an attorney whose contract with the state public defender is terminated for improper billing practice shall be paid only to the extent that the claim is supported by authentic, independent, written documentation originating from sources other than the attorney, even if such a claim would otherwise be payable under this chapter. Any portion of a claim for a service performed or expense incurred that is not independently verified by such documentation is not payable under the contract and shall be denied.

a. Acceptable documentation. Independent, written documentation that may support a claim for services performed or expenses incurred by the attorney includes but is not limited to:

(1) Affidavits of clients, witnesses, prosecutors, service providers, department of health and human services staff, court staff, or other persons who can verify that the attorney performed a service for a specific length of time on a specific day. Affidavits from employees of the attorney or the attorney's firm, family members of the attorney, or other attorneys within the same law firm as the attorney are not independent documentation and are insufficient to confirm a claim for a service performed or expense incurred.

(2) Court orders or other documents in the court file that verify the attorney's attendance at a court proceeding, as well as the date, time, duration, and location of the proceeding.

(3) Deposition transcripts and other records of the certified shorthand reporter that verify the attorney's attendance at a deposition, as well as the date, time, duration, and location of the deposition.

(4) Records of a jail or correctional facility that document the date, time, and duration of visits; telephone calls; or videoconferencing sessions with clients or witnesses in custody in the facility.

(5) Records of a telecommunication provider that verify the length of telephone calls, long-distance expenses, or fax expenses.

(6) Records of an online legal research service that document the date, time, duration, and nature of legal research performed.

(7) Calculations from mapping software, such as MapQuest or Google Maps, of the distance traveled to a location where a verified service was provided.

(8) Original printed receipts for expenses incurred.

b. Pending claims. Any claims submitted by an attorney that have not yet been approved by the state public defender when the attorney's contract with the state public defender is terminated for improper billing practices shall be returned to the attorney. The attorney may resubmit any claim returned in its entirety, or a portion thereof, within the time required by paragraph 12.2(3)*"d,"* with the additional documentation required by this subrule confirming all time and expenses claimed on the

itemization. The resubmitted claim shall be reviewed consistent with the requirements of this subrule. Any claim not resubmitted within the time required by paragraph 12.2(3)*"d"* shall be denied.

c. Court review. An attorney whose claim is denied or reduced pursuant to this subrule may seek court review of the state public defender's action on that claim by filing a motion for court review as provided for by rule 493—12.9(13B,815). But if the attorney has sought review of the state public defender's decision to terminate the attorney's contract for improper billing practices, the court shall stay proceedings on the attorney's motion until the attorney has exhausted all administrative remedies, final judgment has been entered in any judicial review action under Iowa Code chapter 17A, and any appeal of such judgment is decided. The final judgment of any judicial review action under Iowa Code chapter 17A regarding the termination of the attorney's contract conclusively determines the applicability of this subrule. If the attorney fails to seek judicial review of the state public defender's decision to terminate the attorney's contract, the state public defender's notice to the attorney that the state public defender is terminating the attorney's contract for improper billing practices is conclusive evidence that this subrule applies, and the attorney may not challenge the termination decision or the applicability of this subrule in the motion for review of the state public defender's action on the fee claim under rule 493—12.9(13B,815).

12.2(9) *Approval of claims.* Claims shall be forwarded to the department for final processing and payment only after the state public defender has determined that payment of the claim is appropriate under this chapter and under Iowa law. No payments shall be made from the indigent defense fund except with the authorization of the state public defender.

493—12.3(13B,815) Interim claims. Claims will be paid at the earlier of the conclusion of the case or when legal representation of the client under the original court appointment is concluded, except as provided for in subrule 12.3(1), 12.3(2), 12.3(3), or 12.3(4).

12.3(1) *Juvenile cases.* An initial claim for services in a juvenile case may be submitted after the dispositional hearing, if any. Subsequent claims may be submitted after each court hearing that is a date of service held in the case. A court hearing does not include family drug court, family team meetings, staffings or foster care review board hearings.

12.3(2) *Appellate cases.* A claim for work performed may be submitted in appellate cases after the filing of the attorney's proof brief. A subsequent claim may be submitted after the procedendo is filed.

12.3(3) *Class A felonies.* Interim claims in Class A felony cases may be submitted once every three months, with the first claim submitted at least 90 days following the effective date of the attorney's appointment.

12.3(4) *Other cases.* In all other cases, claims filed prior to the conclusion of the case will not be paid, except with prior written consent of the state public defender.

12.3(5) *Change of employment.* A change of employment is not a basis for submitting an interim claim. An attorney changing firms must wait to submit a claim until the conclusion of the case unless the attorney withdraws from the case or subrule 12.3(1), 12.3(2), or 12.3(3) applies. Because indigent defense contracts are with the attorney and not with the law firm, the state public defender shall send payments to whatever person or law firm the departing attorney directs.

12.3(6) *Approval of interim claims.* Approval of any interim claims shall not affect the right of the state public defender to review subsequent claims or the aggregate amount of the claims submitted.

493—12.4(13B,815) Rate of compensation.

12.4(1) Unless the attorney has a contract that provides for a different manner or rate of payment, reasonable compensation for the payment of all claims for cases in which the attorney has been appointed shall be calculated on the basis of the hourly rate specified in Iowa Code section 815.7 applicable to the type of case and for the fiscal year during which the appointment was made for

attorney or guardian ad litem time and on the basis of the hourly rate of $25 per hour for paralegal time to the extent paralegal time is payable under these rules.

12.4(2) Payable paralegal time is limited in rule 493—7.1(13B,815).

493—12.5(13B,815) Payable attorney time.

12.5(1) *Maximum daily hours.* An attorney appointed as counsel or guardian ad litem must not perform services for indigent persons or submit claims to the state public defender for payment for such services for more than 12 hours of the attorney's time in any calendar day except as provided in this subrule. Travel time pursuant to Iowa Code section 815.7A is not included in this calculation.

a. An attorney may perform services for indigent persons and submit claims to the state public defender for payment for such services for more than 12 hours and less than or equal to 16 hours in a calendar day if and only if the attorney is in trial or other contested court hearing lasting more than one day or the attorney is preparing for such a trial or hearing that will be occurring within the next seven days.

b. If an attorney performs services for indigent persons and submits claims to the state public defender for payment for such services for more than 12 hours and less than or equal to 16 hours in a calendar day, the attorney shall include with each claim form submitted to the state public defender that claims time for that date a letter specifying the total hours worked for private clients on that date or certifying that no other time was billed to any private client and explaining the need to work more than 12 hours.

c. Any time claimed by an attorney appointed as counsel or guardian ad litem in excess of 12 hours on a calendar day except as permitted by this subrule and any time claimed in excess of 16 hours on a calendar day shall not be paid. If the time is claimed on multiple claims, the most recently submitted claim claiming time on a particular calendar day shall be reduced so as not to pay more than the maximum authorized daily hours. If more than the maximum authorized amount is inadvertently paid by the state public defender, the attorney shall reimburse the state public defender upon written notice of the improper payment.

12.5(2) *Standardized and estimated billing prohibited.* All time submitted on the itemization of services must be the actual time worked providing services to the client. Attorneys are prohibited from using standardized billing estimates for tasks, such as billing 0.1 hours for every page of a document reviewed, 0.2 hours for every email sent or received, or 1.0 hour for every court proceeding. Attorneys must also not use standardized billing for cases, such as billing the same set of standard tasks in every case regardless of whether the task was actually performed.

12.5(3) *Nonbillable time.* The following activities are not reasonable and necessary legal services for the indigent client, and therefore time and expenses for such activities are not payable under the attorney's appointment and shall be denied:

a. Clerical work, including but not limited to opening and closing files; making photocopies; opening or sending mail; sending cover letters; transmitting copies of documents to a client, another party or clerk of court; sending faxes; picking up or delivering documents; drafting internal file memos; giving instructions to support staff; or billing;

b. Preparation of motions to withdraw from a case, and other time related to withdrawing from a case, when the withdrawal is made in order to retire from the practice of law, discontinue or reduce indigent defense representation, or pursue another job or is otherwise for the attorney's personal benefit;

c. Overhead, including time spent managing the operations of the attorney's law practice, office lease payments, or support staff salaries;

d. Preparation of the fee claim, itemization of services, or other time-keeping activities;

e. Preparation of an application or proposed order to exceed the fee limitations, court time obtaining such an order, or review of the order granting or denying the application;

f. Preparation of a motion for judicial review of the state public defender's action on an attorney fee claim, preparation for or attendance at a hearing on such a motion, review of an order granting or

denying the motion, preparation of appellate briefs or other documents in an appeal of such a court order, preparation for or participation in oral arguments in the appeal, or review of an appellate decision regarding such a court order.

12.5(4) *Travel time.* Time spent by an attorney or guardian ad litem traveling is only payable at the full hourly rate provided in subrule 12.4(1) when the travel is reasonable and necessary to represent the indigent client and the attorney or guardian ad litem is traveling:

a. To and from the scene of a crime in a criminal case or juvenile delinquency proceeding;

b. To and from the location of a pretrial hearing, trial, or posttrial hearing in a criminal case if the venue has been changed from the county in which the crime occurred or if the location of the court hearing has been changed, without changing venue, to a different county for the convenience of the court;

c. To and from the place of incarceration of a client in a postconviction relief case, criminal appeal, or postconviction relief appeal;

d. To and from the place of detention of a client in a juvenile delinquency or criminal case if the place of detention is located outside the county in which the action is pending;

e. To and from the location of the placement of a child in a juvenile case if the guardian ad litem is required by statute to visit the placement and the placement is located in Iowa but outside the county in which the case is pending;

f. To and from the location of the placement of a child in a juvenile case if the guardian ad litem is required by statute and court order to visit the placement and the placement is outside the state of Iowa;

g. To and from the location of a family team meeting, if the place of the meeting is located outside the county in which the action is pending and the court approves that the location of the meeting is appropriate;

h. To and from a court of appeals or supreme court argument;

i. To and from the location where the deposition of an expert witness is being taken; or

j. To other locations for which travel authorization is obtained from the state public defender.

Otherwise, travel time for an attorney or guardian ad litem is only payable at the rate and in the manner provided in Iowa Code section 815.7A. For all uncontested hearings, the attorney or guardian ad litem must file an application for a remote hearing to be entitled to travel time. If the court denies the application, the attorney or guardian ad litem must submit a copy of the application and the denial order with the claim for payment of travel time. If the client wishes to have an uncontested hearing in person, and the attorney or guardian ad litem has no other reason to request an in-person hearing other than to be paid for travel time to attend the hearing in person in view of the client's request, the request for hearing shall be sent to the state public defender at claims@spd.state.ia.us. No application is required to be filed for contested hearings, but the travel time must be clearly identified as being for a contested hearing in the description of the travel on the claim. Travel time claimed pursuant to Iowa Code section 815.7A does not count toward the maximum daily hours allowed pursuant to subrule 12.5(1). No amount is payable for travel time at any hourly rate if the time is otherwise being paid at the full hourly rate provided in subrule 12.4(1).

12.5(5) *Substitute counsel time.* Work performed by substitute counsel on behalf of an attorney appointed as counsel or guardian ad litem is payable only as provided for under this subrule. The appointed attorney is at all times personally responsible for the representation of the client and must ensure that substitute counsel is qualified to perform the work directed and that the client is effectively represented at all times. The appointed attorney is responsible for compensating substitute counsel. Claims for payment directly by substitute counsel or claims for payment by the appointed attorney that are inconsistent with this subrule shall be denied.

a. Court time. An attorney appointed as counsel or guardian ad litem must handle all court appearances unless the appointed attorney has a scheduling conflict, an illness, or other personal emergency, in which case the matter may be covered by substitute counsel. Substitute counsel may never cover for oral arguments in appellate cases.

b. Out-of-court time. Substitute counsel may perform out-of-court legal services, except that time spent by substitute counsel that duplicates work performed by the appointed attorney and time spent receiving direction from or conferencing with the appointed attorney are not payable.

c. Exceptional circumstances. Substitute counsel may be used in situations that would otherwise be impermissible if the state public defender concludes that use of such substitute counsel would be in the best interest of the client and the administration of justice and provides prior written consent to the appointed attorney.

d. Supervisory time. Time spent by the appointed attorney directing, reviewing, or correcting the work of substitute counsel is not payable.

e. Qualification of substitute counsel. Unless the state public defender has given prior written consent to use the attorney as substitute counsel, substitute counsel must have an active contract with the state public defender to perform indigent defense services, although the contract need not cover the type of case or county of the case for which the claim is submitted.

f. Inapplicability to co-counsel in Class A felonies. Paragraphs 12.5(5)"a" through "e" of this subrule do not apply to a co-counsel who is separately appointed in a Class A felony. Each separately appointed co-counsel in a Class A felony shall submit a separate indigent defense fee claim that claims only the work actually performed by the appointed attorney submitting the claim. The use of substitute counsel is not permissible in a Class A felony in which co-counsel has been separately appointed.

493—12.6(13B,815) Attorney fee limitations.

12.6(1) *Adult cases.* The state public defender establishes attorney fee limitations for the number of hours of combined attorney time and paralegal time that may be claimed for the following categories of adult cases:

Class A felonies	258
Class B felonies	56
Class C felonies	30
Class D felonies	20
Aggravated misdemeanors	20
Serious misdemeanors	10
Simple misdemeanors	5
Simple misdemeanor appeals to district court	5
Contempt/show cause proceedings	5
Proceedings under Iowa Code chapter 229A	167
Probation/parole violation	5
Extradition	5
Restitution	5
Postconviction relief—the greater of 17 hours or one-half of the fee limitation for the conviction from which relief is sought.	

Nothing in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code. The fee limitations are applied separately to each case, as that term is defined in rule 493—7.1(13B,815). If more than one charge is included within a case, the charge with the higher fee limitation will apply to the entire case.

For example, in an adult criminal proceeding, if an attorney were appointed to represent a client charged with four counts of forgery arising at four separate times, and if the client were charged in four separate trial informations, the fee limitations for each charge would apply separately. If all four charges were contained in one trial information, the fee limitation would be 30 hours even if there

were more than one separate occurrence. Similarly, if the attorney were appointed to represent a person charged with a drug offense and failure to possess a tax stamp, the fee limitation would be the limitation for the offense with the higher limitation, not the total of the limitations. As a further example, multiple probation revocation proceedings pending at the same time, involving the same client, and arising from the same transaction or occurrence are still a single "case" for purposes of this rule, and the five-hour fee limitation applies.

12.6(2) *Juvenile cases.* The state public defender establishes attorney fee limitations for the number of hours of attorney time that may be claimed for the following categories of juvenile and adoption cases:

Delinquency (through disposition)	20
Child in need of assistance (CINA) (through disposition)	20
Termination of parental rights (TPR) (through disposition)	30
Juvenile court review and other postdispositional court hearings	8
Judicial bypass hearings	3
Juvenile commitment hearings	3
Juvenile petition on appeal	10
Motion for further review after petition on appeal	5
Representation of adopting party in adoption following Iowa Code chapter 232, termination of parental rights	5

Nothing in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code. The fee limitations are applied separately to each case, as that term is defined in rule 493—7.1(13B,815).

For example, in a juvenile proceeding in which the attorney represents a parent whose four children are the subject of four child in need of assistance petitions, if the court handles all four petitions at the same time or the incident that gave rise to the child in need of assistance action is essentially the same for each child, the fee limitation for the attorney representing the parent is 20 hours for all four proceedings, not 20 hours for each one.

For a child in need of assistance case that becomes a termination of parental rights case, the fee limitations shall apply to each case separately. For example, the attorney could claim up to 20 hours for the child in need of assistance case and up to 30 hours for the termination of parental rights case.

In a delinquency case, if the child has multiple petitions alleging delinquency and the court handles the petitions at the same time, the fee limitation for the proceeding is the fee limitation for one delinquency.

In a juvenile case in which a petition on appeal is filed, the appointed trial attorney does not need to obtain a new appointment order to pursue a petition on appeal. The claim, through the filing of a petition on appeal, must be submitted on a Juvenile form. If an appellate court orders full briefing, the attorney fee claim for services subsequent to an order requiring full briefing must be submitted on an Appellate form and is subject to the rules governing appeals.

12.6(3) *Appellate cases.* Except as otherwise provided in this rule with respect to simple misdemeanor appeals to the district court and juvenile petitions on appeal, there is no fee limitation established for appellate cases. Nothing in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code.

12.6(4) *Claims in excess of fee limitations.* A claim in excess of the attorney fee limitations will not be paid unless the attorney seeks and obtains authorization from the appointing court to exceed the attorney fee limitations as set forth in Iowa Code section 815.10A(3)*"a."*

12.6(5) *Retroactivity of authorization.* Retroactive court orders entered after the date of the state public defender's action on a claim are void (Iowa Code section 13B.4(4)).

493—12.7(13B,815) Reimbursement for specific expenses.

12.7(1) The state public defender shall reimburse the attorney for the payments made by the attorney for necessary certified shorthand reporters, investigators, evaluations, and experts if the following conditions are met:

a. The attorney obtained court approval for a certified shorthand reporter, investigator, evaluation or expert prior to incurring any expenses with regard to each.

b. A copy of each of the following documents is attached to the claim:

(1) The application and court order authorizing the expenditure of funds at state expense for the certified shorthand reporter, investigator, evaluation, or expert. If the reimbursement is for expenses incurred by a privately retained counsel representing an indigent person, the procedures and requirements of rule 493—13.7(13B,815) shall apply to the application and issuance of the order and the application and order shall be in compliance with that rule, the other requirements of 493—Chapter 13, and this rule.

(2) If the expenses are for services of investigators or experts, a court order setting the maximum dollar amount of the claim. If the initial court order authorizing the expenditure sets the maximum amount of the claims, a subsequent order is unnecessary.

(3) An itemization detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date, and the manner in which the amount of the claim for services was calculated.

(4) If the expenses are for a certified shorthand reporter, any additional documentation required in 493—paragraph 13.2(3)*"b"* when applicable to the services provided.

(5) Documentation that the attorney has already paid the funds to the certified shorthand reporter, investigator, provider of an evaluation, or expert.

c. The expenses would be payable if the certified shorthand reporter, investigator, provider of an evaluation, or an expert submitted such claim directly pursuant to 493—Chapter 13, except for the requirement that the claim be submitted on the miscellaneous claim form promulgated by the state public defender.

d. The certified shorthand reporter, investigator, provider of an evaluation, or expert does not submit a claim for the same services.

e. In claims for the cost of an evaluation requested by an appointed attorney, the attorney shall be reimbursed for the reasonable cost of an evaluation of the client to establish a defense in the case or to determine if the client is competent to stand trial. In either instance, a copy of the court order authorizing the evaluation for one of these specific purposes and an order approving the amount of the evaluation must accompany the claim form. Claims for the cost of an evaluation to be used for any other purpose, such as sentencing or placement, will not be reimbursed.

12.7(2) Nothing contained in this rule is intended to require the attorney to provide notice to any other party prior to seeking such an order, except the notice to the state public defender expressly required in rule 493—13.7(13B,815) if the reimbursement is for expenses incurred by privately retained counsel representing an indigent person, or to require the attorney to disclose confidential information, work product, or trial strategy in order to obtain the order.

12.7(3) In an appeal, the state public defender will pay the cost of obtaining the transcript of the trial records and briefs. In such instance, subrule 12.7(1) shall apply.

12.7(4) Claims for expenses that do not meet these conditions are not payable under the attorney's appointment or rule 493—13.7(13B,815) and will be denied.

493—12.8(13B,815) Reimbursement of other expenses.

12.8(1) The state public defender shall reimburse the attorney for the following out-of-pocket expenses incurred by the attorney in the case to the extent that the expenses are reasonable and necessary:

a. Mileage for automobile travel at the rate of 50 cents per mile. The number of miles driven each day shall be separately itemized on the itemization of services, specifying the date of the travel,

the origination and destination locations, the total number of miles traveled that day and, if it is not otherwise clear from the itemization, the purpose of the travel. If the travel is to perform services for multiple clients on the same trip, the mileage must be split proportionally between each client and the itemization must note the manner in which the mileage is split. The total miles traveled for the case shall also be listed on the claim form. Other forms of transportation costs incurred by the attorney may be reimbursed only with prior approval from the state public defender.

b. The actual cost of lodging, limited by the state-approved rate, only if the attorney is entitled to be paid for travel time for the travel associated with the lodging and the attorney is required to be away from home overnight. An itemized receipt showing the expenses incurred must be attached to the claim form.

c. The actual cost of meals, limited by the state-approved rate, only if the attorney is entitled to be paid for travel time for the travel associated with these meals and the attorney is required to be away from home overnight. An itemized receipt showing the expenses incurred must be attached to the claim form.

d. Necessary photocopying at the attorney's office at the rate of 10 cents per copy. The number of copies made each day must be separately itemized in the itemization of services. The total number of copies must also be listed on the claim form.

e. Ordinary and necessary postage, collect calls, email or similar electronic mail, and parking for the actual cost of these expenses. Collect calls will be reimbursed at 10 cents per minute or the actual cost. A receipt for the actual cost of the collect call must be attached to the claim form. A statement from a correctional facility or jail detailing a standard rate for such calls shall constitute a receipt for purposes of this paragraph. Email or similar electronic mail expenses will be reimbursed at 25 cents per email or the actual cost of these expenses. A statement from a correctional facility or jail detailing a standard rate for such calls shall constitute a receipt for purposes of this paragraph. For parking expenses in excess of $10 combined total per day, a receipt must be attached to the claim form. Claims for the cost of a parking ticket shall be denied. Any postage, collect calls, email or other similar electronic mail, or parking expenses shall be separately itemized on the itemization of services, specifying the date on which the expense was incurred and, if it is not otherwise clear from the itemization, the purpose of the expense.

f. The actual cost of collecting an electronic signature. A receipt or invoice for the actual cost of the signature must be attached to the claim form.

g. The actual cost of photocopying or faxing for which the attorney must pay an outside vendor. A receipt for the actual cost must be attached to the claim form.

h. Other claims for expenses such as process service, medical records, DVDs, CDs, USBs, and photographic printing will be reimbursed for the actual cost. A receipt or invoice from an outside vendor must be attached to the claim form.

i. Other specific expenses for which prior approval by the state public defender is obtained. None of the expenses specified in this rule shall be reimbursed to a privately retained attorney representing an indigent person unless there is prior approval by the state public defender upon a showing of reasonable necessity.

12.8(2) If the reimbursement is for expenses incurred by a privately retained counsel representing an indigent person, counsel must comply with the requirements of Iowa Code section 815.1.

12.8(3) Claims for expenses other than those listed in this rule or at rates in excess of the rates set forth in this rule are not payable under the attorney's appointment or under rule 493—13.7(13B,815) and will be reduced or denied.

493—12.9(13B,815) Court review. An attorney whose claim for compensation is denied, reduced, or otherwise modified by the state public defender, for other than mathematical errors, may seek court review of the action of the state public defender pursuant to Iowa Code section 13B.4(4)*"d."*

12.9(1) *Motions for court review.* Court review of the action of the state public defender is initiated by the filing of a motion with the trial court requesting the review. The following conditions shall apply to all such motions:

a. The motion must be filed with the court within 20 days of the action of the state public defender. This time limit is jurisdictional and will not be extended by the filing of another claim, submitting a letter or email requesting reconsideration, or obtaining a court order affecting the amount of the claim.

b. The motion must set forth each and every ground on which the attorney intends to rely in challenging the action of the state public defender.

c. The motion must have attached to it a complete copy of the claim, together with the notice of action or returned fee claim letter that the attorney seeks to have reviewed.

d. A copy of all documents filed must be provided to the state public defender.

e. It is unnecessary for the state public defender to file any response to the motion.

12.9(2) *Hearings.* The following shall apply to hearings on motions for court review:

a. The motion shall be set for hearing by the court. Notice of the hearing on the attorney's request for review shall be provided to the attorney and the state public defender at least ten days prior to the date and time set by the reviewing court.

b. Unless the state public defender appears or specifically indicates an intention to appear in person at the hearing, the state public defender shall participate by telephone. If the state public defender participates by telephone, the state public defender shall be responsible for initiating and paying for the telephone call. If the attorney intends to participate by telephone, the attorney shall notify the state public defender of this intent and provide a telephone number for the hearing at least two business days prior to the date scheduled for the hearing.

c. The burden shall be on the attorney requesting the review.

d. The court shall consider only the issues raised in the attorney's motion.

e. The court shall issue a written ruling on the issues properly presented in the request for review.

f. If a ruling is entered modifying the state public defender's action on the claim, the attorney must file a new claim with the state public defender within 45 days of the date of the court's order modifying the state public defender's action on the claim. A copy of the court's ruling and the original claim form and supporting documents must be attached to the claim form. The date of service for such a claim is the date of the court's order.

12.9(3) *Failure to seek review.* Failure to seek court review within 20 days of the action of the state public defender will preclude court review of the state public defender's action.

12.9(4) *Other court orders.* Any court order entered after the state public defender has taken action on a claim that affects that claim is void unless the state public defender is first notified and given an opportunity to be heard.

493—12.10(13B,815) Payment errors. If an error resulting in an overpayment or double payment of a claim is discovered by the attorney, by the state public defender, by the department, or otherwise, the claimant shall reimburse the indigent defense fund for the amount of the overpayment. An overpayment shall be paid by check. The check, made payable to the "Treasurer, State of Iowa," together with a copy of the payment voucher containing the overpayment or double payment, shall be mailed to the Office of the State Public Defender, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

These rules are intended to implement Iowa Code chapters 13B and 815.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 13
"Claims for Other Professional Services"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8)
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 815 and section 13B.4

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking includes revisions of administrative rules based on the requirements of Executive Order 10. Chapter 13 provides rules for submission, payment, and review of claims for other professional services.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, persons who provide professional services to indigent defendants, and contract attorneys will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are no expected additional costs to the State or individuals. The agency already incurs personnel costs for employees to review claims for other professional services and assist claimants with any issues they may have with their claims. This process has been automated to the extent possible to reduce costs to the agency. Claims for fees are paid out of the Indigent Defense Fund.

- **Qualitative description of impact:**

The rules in this chapter are the vehicle by which professional services are provided to indigent defendants and claimants are paid. By law, these services must be provided, so these rules provide a clear means of doing that equitably.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. Changes have not been made to the substance of this chapter but rather to the language used. The agency already incurs personnel costs for employees to review claims for other professional services and assist claimants with any issues they may have with their claims. This process has been automated to the extent possible to reduce costs to the agency. Claims for fees are paid out of the Indigent Defense Fund.

- **Anticipated effect on state revenues:**

None are anticipated.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified. The information and process set forth in this chapter are largely driven by existing statute.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
CLAIMS FOR OTHER PROFESSIONAL SERVICES

493—13.1(13B,815) Scope. This chapter sets forth the rules for submission, payment and court review of claims for other professional services. Definitions of terms used in this chapter are provided in 493—Chapter 7.

493—13.2(815) Claims for other professional services. The state public defender shall review and approve claims for necessary and reasonable expenses for investigators, expert witnesses, certified shorthand reporters, and medical/psychological evaluations if the claimant has a form W-9 on file with the department and the claim conforms to the requirements of this rule. Claims that do not comply with this rule will be returned.

13.2(1) Claims for investigative services. The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for investigators if the following conditions are met:

a. Court approval to hire the investigator was obtained before any expenses for the investigator were incurred.

b. One copy of each of the following documents is attached to the claim:

(1) The application and order granting authority to hire the investigator.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the investigative services pursuant to rule 493—13.7(13B,815).

(3) An itemization of the investigator's services detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date, the hourly rate, and the manner in which the amount of the claim for services was calculated. Except in exceptional circumstances and with the prior approval of the state public defender upon a showing of reasonable necessity, an investigator's rate shall not exceed $75 per hour. Itemized receipts for expenses must be attached.

(4) A court order setting the maximum dollar amount of the claim. For purposes of this subrule, if the court order that authorizes hiring the investigator sets a limit for the claim, this court order is unnecessary.

c. Reasonable and necessary investigative services include but are not limited to locating witnesses, interviewing witnesses, process service, viewing the crime scene, reviewing documents or photographs, meeting with attorneys, meeting with clients, and creating investigative reports. Clerical work or running errands for the attorney or defendant is not considered investigative work.

d. Timely claims required. Claims for services are timely if submitted to the state public defender for payment within 45 days of the most recent date that investigative services were performed for the case. Claims that are not timely shall be denied.

13.2(2) Claims for expert witnesses. The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for expert witnesses if the following conditions are met:

a. Court approval to hire the expert witness was obtained before any expenses for the expert witness were incurred.

b. One copy of each of the following documents is attached to the claim:

(1) The application and order granting authority to hire the expert witness.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the expert witness pursuant to rule 493—13.7(13B,815).

(3) An itemization of the expert witness's services detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date, and the manner in which the amount of the claim for services was calculated.

(4) A court order setting the maximum dollar amount of the claim. For purposes of this subrule, if the court order that authorizes hiring the expert sets a limit for the claim, this court order is unnecessary.

(5) If the expert charges a minimum amount for services based on a specific time, a certification by the expert that no other services have been performed or charges made by the expert for any portion of that specific time.

13.2(3) Claims for certified shorthand reporters. The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for depositions and transcripts provided by certified shorthand reporters only in accordance with the requirements of this subrule.

a. Claim form. When a written claim form for certified shorthand reporting is required under these rules, the certified shorthand reporter shall submit a signed original and one copy of a miscellaneous claim form containing the following information:

(1) The case name, case number and county in which the action is pending.

(2) The name of the attorney for whom the services were provided.

(3) The date on which the transcript was ordered.

(4) The date on which the transcript was delivered.

(5) The total amount of the claim.

(6) The claimant's name; address; social security number, federal tax identification number or vendor identification number; email address, if any; and telephone number.

b. Required documentation. One copy of each of the following documents must be attached to the claim:

(1) The court order granting authority to hire the certified shorthand reporter at state expense.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the certified shorthand reporter pursuant to rule 493—13.7(13B,815).

(3) If expedited transcript rates are claimed under subparagraph 13.2(3)*"d"*(10), an email or other written statement from the attorney explaining that expedited delivery is required.

(4) If a cancellation fee is claimed under subparagraph 13.2(3)*"d"*(6), documentation of the date and time that notice of cancellation was given.

(5) If the certified shorthand reporter is a state employee, a certification by the certified shorthand reporter that none of the time for which the claim is being submitted is time for which the certified shorthand reporter was being paid by the state.

c. Rates for court transcripts. If the certified shorthand reporter is a judicial branch employee, claims for certified shorthand reporter services for preparation of court transcripts will be limited to the rate approved by the Iowa Supreme Court for preparation of transcripts and other certified shorthand reporter services.

d. Rates for other transcripts. Unless the certified shorthand reporter has a contract with the state providing for a different rate or manner of payment or the certified shorthand reporter submits a claim for a lesser amount, claims for certified shorthand reporter services for a non-judicial branch employee will be paid only at the rates set forth in this paragraph:

(1) Hourly rate when no transcript ordered. Fees for attending depositions when no transcript is ordered will be paid at the rate of $60 per hour for the actual time the certified shorthand reporter is present at the depositions including setup and takedown of equipment. If multiple witnesses are deposed in a deposition session on a single day, this hourly rate shall only apply if no transcript is ordered for any of the witnesses. If the transcript is ordered for some of the witnesses, the hourly rate when a transcript is ordered shall apply for the entire deposition session.

(2) Hourly rate when transcript ordered. Fees for attending depositions when a transcript is ordered will be paid at the rate of $50 per hour for the actual time the certified shorthand reporter is present at the depositions including setup and takedown of equipment. Fees for performing a transcription of an audio or video recording will be paid at the rate of $50 per hour for the actual time required to complete the transcription but not more than two times the length of the recording transcribed.

(3) Travel time. Fees for travel time will be paid at the rate of $25 per hour for travel outside of the county of the certified shorthand reporter's office location. Travel time within the county of the

certified shorthand reporter's office location will not be paid. No travel time is payable for the delivery of a transcript or related to the transcription of an audio or video recording.

(4) Transcripts. Unless expedited delivery is requested, fees will be paid at the rate of $4.55 per page for an original, one copy, and an electronic version of the transcript. Copies of a transcript for which an original has already been ordered by any party will be paid at the rate of $1 per page.

(5) Exhibits. A rate of $0.10 per page for black and white and $0.30 per page for color copies will be paid.

(6) Cancellation fees. No cancellation fees will be paid as long as the certified shorthand reporter is given notice of cancellation at least 24 hours before the time scheduled for a deposition. Weekends and state holidays shall not be included when calculating the 24-hour prior notice of cancellation contained in this subparagraph. If the deposition is canceled with less than 24 hours' notice, a fee for two hours or the actual time that the certified shorthand reporter is present at the site of the deposition including setup and takedown of equipment, whichever is greater, is payable at the rate set forth in subparagraph 13.2(3)*"d"*(1). If a full day of depositions was scheduled, a minimum fee for four hours is payable at the rate set forth in subparagraph 13.2(3)*"d"*(1). A certified shorthand reporter is deemed to have been given notice of cancellation when an attorney or representative of the attorney delivers notice of a cancellation to the email address provided by the certified shorthand reporter or leaves a message on voicemail or with a representative of the certified shorthand reporter at the telephone number provided by the certified shorthand reporter, not when the certified shorthand reporter actually hears or reads the message. No cancellation fee will be paid related to the transcription of an audio or video recording.

(7) Minimum time. One hour minimum, exclusive of travel time, will be paid for a deposition or transcription of an audio or video recording that takes less than one hour.

(8) Other time. Except for the initial one-hour minimum, all time billed at an hourly rate shall be billed in 15-minute increments.

(9) Postage. Actual postage costs that are reasonable and necessary will be paid.

(10) Expedited transcripts. Expedited transcripts are those that are required to be delivered within five business days of the date requested. Fees of $8 per page for an original, one copy, and an electronic version of the transcript will be paid for expedited transcripts. Copies of an expedited transcript for which an original has already been ordered by any party will be paid at the rate of $1 per page.

(11) Other expenses. Any additional expenses or fees for certified shorthand reporting services not set forth above will only be paid with the prior written consent of the state public defender obtained before the services are provided.

(12) Realtime reporting. Realtime reporting is any reporting provided by a certified realtime reporter (CRR), either in person or remotely, that produces an immediate transcript of proceedings by using a steno machine connected to a computer that instantly translates spoken word to text. Realtime reporting shall be paid at the hourly rate provided for in subparagraph 13.2(3)*"d"*(1).

(13) Technical transcriptions. Technical transcriptions include transcriptions for testimony provided by an "expert witness" as defined in 493—7.1(13B,815). This includes but is not limited to state medical examiners, doctors, nurses, forensic interviewers, accident investigators, lab technicians, and engineers. A witness who happens to fall into one of the preceding categories but who is providing lay testimony does not qualify as an expert witness for purposes of this subparagraph. Technical transcriptions shall be paid at the hourly rate otherwise applicable for such reporting plus an additional $2 per page. If a witness does not qualify as an expert witness for any reason and is not otherwise included in the foregoing list, but a certified shorthand reporter believes a witness still qualifies under this subparagraph, the certified shorthand reporter may provide additional information with their claim to support their request for the technical transcription rate.

e. Timely claims required. Claims for services are timely if submitted to the state public defender for payment within 45 days of the date on which services are completed. For depositions, services are completed on the date the deposition transcript is delivered or on the date of disposition of

the case if no transcript is ordered, whichever date is earlier. For trial transcripts or transcripts of an audio or video recording, services are completed on the date the transcript is delivered. Claims that are not timely shall be denied.

f. Designation of preferred certified shorthand reporter. The state public defender may enter into a contract with one or more certified shorthand reporters to provide court reporting services for depositions in one or more counties and may designate such certified shorthand reporters to be the preferred certified shorthand reporters in the respective counties. Such designations shall be provided to the chief judge of the judicial district for the respective counties and shall be summarized on the website of the state public defender, spd.iowa.gov. Claims for services provided in a county in which the state public defender has designated a certified shorthand reporter as the preferred certified shorthand reporter shall be denied unless the claims are submitted by the certified shorthand reporter pursuant to the terms of the contract or are submitted by another certified shorthand reporter and include written documentation that the designated certified shorthand reporter was unavailable to handle the deposition.

13.2(4) Claims for court-ordered evaluations. The state public defender shall review, approve and forward for payment claims for necessary and reasonable evaluations requested by an appointed attorney only if the purpose of the evaluation is to establish a defense, to determine whether an indigent is competent to stand trial, or to evaluate a defendant at sentencing or resentencing who has been charged as an adult for a felony alleged to have been committed while a juvenile, if the offense has a potential mandatory minimum sentence of imprisonment, and not for any other purpose nor in any other circumstance for sentencing or placement. Additionally, a claim for a court-ordered evaluation will be approved only if the following conditions are met:

a. Court approval to conduct the evaluation was obtained before any expenses for the evaluation were incurred.

b. One copy of each of the following documents is attached to the claim:

(1) The application and order granting authority to conduct the evaluation. This order must specify that the purpose of the evaluation is for a permissible purpose under this subrule.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the evaluation pursuant to rule 493—13.7(13B,815).

(3) An itemization of the evaluator's services detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date, and the manner in which the amount of the claim for services was calculated.

(4) A court order setting the maximum dollar amount of the claim. For purposes of this subrule, if the court order authorizing the evaluation sets a limit for the claim, this court order is unnecessary.

(5) If the evaluator charges a minimum amount for services based on a specific time, a certification by the evaluator that no other services have been performed or charges made by the evaluator for any portion of that specific time.

13.2(5) The state public defender may reimburse services and expenses not specifically listed in this chapter that are payable pursuant to rules 493—12.7(13B,815) and 493—12.8(13B,815).

13.2(6) Submission of claims.

a. All claims for professional services shall be submitted electronically via the online claims website: spdclaims.iowa.gov. Any reference in these rules to forms or to claims submissions shall refer to the respective claims submission page for miscellaneous claims on the online claims website. The state public defender, at the state public defender's sole discretion, may grant limited exceptions to the requirement that claims be submitted electronically via the online claims website.

b. Claimants granted an exception to online claim submission must be submitted, as appropriate, to the local public defender office for which the services were provided or on a form, promulgated by the state public defender, to the state public defender at the following address: State Public Defender, Claims, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

493—13.3(13B,815) Court review. A claimant whose claim for compensation is denied, reduced, or otherwise modified by the state public defender, for other than mathematical errors, may seek court review of the action of the state public defender.

13.3(1) *Motions for court review.* Court review of the action of the state public defender is initiated by filing a motion with the trial court requesting the review. The following conditions shall apply to all such motions:

a. The motion must be filed with the court within 20 days of the action of the state public defender.

b. The motion must set forth each and every ground on which the claimant intends to rely in challenging the action of the state public defender.

c. The motion must have attached to it a complete copy of the claim, together with the notice of action that the claimant seeks to have reviewed.

d. A copy of all documents filed must be provided to the state public defender.

e. It is unnecessary for the state public defender to file any response to the motion.

13.3(2) *Hearings.* The following shall apply to hearings on motions for court review:

a. The motion shall be set for hearing by the court. Notice of the hearing on the claimant's request for review shall be provided to the claimant and the state public defender at least ten days prior to the date and time set by the reviewing court.

b. Unless the state public defender specifically indicates an intention to appear in person at the hearing, the state public defender shall participate by telephone. If the state public defender participates by telephone, the state public defender shall be responsible for initiating and paying for the telephone call.

c. The burden shall be on the claimant requesting the review.

d. The court shall consider only the issues raised in the claimant's motion.

e. The court shall issue a written ruling on the issues properly presented in the request for review.

f. If a ruling is entered allowing additional fees, the claimant must file a new claim with the state public defender. A copy of the court's ruling must be attached to the claim form. The date of service on the claim form is the date of the court's order.

13.3(3) *Failure to seek review.* Failure to seek court review within 20 days of the action of the state public defender will preclude court review of the state public defender's action.

493—13.4(13B,815) Processing and payment. The state public defender will submit claims to the department for processing and payment. The department will submit claims that are not approved in the current fiscal year to the state appeal board for processing and payment.

493—13.5(13B,815) Payment errors. If an error resulting in an overpayment or double payment of a claim is discovered by the claimant, by the state public defender, by the department, or otherwise, the claimant shall reimburse the indigent defense fund for the amount of the overpayment. An overpayment or double payment shall be repaid by check. The check, made payable to "Treasurer, State of Iowa," together with a copy of the payment voucher containing the overpayment or double payment, shall be mailed to the Office of the State Public Defender, 6200 Park Avenue, Des Moines, Iowa 50321.

493—13.6(815) Claims submitted by a county. Reserved.

493—13.7(13B,815) Payment of costs incurred by privately retained attorney representing indigent person. No payment of state funds for the costs incurred in the legal representation of an indigent person shall be authorized or paid unless the requirements of this rule and Iowa Code section 815.1 are satisfied.

13.7(1) *Response of state public defender.* If the state public defender resists any motion filed pursuant to Iowa Code section 815.1, in whole or in part, the state public defender shall file a response

to the application or motion within ten days of the state public defender's receipt of the application or motion.

13.7(2) *Opportunity to request a hearing and hearing on the application.* The state public defender shall be afforded reasonable notice and opportunity to respond to the motion and participate in any hearing on the application or motion. Either the privately retained attorney for the indigent person or a representative from the office of the state public defender may participate in a hearing on the application or motion by telephone.

13.7(3) *Protection of defense strategy and work product.* In considering and ruling on the application or motion, the court shall order appropriate procedures to protect against disclosure of defense strategy and defense work product to the prosecution, including but not limited to allowance of information or filings, or portions thereof, to be submitted in camera, ex parte hearings, sealing of any transcript or order to avoid such disclosure, protective orders, or other safeguards to protect defense strategy and work product from disclosure to the prosecution.

These rules are intended to implement Iowa Code chapters 13B and 815.

Regulatory Analysis

Notice of Intended Action to be published: 493—Chapter 14
"Claims for Attorney Fees in 600A Terminations"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 13B.4(8) and 600A.6(b)(5)
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 13B.4, 815, and 600A

Public Hearing

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

May 6, 2025 2 p.m.	Via videoconference: meet.google.com/gbm-frju-oxh Or dial: (US) +1 563.293.1803 PIN: 316 603 891#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Office of the State Public Defender no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kurt Swaim, First Assistant State Public Defender
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Purpose and Summary

This proposed rulemaking includes revisions of administrative rules based on the requirements of Executive Order 10. Chapter 14 provides rules for submission, review, and payment of claims for attorney fees in Iowa Code chapter 600A proceedings.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no expected additional costs to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

The Office of the State Public Defender, indigent persons represented by court-appointed attorneys, and contract attorneys will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are no expected additional costs to the State or individuals. The agency already incurs personnel costs for employees to review claims for other professional services and assist claimants with any issues they may have with their claims. This process has been automated to the extent possible to reduce costs to the agency. Claims for fees are initially paid out of the Indigent Defense Fund and reimbursed by the Judicial Branch.

- **Qualitative description of impact:**

The rules in this chapter are the vehicle by which legal services are provided to indigent persons in a termination of parental rights case under Iowa Code chapter 600A cases and claimants are paid. By law, these services must be provided, so these rules provide a clear means of doing that equitably. Indigent persons and the attorneys who defend them benefit greatly from the ability to have these resources provided.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no expected additional costs to the State. Changes have not been made to this chapter.

- **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No viable alternative was identified. The information and process set forth in this chapter are largely driven by existing statute.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 493—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14
CLAIMS FOR ATTORNEY FEES IN 600A TERMINATIONS

493—14.1(13B,600A,815) Scope. This chapter sets forth specific rules for submission, review and payment of claims for attorney fees in proceedings under Iowa Code chapter 600A. Unless modified in this chapter, the provisions of 493—Chapters 7, 11 and 12 apply to such claims.

493—14.2(13B,600A,815) Definition. The following definition applies only to this chapter.

"Indigent" means the same as defined in Iowa Code section 600A.2(12).

493—14.3(13B,600A,815) Hourly rate and fee limitations. Unless the attorney has a contract with the state public defender that provides for a different rate or manner of payment, claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A shall be paid the hourly rate consistent with Iowa Code section 815.7 for all other cases. The fee limitation is ten hours for the trial court proceedings and ten hours for appellate proceedings.

493—14.4(13B,600A,815) Limitations on other charges and expenses. For appeals, the state public defender shall approve claims for the actual cost of a transcript and printing of necessary briefs. The state public defender shall not approve claims for travel time, paralegal time, or other out-of-pocket expenses at the trial or appellate level.

493—14.5(13B,600A,815) Claims for attorney fees. Except as provided in this chapter, claims for attorney fees for representing the respondent in proceedings for termination of parental rights cases under Iowa Code chapter 600A shall be reviewed by the state public defender in the same manner as provided in 493—Chapter 12.

14.5(1) Claim forms. Claims for services provided at the trial level shall be submitted on a Juvenile claim form. Claims for services provided on appeal shall be submitted on an Appellate claim form.

14.5(2) Required documents. In addition to satisfying the other requirements provided in 493—Chapter 12, the attorney shall submit a copy of both the petitioner's and respondent's financial affidavit and any order of the juvenile court determining that the state public defender rather than the petitioner is responsible for payment of the respondent's attorney fees.

14.5(3) The provisions for review of the state public defender's action provided in 493—Chapter 12 shall apply to claims submitted under this chapter.

14.5(4) If the petitioner or prospective parent is responsible for payment of the indigent respondent's attorney fees and expenses, the state public defender does not receive, review, or pay the fee claim. Any such claim submitted to the state public defender will be returned to the attorney who submitted the claim.

493—14.6(13B,600A,815) Report to judicial branch. The state public defender shall submit quarterly to the state court administrator a report detailing all approved and paid attorney fee claims for termination of parental rights cases under Iowa Code chapter 600A.

These rules are intended to implement Iowa Code chapters 13B, 600A, and 815.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 425
"Vehicle and Towable Recreational Vehicle Dealers, Manufacturers, Distributors and Wholesalers"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 307.12(1)"j" and 322.13
State or federal law(s) implemented by the rulemaking: Iowa Code sections 307.12(1)"j," 321.57 through 321.63, 321.95 and 321F.9 and chapters 17A, 322 and 322C

Public Hearing

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

May 6, 2025 1 to 1:30 p.m.	Microsoft Teams Link Or dial: 515.817.6093 Conference ID: 531 966 009

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sara Siedsma
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: sara.siedsma@iowadot.us

Purpose and Summary

The purpose of the proposed chapter is to implement Iowa Code chapters 322 and 322C, which require individuals engaged in the business of selling motor vehicles and towable recreational vehicles to obtain a license from the Department. The proposed rules provide clarity and consistency on the requirements for licenses and guidance on compliance with the statutory requirements.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs or fees associated with this proposed chapter beyond what is required by the underlying statutes. Rather, the purpose of the rules is to establish the eligibility requirements and application process for persons seeking a license under Iowa Code chapters 322 and 322C.

- **Classes of persons that will benefit from the proposed rulemaking:**

Persons seeking a license will benefit from these rules by knowing the eligibility criteria and application process.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are no additional quantitative impacts that were not already anticipated as a result of the underlying statutes, which require the Department to issue licenses to qualified applicants.

- **Qualitative description of impact:**

The result of reorganizing, streamlining and reducing redundancy in the proposed chapter will create a positive impact by producing a more user-friendly version the public relies on for understanding how to obtain a license under Iowa Code chapters 322 and 322C.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional implementation or enforcement costs in the proposed chapter that were not already required as a result of the underlying statutes. The statute requires the Department to issue licenses to qualified applicants.

- **Anticipated effect on state revenues:**

There are no anticipated effects on state revenues beyond those of the underlying statute.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The benefit of the proposed chapter is consistency and transparency on the processes and requirements for obtaining a license under Iowa Code chapters 322 and 322C.

The cost of inaction is the inability for qualified applicants to understand quickly and efficiently what is required to obtain and maintain a license under Iowa Code chapters 322 and 322C.

There is no benefit of inaction.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

There are no less costly or less intrusive methods to achieve the purpose of the proposed rules.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Department did not consider alternatives for the proposed rules. The Department is required by Iowa Code chapters 322 and 322C to issue licenses to qualified applicants.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no small business impact beyond what was already anticipated under the statute. The proposed rules apply equally to all persons seeking a vehicle recycler license under the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 425 and adopt the following **new** chapter in lieu thereof:

CHAPTER 425
MOTOR VEHICLE AND TOWABLE RECREATIONAL VEHICLE DEALERS, MANUFACTURERS, DISTRIBUTORS AND WHOLESALERS

761—425.1(307,321,322,322C) Introduction.

425.1(1) This chapter applies to the licensing of motor vehicle and towable recreational vehicle dealers, manufacturers, distributors and wholesalers. Also included in this chapter are the criteria for the issuance and use of dealer plates.

425.1(2) Information about dealer plates and the licensing of motor vehicles and towable recreational vehicle dealers, manufacturers, distributors and wholesalers is available from the motor vehicle division or on the department's website at www.iowadot.gov/mvd/buyingselling/dealers.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.57 through 321.63 and chapters 322 and 322C.

761—425.2(307,322,322C) Definitions. The following definitions, in addition to those found in Iowa Code sections 322.2 and 322C.2, apply to this chapter:

"All-weather surface" means a surface that does not include grass or exposed soil.

"Bad business repute" means business activity in Iowa or any other state demonstrating noncompliance with, or infractions of, the provisions of Iowa Code chapter 322 or 322C or this chapter or law enforcement engagement or negative public perception, including complaints, media coverage and known criminal activity. For purposes of this definition, any evidence concerning a licensee's current or past conduct, dealings, habits or associations relevant to the business's reputation may be considered.

"Certificate of title" or *"title"* means the same as defined in rule 761—400.1(321).

"Consumer use" means use of a motor vehicle or towable recreational vehicle for business or pleasure, not for sale at retail, by a person who has obtained a certificate of title and has registered the vehicle under Iowa Code chapter 321.

"Dealer" unless otherwise specified means a person who is licensed to engage in the business of selling motor vehicles or towable recreational vehicles at retail in this state under Iowa Code chapter 322 or 322C.

"Engaged in the business," as defined in Iowa Code section 322.2, includes the sale of towable recreational vehicles.

"Extension lot" means as follows:

1. For a motor vehicle dealer, a lot for the sale of motor vehicles that is located within the same city or township as but is not adjacent to the motor vehicle dealer's principal place of business.
2. For a towable recreational vehicle dealer, a lot for the sale of towable recreational vehicles that is located within the same county as but is not adjacent to the towable recreational vehicle dealer's principal place of business.

"Manufacturer's certificate of origin" means the same as defined in rule 761—400.1(321).

"Principal place of business" means a building actually occupied and located in this state where the public and the department may contact the owner or operator during regular business hours. In lieu of a building, a towable recreational vehicle dealer may use a manufactured or mobile home as an office if taxes are current or a towable recreational vehicle as an office if registration fees are current.

"Registered dealer" means a dealer licensed under Iowa Code chapter 322 or 322C who possesses a current dealer certificate under Iowa Code section 321.59.

"Regular business hours" means to be consistently open to the public on a weekly basis at hours reported to the vehicle and motor carrier services bureau. Except as provided in Iowa Code section 322.36, regular business hours for a motor vehicle or towable recreational vehicle dealer shall include a minimum of 32 posted hours between 7 a.m. and 9 p.m., Monday through Friday.

"Restricted dealer" means a person or a business specifically identified in rule 761—425.9(307,321F,322,322C) that is required to obtain a dealer license for only a specific type of retail sales but that does not have to maintain repair facilities, display facilities or a working telephone service.

"Salesperson" means a person employed by a motor vehicle or towable recreational vehicle dealer for the purpose of buying or selling vehicles.

"Vehicle" unless otherwise specified means a motor vehicle or towable recreational vehicle.

"Wholesaler" means a person who sells new vehicles to dealers and not at retail.

This rule is intended to implement Iowa Code section 307.12(1)*"j"* and chapters 322 and 322C.

761—425.3(307,322,322C) Application for dealer's license. Application for a motor vehicle or towable recreational vehicle dealer license is to be made on Form 411008 and submitted with all supporting documents and the applicable statutory fees by mail to Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Form 411008 may be obtained by phone at 515.237.3156, by email at dealer.programs@iowadot.us or on the department's website at www.iowadot.gov/mvd/buyingselling/buyingselling/dealer.

This rule is intended to implement Iowa Code section 307.12(1)*"j"* and chapters 322 and 322C.

761—425.4(307,322,322C) Supporting documentation and general requirements.

425.4(1) *Required information and documentation.* Each application for a dealer's license shall include all information required by Iowa Code section 322.4 for motor vehicle dealers and Iowa Code section 322C.4 for towable recreational vehicle dealers and the following information and supporting documentation.

a. Surety bond.

(1) The applicant shall obtain a surety bond in the following amounts and include a provision requiring that notice be provided to the motor vehicle division at least 30 days before cancellation:

1. For a motor vehicle dealer's license, $75,000. However, an applicant for a motor vehicle dealer's license is not required to file a bond if the person is licensed as a towable recreational vehicle dealer under the same name and at the same principal place of business.

2. For a towable recreational vehicle dealer's license, $75,000. However, an applicant for a towable recreational vehicle dealer's license is not required to file a bond if the person is licensed as a motor vehicle dealer under the same name and at the same principal place of business.

(2) Evidence of the bond shall be on file with the motor vehicle division, and the original surety bond is to be maintained with the dealer's business records.

(3) The motor vehicle division will notify the bonding company of any conviction of the dealer for a violation of laws related to the operations of the dealership.

b. Franchise agreement.

(1) An applicant who intends to sell new motor vehicles or towable recreational vehicles shall submit to the motor vehicle division a copy of a signed franchise agreement with the manufacturer or distributor of each make the applicant intends to sell.

(2) If a signed franchise agreement is not available at the time of application, the department may accept written evidence of a franchise that includes all of the following:

1. The name and address of the applicant and the manufacturer or distributor.

2. The make of motor vehicle or towable recreational vehicle that the applicant is authorized to sell.

3. The applicant's area of responsibility as stipulated in the franchise and certified on a form prescribed by the department.

4. The signature of the manufacturer or distributor.

(3) A final-stage manufacturer applying for a motor vehicle dealer license under rule 761—425.5(322) is not required to submit a franchise agreement under paragraph 425.4(1)*"b."*

c. Corporate applicants. If the applicant is a corporation, the applicant shall certify on the application that the corporation complies with all applicable state requirements for incorporation.

d. Zoning. The applicant shall provide to the motor vehicle division written evidence, issued by the office responsible for the enforcement of zoning ordinances in the city or county where the applicant's business is located, stating the applicant's principal place of business and any extensions comply with all applicable zoning provisions or are a legal nonconforming use.

e. Financial liability. The applicant for a motor vehicle dealer's license shall certify on the application that the applicant has the required financial liability coverage in the limits as set forth in Iowa Code section 322.4(1). It is the applicant's responsibility to ensure the required financial liability coverage is continuous with no lapse in coverage as long as the applicant maintains a valid dealer's license.

f. Ownership information.

(1) If the owner of the business is an individual, the application shall include the legal name, bona fide address and telephone number of the owner. If the owner is a corporation or partnership, the application shall include the name, bona fide address and phone number of at least two partners or officers.

(2) The application shall include the federal employer identification number of the business. If the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

425.4(2) *Principal place of business.* The applicant shall maintain a principal place of business, which must be staffed during regular business hours (more information contained in rule 761—425.6(307,322,322C)). Before a motor vehicle dealer's license is issued, a representative of the department will physically inspect an applicant's principal place of business to verify compliance with this rule. A physical inspection is not required for a towable recreational vehicle dealer.

425.4(3) *Separate licenses required.*

a. A separate license is required for each city or township in which an applicant for a motor vehicle dealer's license maintains a place of business.

b. A separate license is required for each county in which an applicant for a towable recreational vehicle dealer's license maintains a place of business.

425.4(4) *Dealership name.* A dealer shall not represent or advertise the dealership under any name or style other than the name that appears on the dealer's license.

425.4(5) *Verification of compliance.* Prior to issuance of the license, the department will verify the applicant's compliance with all statutory and regulatory dealer licensing requirements.

425.4(6) *Supplemental statement of changes.* A licensed dealer shall file a written statement with the motor vehicle division at least ten days before any change of name, location, hours, method of doing business or any other statements made on the application. The specified changes cannot take effect until written approval is issued by the motor vehicle division.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 322.1 through 322.15 and 322C.1 through 322C.6.

761—425.5(322) Motor vehicle dealer licensing for final-stage manufacturers.

425.5(1) *Eligibility.* A final-stage manufacturer may be licensed as a motor vehicle dealer if the final-stage manufacturer:

a. Meets the definition of "final-stage manufacturer" in Iowa Code section 322.2.

b. Meets the requirements of a final-stage manufacturer in 49 CFR Section 567.5, effective October 1, 2024.

c. Is licensed as a manufacturer under Iowa Code chapter 322 and this chapter.

425.5(2) *Application.* A final-stage manufacturer shall apply for a motor vehicle dealer license in the manner described in rule 761—425.4(307,322,322C) and certify that the final-stage manufacturer meets the eligibility requirements under subrule 425.4(1).

This rule is intended to implement Iowa Code sections 322.2 and 322.3.

761—425.6(307,322,322C) Principal place of business requirements.

425.6(1) *Telephone and office area.* A principal place of business shall include a working telephone service provided specifically for business use and an adequate office area, separate from other facilities, for keeping business records, manufacturers' certificates of origin, certificates of title or other evidence of ownership for all motor vehicle or towable recreational vehicles offered for sale. Evidence of ownership may include a copy of an original document if the original document is held by a lienholder, floor planner or county treasurer.

425.6(2) *Facility for displaying motor vehicles or towable recreational vehicles.* A principal place of business shall include a facility for displaying motor vehicles or towable recreational vehicles meeting the following requirements.

a. Motor vehicles. A motor vehicle dealer's principal place of business shall include a suitable space reserved for display purposes where motor vehicles may be viewed by prospective buyers and is:

(1) Within a building. However, used motor vehicle dealers and dealers selling new trucks or motor homes exclusively may use a display facility that is an outdoor area with an all-weather surface.

(2) Of the following minimum applicable size:

1. 10 feet by 15 feet for display of motorcycles, motorized bicycles and autocycles.
2. 18 feet by 30 feet for display of other motor vehicles.

b. Towable recreational vehicles. A towable recreational vehicle dealer's principal place of business shall include a space of sufficient size to permit the display of one or more towable recreational vehicles. The display facility may be an indoor or an outdoor area with an all-weather surface. If an outdoor display facility is maintained, it may be used only to display, recondition or repair towable recreational vehicles or to park vehicles.

425.6(3) *Facility for repairing and reconditioning motor vehicles and towable recreational vehicles.* A principal place of business shall include a facility for repairing and reconditioning motor vehicles or towable recreational vehicles meeting the following requirements.

a. Motor vehicles. The facility for repairing and reconditioning motor vehicles shall:

(1) Be equipped to repair and recondition one or more motor vehicles of a type sold by the dealer.

(2) Be within a building.

(3) Have adequate access.

(4) Be separated from the display and office areas by solid, floor-to-ceiling walls and solid, full-length doors.

(5) Be of the following minimum applicable unobstructed, rectangular size:

1. 10 feet by 15 feet for motorcycles, motorized bicycles and autocycles.
2. 14 feet by 24 feet for other types of motor vehicles.

b. Towable recreational vehicles. The facility for repairing and reconditioning towable recreational vehicles:

(1) Shall be equipped and of sufficient size to repair and recondition one or more towable recreational vehicles of a type sold by the dealer.

(2) Shall have adequate access.

(3) Shall be either indoors or outdoors, but with an all-weather surface.

(4) May occupy the same area as the display facility.

425.6(4) *Motor vehicle dealer who is also a recycler.* If a motor vehicle dealer also does business as a recycler, there shall be separate parking for motor vehicles being offered for sale at retail from motor vehicles that are salvage.

425.6(5) *Towable recreational vehicle dealer also licensed as a motor vehicle dealer.* If a towable recreational vehicle dealer is also licensed as a motor vehicle dealer under the same name and

at the same principal place of business, separate facilities for displaying, repairing and reconditioning towable recreational vehicles are not required.

425.6(6) *Colocation prohibited.* The department will not issue a license under Iowa Code chapter 322 or 322C to anyone at the principal place of business of an existing licensee.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 322.1 through 322.15 and 322C.1 through 322C.6.

761—425.7(321,322) Business records of a motor vehicle dealer with multiple licenses.

425.7(1) *Applicability.* A motor vehicle dealer licensed under Iowa Code chapter 322 and this chapter who holds more than one motor vehicle dealer license may maintain the dealer's collective business records together at any of the dealer's licensed locations.

425.7(2) *Separation of records.* Business records of licensed motor vehicle dealers kept at a single licensed location under this rule shall:

a. Be stored separately and distinctly, in a manner distinguishable to each licensee.

b. Not be commingled.

425.7(3) *Notification to the department.* A motor vehicle dealer shall notify the motor vehicle division in writing no fewer than ten days before moving the dealer's business records to another licensed location.

This rule is intended to implement Iowa Code sections 321.63 and 322.2 through 322.15.

761—425.8(307,322,322C) Extension lot license. Extension lots of motor vehicle and towable recreational vehicle dealers must be licensed, and application is to be made to the department on Form 417072.

425.8(1) An extension lot must be owned or leased by the dealer.

425.8(2) For purposes of this rule, parcels of property are adjacent if the parcels are owned or leased by the dealer and the parcels are either adjoining or are separated only by an alley, street or highway that is not a fully controlled access facility.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 322.1 through 322.15 and 322C.1 through 322C.6.

761—425.9(307,321F,322,322C) Restricted dealers.

425.9(1) A restricted dealer license is only required when the person or business meets the definition of "engaged in the business." Banks, credit unions and trust companies in Iowa are not required to obtain a dealer license.

425.9(2) A restricted dealer license is only available to a person or business engaged in one of the following qualifying categories:

a. Leased vehicles. The person or business leasing vehicles is selling those vehicles solely through an option to purchase in the lease agreement.

b. Repossessed vehicles. The person or business is selling only those vehicles acquired or repossessed due to lien, title retention instruments or security contracts.

c. Fleet vehicle sales. The person or business acquires vehicles for consumer use in a business and then offers the vehicles for sale.

d. Auction only. The person or business is selling more than six vehicles in a 12-month period only at public auctions. All certificates of title for vehicles offered for sale at the public auction shall be duly assigned to the restricted dealer.

e. Insurers. The person or business is selling vehicles of a type subject to registration solely for the purpose of disposing of vehicles acquired as a result of a damage settlement or recovered stolen vehicles acquired as a result of a loss settlement.

425.9(3) Restricted dealers must have a business location in Iowa but are not required to maintain a "place of business" as defined in Iowa Code section 322.2.

425.9(4) Restricted dealers may obtain titles and reassign titles. Restricted dealers cannot use dealer plates or issue "Registration Applied For" cards or in-transit permits.

425.9(5) The state of Iowa, counties, cities and other governmental subdivisions are not required to obtain a dealer's license to sell their vehicles.

425.9(6) This rule does not apply to a vehicle owner, or to an auctioneer representing the owner, selling vehicles at a retail auction if the vehicles were acquired by the owner for consumer use, the vehicles are incidental to the auction and only one owner's vehicles are sold.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321F.9, 322.1 through 322.15 and 322C.1 through 322C.6.

761—425.10(307,322,322C) State fair, fairs, shows and exhibitions.

425.10(1) *Definitions.* As used in this rule:

"Community" means the same as defined in Iowa Code section 322A.1.

"Display" means having new motor vehicles or new towable recreational vehicles available for public viewing at fairs, vehicle shows or vehicle exhibitions. The dealer may also post, display or provide product information through literature or other descriptive media. However, the product information shall not include prices, except for the manufacturer's sticker price. "Display" does not mean offering new vehicles for sale or negotiating sales of new vehicles.

"Fair" means a county fair or a scheduled gathering for a predetermined period of time at a specific location for the exhibition, display or sale of various wares, products, equipment, produce or livestock, but not solely new vehicles, and sponsored by a person other than a single dealer.

"Offer" new vehicles *"for sale," "negotiate sales"* of new vehicles, or similar wording, means doing any of the following at the state fair or a fair, vehicle show or vehicle exhibition: posting prices in addition to the manufacturer's sticker price, discussing prices or trade-ins, arranging for payments or financing and initiating contracts.

"State fair" means the fair as described in Iowa Code chapter 173.

"Vehicle exhibition" means a scheduled event conducted at a specific location where various types, makes or models of new vehicles are displayed either at the same time or consecutively in time and sponsored by a person other than a single dealer.

"Vehicle show" means a scheduled event conducted for a predetermined period of time at a specific location for the purpose of displaying at the same time various types, makes or models of new vehicles, which may be in conjunction with other events or displays, and sponsored by a person other than a single dealer.

425.10(2) *Permits for dealers of new motor vehicles.*

a. A "display only" fair, vehicle show or vehicle exhibition permit allows a motor vehicle dealer to display new motor vehicles at a specified fair, vehicle show or vehicle exhibition in any Iowa county. The permit is valid on Sundays.

b. A "full" fair, state fair, vehicle show or vehicle exhibition permit allows a motor vehicle dealer to display and offer new motor vehicles for sale and negotiate sales of new motor vehicles at the state fair, or a specified fair, vehicle show or vehicle exhibition that is held within the motor vehicle dealer's community.

EXCEPTION: A motor vehicle dealer who is licensed to sell motor homes may be issued a permit to offer for sale Class "A" and Class "C" motor homes at a specified fair, vehicle show or vehicle exhibition in any Iowa county. A "full" fair, show or exhibition permit is not valid on Sundays.

c. The following restrictions are applicable to both types of permits:

(1) Permits will be issued to motor vehicle dealers only for the state fair, fairs, vehicle shows or vehicle exhibitions where more than one motor vehicle dealer may participate.

(2) A permit is limited to the line makes for which the motor vehicle dealer is licensed in Iowa.

425.10(3) *Permits for dealers of new towable recreational vehicles.* A fair, vehicle show or vehicle exhibition permit allows a towable recreational vehicle dealer to display and offer new

towable recreational vehicles for sale and negotiate sales of new towable recreational vehicles at a specified fair, vehicle show or vehicle exhibition in any Iowa county.

a. The permit is valid on Sundays.

b. The permit is limited to the line makes for which the towable recreational vehicle dealer is licensed in Iowa.

c. A towable recreational vehicle dealer who does not have a permit may display vehicles at fairs, vehicle shows and vehicle exhibitions.

425.10(4) *Permit application.* Application for a permit under this rule is to be submitted to the motor vehicle division on Form 411119 at least ten days prior to the event and must include the dealer's name, address and license number and the following information about the event: name, location, sponsor(s) and duration, including the opening and closing dates.

425.10(5) *Display of permit.* The motor vehicle or towable recreational vehicle dealer shall display the permit in close proximity to the vehicles being exhibited.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 322.5(2) and 322C.3(9).

761—425.11(322) Classic car permit. A classic car permit allows a motor vehicle dealer to display and sell classic cars at a specified county fair, vehicle show or vehicle exhibition that is held in the same county as the motor vehicle dealer's principal place of business. "Classic car" is defined in Iowa Code section 322.5(3).

425.11(1) The permit period is the duration of the event, not to exceed five days. The permit is valid on Sundays. Only one permit may be issued to each motor vehicle dealer for an event. No more than three permits may be issued to a motor vehicle dealer in any one calendar year.

425.11(2) Application for a permit under this rule is to be made to the motor vehicle division on Form 411045 at least ten days prior to the event and must include the dealer's name, address and license number and the following information about the county fair, vehicle show or vehicle exhibition: name, location, sponsor(s) and duration, including the opening and closing dates.

425.11(3) The motor vehicle dealer shall display the permit in a prominent place at the location of the county fair, vehicle show or vehicle exhibition.

This rule is intended to implement Iowa Code section 322.5(3).

761—425.12(322) Nonresident motor truck display permit. Application for a permit under this rule is to be made to the motor vehicle division on Form 493007 at least ten days prior to the event and must include information or documentation showing that the nonresident motor vehicle dealer is eligible for issuance of a permit and that the event meets the statutory conditions for permit issuance.

This rule is intended to implement Iowa Code section 322.5(4).

761—425.13(322) Firefighting and rescue show permit.

425.13(1) Application for a firefighting and rescue show permit for vehicle shows and vehicle exhibitions conducted for educational purposes only is to be made to the motor vehicle division on Form 411220 at least ten days prior to the event and must include the name, address and license number of the applicant, the type of vehicles being displayed and the following information about the vehicle show or vehicle exhibition: name, location, sponsor(s) and duration, including the opening and closing dates.

425.13(2) The permit is not valid on Sundays. Only one permit can be issued to each licensee for an event.

425.13(3) The permit holder shall display the permit in a prominent place at the location of the vehicle show or vehicle exhibition.

This rule is intended to implement Iowa Code section 322.5(5).

761—425.14(307,322,322C) Salespersons of dealers.

425.14(1) Every motor vehicle and towable recreational vehicle dealer shall:

a. Keep a current written record of all salespersons acting on the dealer's behalf. The record shall be available for inspection by any peace officer or any employee of the department.

b. Maintain a current record of authorized persons allowed to sign all documents required under Iowa Code chapter 321 for vehicle sales.

425.14(2) No person is authorized to either directly or indirectly claim to represent a dealer unless the person is listed as a salesperson by that dealer.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 322.3, 322.13, and 322C.4.

761—425.15(307,322,322C) Manufacturers, distributors and wholesalers—application and requirements. This rule applies to the licensing of manufacturers, distributors and wholesalers of new motor vehicles and towable recreational vehicles.

425.15(1) *Application for license.* To apply for a license under this rule, the applicant shall complete and submit to the motor vehicle division Form 417029 and provide a list of the applicant's franchised dealers in Iowa and a sample copy of a completed manufacturer's certificate of origin that is issued by the applicant. A distributor or wholesaler shall also provide a copy of written authorization from the manufacturer to act as its distributor or wholesaler.

425.15(2) *Licensing requirements.* A licensee shall:

a. If applicable, ensure new motor homes delivered to Iowa dealers contain the systems and meet the standards specified in Iowa Code section 321.1(36D)*"d."*

b. Ensure that any new retail outlet is properly licensed as a dealer before any vehicles are delivered to the outlet.

c. Notify the motor vehicle division in writing at least ten days prior to any:

(1) Change in name, location or method of doing business, as shown on the license.

(2) Issuance of a franchise to a dealer in this state to sell new vehicles at retail.

(3) Change in the trade name of a towable recreational vehicle manufactured for delivery in this state.

(4) New make of vehicle being offered for sale at retail in this state.

425.15(3) *Wholesaler's financial liability coverage.* A new motor vehicle wholesaler shall certify on the license application that the wholesaler has the required financial liability coverage in the limits set forth in Iowa Code section 322.27A. It is the wholesaler's responsibility to ensure that the required financial liability coverage is continuous with no lapse in coverage as long as the wholesaler maintains a valid wholesaler's license.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 322.27 through 322.30 and 322C.7 through 322C.9.

761—425.16(307,321,322,322C) Right of inspection.

425.16(1) Peace officers have the authority to inspect vehicles or component parts of vehicles, business records and manufacturers' certificates of origin, certificates of title and other evidence of ownership for all vehicles sold and inventory offered for sale. This rule will not be construed to require a dealer to keep records for a sold vehicle longer than the dealer's established records retention policy requires, or ten years, whichever is longer.

425.16(2) The department has the right at any time to verify compliance of a person licensed under Iowa Code chapter 322 or 322C or issued a certificate under Iowa Code section 321.59 with all statutory and regulatory requirements.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.62, 321.95, 322.13, and 322C.1.

761—425.17(17A,307,321,322,322C) Denial, suspension or revocation.

425.17(1) The department may deny an application or suspend or revoke a certificate or license if the applicant, certificate holder or licensee fails to comply with the applicable provisions of this chapter, Iowa Code sections 321.57 through 321.63 or Iowa Code chapter 322 or 322C.

425.17(2) The department will cancel a dealer's license upon notification of cancellation of a surety bond under rule 761—425.4(307,322,322C). The cancellation takes effect the same date that the bond is cancelled. However, upon reinstatement of the bond or issuance of a new bond pursuant to rule 761—425.4(307,322,322C), the department will immediately rescind the revocation of the dealer's license.

425.17(3) The department may deny a dealer's application for the state fair or a fair, vehicle show or vehicle exhibition permit for a period not to exceed six months if the dealer fails to comply with the applicable provisions of rule 761—425.10(307,322,322C) or Iowa Code section 322.5(2) or 322C.3(9).

425.17(4) The department may deny a motor vehicle dealer's application for a demonstration permit for a period not to exceed six months if the dealer fails to comply with rule 761—425.19(307,321).

425.17(5) The department will send notice by certified mail to a person whose certificate, license or permit is to be revoked, suspended, canceled or denied. The notice will be mailed to the person's mailing address as shown on departmental records or, if the person is currently licensed, to the principal place of business and will take effect 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the motor vehicle division at the address in rule 761—425.3(307,322,322C). The request will be deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice of revocation, suspension, cancellation or denial.

This rule is intended to implement Iowa Code chapter 17A and sections 307.12(1)*"j,"* 321.57 through 321.63, 322.6, 322.9, 322.31 and 322C.6.

761—425.18(307,321) Dealer plates.

425.18(1) *Persons who may be issued dealer plates.* Dealer plates as provided in Iowa Code sections 321.57 through 321.63 may be issued to:

a. Licensed motor vehicle dealers.

b. Licensed towable recreational vehicle dealers.

c. A person engaged in the business of buying, selling or exchanging trailer-type vehicles subject to registration under Iowa Code chapter 321, other than towable recreational vehicles, and who has an established place of business for such purpose in this state.

d. Insurers selling vehicles of a type subject to registration under Iowa Code chapter 321 solely for the purpose of disposing of vehicles acquired as a result of a damage settlement or recovered stolen vehicles acquired as a result of a loss settlement.

e. A person selling vehicles of a type subject to registration under Iowa Code chapter 321 solely for the purpose of disposing of vehicles acquired or repossessed by the person in exercise of powers or rights granted by lien or title-retention instruments or contracts given as security for loans or purchase money obligations and who are not required to be licensed dealers.

f. A person engaged in the business of selling special equipment body units that have been or will be installed on motor vehicle chassis not owned by the person, solely for the purpose of delivering, testing or demonstrating the special equipment body and the motor vehicle.

g. A licensed manufacturer of ambulances, rescue vehicles or fire vehicles, solely for the purpose of transporting, demonstrating, showing or exhibiting the vehicles.

h. A licensed wholesaler who is also licensed as a motor vehicle dealer as specified in paragraph 425.18(3)*"e."*

425.18(2) *Limited use.* Dealer plates displayed pursuant to paragraphs 425.18(1)*"d"* through *"h"* shall display the words "limited use."

425.18(3) *Use of dealer plates.*

a. Dealer plates shall not be displayed on vehicles that are rented or loaned. However, a dealer plate may be displayed on a motor vehicle, other than a truck or truck tractor, loaned to a customer of

a licensed motor vehicle dealer while the customer's motor vehicle is being serviced or repaired by the dealer.

b. Saddle-mounted vehicles being transported shall display dealer plates.

c. Dealer plates may be displayed on a trailer carrying a load, provided the motor vehicle towing the trailer is properly registered under Iowa Code section 321.109, 321.120 or 321.122 or is displaying a dealer plate described in paragraph 425.18(3)*"e,"* or a demonstration permit has been issued as described in rule 761—425.19(307,321).

d. Dealer plates may be used by a dealer licensed as a wholesaler for a new motor vehicle model when operating a new motor vehicle of that model if the motor vehicle is owned by the wholesaler and is operated solely for the purpose of demonstration, show or exhibition.

e. A dealer plate issued under Iowa Code section 321.60 for the purpose of hauling a load or towing a trailer will be marked "HAUL & TOW." Dealer "HAUL & TOW" plates may only be displayed on vehicles in the dealer's inventory that are continuously offered for sale at retail.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.57 through 321.63.

761—425.19(307,321) Demonstration permits.

425.19(1) Demonstration permits may be issued by motor vehicle dealers to permit the use of dealer plates for the purpose of demonstrating the load capabilities of motor trucks and truck tractors. A demonstration permit must be issued on a form prescribed by the department.

425.19(2) The dealer shall complete the permit. The information to be filled out includes but is not limited to the following:

a. Date of issuance by the dealer, date of expiration and the specific dates for which the permit is valid. The expiration date shall be five days or less from the date of issuance.

b. Dealer's name, address and license number.

c. Name(s) of the prospective buyer(s) and all prospective drivers.

d. Route of the demonstration trip. The points of origin and destination shall be the dealership. The permit is not valid for a route outside Iowa.

e. The make, year and vehicle identification number of the motor vehicle being demonstrated.

425.19(3) The permit shall at all times be carried in the motor vehicle to which it refers and be shown to any peace officer upon request.

425.19(4) No more than one demonstration permit per motor vehicle is to be issued for a prospective buyer.

425.19(5) The demonstration permit is valid only for a movement that does not exceed the legal length, width, height and weight restrictions. The permit is not valid for an overdimensional or overweight movement.

425.19(6) A dealer plate issued under Iowa Code section 321.60 for the purpose of hauling a load or towing a trailer may be used in lieu of a demonstration permit.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.57 through 321.63.

ARC 9091C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to continuing education for athletic trainers and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 862, "Continuing Education for Athletic Trainers," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 152D and section 272C.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2686.

Purpose and Summary

2024 Iowa Acts, House File 2686, required that the Department adopt rules allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. The rulemaking would grant athletic trainers the ability to carry over up to 20 hours of continuing education earned in excess of the 40 hours required by Iowa law every two years.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 20, 2024

The Department received no public comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the fund to cover operations of the regulated professional licensing board.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board of Athletic Training no later than 4:30 p.m. on May 6, 2025. Comments should be directed to:

Mary Collins
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100

Des Moines, Iowa 50321
Phone: 515.381.7028
Fax: 515.281.7969
Email: mary.collins@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Amend subrule 862.2(4) as follows:

862.2(4) ~~No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.~~ Licensees who complete continuing education hours in excess of the requirements for renewal may apply up to 50 percent of the required hours to the following renewal period. Licensees may apply a maximum of 20 hours from the previous renewal period. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

ARC 9099C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rulemaking related to posting, inspections, citations and proposed penalties and providing an opportunity for public comment

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

Legal Authority for Rulemaking

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

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 29 CFR 1903.15.

Purpose and Summary

This proposed rulemaking adopts mandatory, annual cost-of-living adjustments in order to align Iowa's penalties for occupational safety and health citations with the corresponding federal penalties.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on February 19, 2025. A public hearing was held on the following date(s):

- March 11, 2025

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Division no later than 4:30 p.m. on May 7, 2025. Comments should be directed to:

Mitchell Mahan
Labor Services Division
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.443.1051
Email: mitchell.mahan@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

May 6, 2025 1 to 1:15 p.m.	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa
May 7, 2025 12:30 to 12:45 p.m.	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

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

Any persons who intend to attend a 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Amend subrule 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after June 1, ~~2024~~ 2025, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than ~~$11,190~~ $11,823 and shall not exceed ~~$161,323~~ $165,514.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~$161,323~~ $165,514.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~$16,131~~ $16,550.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~$16,131~~ $16,550.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~$16,131~~ $16,550 per day.

f. Posting, reporting, or recordkeeping violation. The penalty for each posting, reporting, or recordkeeping violation under Iowa Code section 88.14(9) shall not exceed ~~$16,131~~ $16,550.

ARC 9092C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to procedure for rulemaking and petitions for rulemaking and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 10, "Administrative Rules," and to adopt a new Chapter 10, "Procedure for Rulemaking and Petitions for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and sections 307.12(1)"j," 307A.2, 312.3 and 312A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and sections 307.12(1)"j," 307A.2 and 312.3.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 10 in compliance with Executive Order 10. Proposed Chapter 10 provides procedures for rulemaking and explains the process for petitions for rulemaking. The intended benefit is to provide clarity and transparency.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 13, 2025

The Department received no comments. The Department made one change to the chapter to update the name of the office for the Department's rules administrator.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on May 8, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

May 6, 2025 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 636 704 457
May 8, 2025 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 713 691 108

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

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

Review by Administrative Rules Review Committee

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

ITEM 1. Rescind 761—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
PROCEDURE FOR RULEMAKING AND PETITIONS FOR RULEMAKING

761—10.1(17A) General.

10.1(1) *Definitions.*

"Commission" means the state transportation commission.

"Director" means the director of transportation or the director's designee.

10.1(2) *Contact information for rules administrator.* The mailing address of the department's rules administrator is: Rules Administrator, Office of the Director, Iowa Department of Transportation, 800

Lincoln Way, Ames, Iowa 50010. The email address of the rules administrator may be found on the department's website at iowadot.gov/administrativerules.

761—10.2(17A) Procedure for rulemaking.

10.2(1) *Incorporation by reference.* The department incorporates by this reference all such matters in Iowa Code chapter 17A that relate to procedures for rulemaking.

10.2(2) *Information.*

a. Inquiries about rules and the rulemaking process may be directed to the rules administrator at the address in subrule 10.1(2).

b. Any public comment on a Notice of Intended Action or similar document relating to rules may be directed to the rules administrator or as directed in the Notice of Intended Action or similar document.

761—10.3(17A) Petitions for rulemaking.

10.3(1) The department will accept and consider, from any person or agency, petitions for rulemaking when submitted to the department's rules administrator by mail or email and prepared in conformance with the following:

a. Format:

IOWA DEPARTMENT OF TRANSPORTATION
800 Lincoln Way, Ames, Iowa 50010

PETITION BY (insert petitioner's name) FOR THE (insert one: adoption, amendment or repeal) OF (insert current rule number, if applicable, and brief description of subject matter)	DOCKET NO. _____ PETITION FOR RULEMAKING

(In separate numbered paragraphs, the petition shall include the following.)

1. The petitioner's name, address and telephone number.
2. The nature of the petitioner's interest in the matter.
3. The text or the essential terms and conditions of a proposed new rule, or the rule number and text of a rule proposed for amendment or a repeal. In addition, proposed amendments are to be illustrated to portray the changes in wording requested: Deletions are to be indicated by strikethroughs, and additions by underscoring.
4. The reasons for seeking the requested action, including any facts, views, data or arguments relevant to the request. Copies of statutes, rules or other supporting documents referenced in the petition are to be submitted as appendices to the petition or made available to the department upon request.
5. If desired, a request to meet informally with the department to discuss the petition.

(Signature of petitioner)

b. A petition for amendment or repeal of a rule is to pertain to a rule currently in effect at the time the petition is received by the department.

c. Petitions should be typewritten, although petitions legibly hand-printed in ink will be accepted.

10.3(2) The date of receipt of a petition is the day it reaches the department's rules administrator. The administrator will within five days of receipt notify the petitioner of the date of receipt and the assigned docket number.

10.3(3) If requested in the petition, the department will schedule an informal meeting with the petitioner to discuss the petition.

10.3(4) The department will notify the petitioner of the director's or commission's determination to grant or deny the petition. If the petition is denied, the notification will include the reasons for denial.

These rules are intended to implement Iowa Code chapter 17A and sections 307.12(1)*"j,"* 307A.2, 312.3 and 312A.3.

ARC 9095C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to waiver of rules and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 11, "Waiver of Rules," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.9A and 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.9A.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 11 in compliance with Executive Order 10. Proposed Chapter 11 establishes a general process for granting waivers from the requirements of Department rules in accordance with Iowa Code section 17A.9A.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 13, 2025

The Department received no comments. The Department made one change to the chapter to update the name of the office for the Department's rules administrator.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on May 8, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010

Phone: 515.239.1358
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

May 6, 2025 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 583 323 417
May 8, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 666 200 90

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

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

Review by Administrative Rules Review Committee

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

ITEM 1. Rescind 761—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
WAIVER OF RULES

761—11.1(17A) General.

11.1(1) *Purpose.* The purpose of this chapter is to establish a general process for granting waivers from the requirements of department rules in accordance with Iowa Code section 17A.9A.

11.1(2) *Scope.* This chapter does not:

a. Preclude the granting of waivers using another process if a statute or another department rule so provides. If the rule for which a waiver is sought has a specific waiver process of its own, this chapter is applicable only when it is specifically cited.

b. Apply to contested case proceedings.

c. Apply to rules that merely define the meaning of a statute or other provision of law if the department does not possess the delegated authority to bind the courts to any extent with its definition.

11.1(3) *Definition.*

"Director" means the director of transportation or the director's designee.

761—11.2(17A) Petition for waiver.

11.2(1) *Petitioner.* Any person with a real and direct interest in the matter may petition the department for a waiver from the requirements of a rule.

11.2(2) *Form of petition.* A petition for a waiver from the requirements of a rule must be in writing and state clearly at the top of the petition that it is a "petition for waiver of a rule." The petition shall contain the following information where applicable and known to the petitioner:

a. The name, address and telephone number of the petitioner, and any license, permit or case number applicable to the requested waiver.

b. A description of and citation to the specific rule from which a waiver is requested.

c. The specific waiver requested, including its scope and duration.

d. The relevant facts and reasons the petitioner believes would justify the requested waiver and address each of the following:

(1) Why applying the rule will result in an undue hardship to the petitioner.

(2) Why waiving the rule will not prejudice the substantial legal rights of any other person.

(3) Whether the provisions of the rule are specifically mandated by statute or another law other than the rule.

(4) How substantially equal protection of the public health, safety and welfare will be afforded by means other than those prescribed by the rule.

e. A history of any prior contacts between the petitioner and the department that are related to the requested waiver.

f. Whether the petitioner is currently a party to a rulemaking, declaratory order, contested case, judicial proceeding or any other proceeding related to the requested waiver.

g. Information regarding the department's treatment of similar situations.

h. The name, address and telephone number of any public agency or political subdivision that also regulates the activity in question or that may be affected if the waiver were granted.

i. The name, address and telephone number of any person or entity that may be adversely affected if the waiver were granted.

j. The name, address and telephone number of any person who has knowledge of facts relevant to the requested waiver.

k. Releases authorizing persons with knowledge of relevant facts to furnish that information to the department.

l. The signature of the petitioner and the date signed.

11.2(3) *Submission of petition.* A petition for waiver from the requirements of a rule shall be submitted to the rules administrator either by mail to Rules Administrator, Office of the Director, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at iowadot.gov/administrativerules.

761—11.3(17A) Action on petition and decision on waiver.

11.3(1) The director may, in response to a written petition submitted in accordance with rule 761—11.2(17A), grant a waiver from the requirements of a rule. The decision to grant a waiver is made at the sole discretion of the director and is final agency action.

11.3(2) The following is the procedure for responding to a petition for a waiver from the requirements of a rule:

a. The department will acknowledge receipt of a petition within five days of receipt.

b. Before a waiver is granted or denied, the department may request a petitioner to furnish additional information related to the petition.

c. The director will issue a written decision to grant or deny a waiver within 120 days after the department acknowledges receipt of the petition unless the petitioner agrees to a later time. However, if the matter is also the subject of a contested case proceeding, the decision to grant or deny a waiver need not be issued until after the final decision in the contested case is issued.

d. The director's decision to grant or deny a waiver in response to a written petition will be in writing and contain:

(1) The name of the person to whom the decision pertains.

(2) A citation to the rule or portion thereof to which the decision pertains and a brief summary of the rule's requirements that are pertinent to the requested waiver.

(3) The relevant facts and reasons upon which the decision is based. If a waiver is granted, the decision needs to include the findings set out in Iowa Code section 17A.9A(2).

(4) The scope and duration of a waiver if one is granted.

(5) Any other conditions placed on a waiver if one is granted.

e. Within seven days after the decision is issued, the department will transmit it to the petitioner.

f. Failure to grant a waiver within the time specified in paragraph 11.3(2)*"c"* is deemed a denial.

g. A petition for a waiver from the requirements of a rule is independent of a contested case proceeding. Submission of a petition does not delay the time to request a contested case hearing, to appeal a proposed decision in a contested case, or to file a petition for judicial review of a final decision in a contested case.

h. A petition for a waiver from the requirements of a rule is not needed to exhaust administrative remedies before judicial review of a department action under Iowa Code section 17A.19.

761—11.4(17A) Modification or cancellation of waiver. The department may, after notice and opportunity for hearing, modify or cancel a waiver granted pursuant to this chapter if the director finds any of the following:

1. A material fact upon which the waiver is based is not true or has changed.
2. The petitioner withheld or knowingly misrepresented a material fact relevant to the propriety or desirability of the waiver.
3. The petitioner has failed to comply with the conditions set forth in the decision granting the waiver.
4. The alternate means for ensuring that the public health, safety and welfare will be adequately protected after the waiver is granted are insufficient.

761—11.5(17A) Records.

11.5(1) All records relating to waivers granted or denied under this chapter are open records. However, if a record contains personal information that is confidential, only the portion of the record that is nonconfidential will be made available for public inspection.

11.5(2) The department's rules administrator will, at a minimum, retain for five years records relating to waivers granted or denied under this chapter.

These rules are intended to implement Iowa Code section 17A.9A.

ARC 9093C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to declaratory orders and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 12, "Declaratory Orders," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.9, 17A.19 and 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.9 and 17A.19.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 12 in compliance with Executive Order 10. Proposed Chapter 12 explains the process for filing with the Department a petition for a declaratory order and how the Department will respond to that petition.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 13, 2025

The Department received no comments. The Department made one change to the chapter to update the name of the office for the Department's rules administrator.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on May 8, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

May 6, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 335 886 842
May 8, 2025 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 918 166 406

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

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

Review by Administrative Rules Review Committee

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

ITEM 1. Rescind 761—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
DECLARATORY ORDERS

761—12.1(17A) Definitions.

"Declaratory order" means the department's interpretation of a statute, rule or order as applied to specified circumstances. A declaratory order is issued in response to a petition for declaratory order.

"Director" means the director of transportation or the director's designee.

"Petition for declaratory order" means a formal request from a person or agency to the department asking how the department will apply a statute, rule or order based on a specific set of facts contained in the petition. The purpose of the petition is to seek binding advice from the department, not to challenge a decision that the department has already made.

761—12.2(17A) Petition for declaratory order.

12.2(1) Any person or agency may file with the department a petition for declaratory order.

12.2(2) The petition is to be submitted to the rules administrator either by mail to Rules Administrator, Office of the Director, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at iowadot.gov/administrativerules.

12.2(3) The petition is to be typewritten or legibly handwritten in ink and is to substantially conform to the following form:

IOWA DEPARTMENT OF TRANSPORTATION
800 Lincoln Way, Ames, Iowa 50010

PETITION BY (insert petitioner's name) FOR DECLARATORY ORDER ON (insert number of statute, rule, etc. and brief description of subject matter)	}	DOCKET NO. _____ PETITION FOR DECLARATORY ORDER

(In separate numbered paragraphs, the petition shall include the following.)

1. The petitioner's name, address and telephone number.
2. The exact words, passages, sentences or paragraphs of statutes, rules, etc. that are the subject of the inquiry.
3. A clear, concise and complete statement of all relevant facts for which the order is requested.
4. The uncertainties or conflicting interpretations that arise when the cited statutes, rules, etc. are applied to the facts.
5. (Optional) The interpretation urged based upon the facts set forth.
6. The reasons for the petition and a full disclosure of the petitioner's interest.
7. Whether the petitioner is currently a party to a rulemaking, contested case or judicial proceeding involving the controversy or uncertainty.
8. The names and addresses, when known, of other persons who may be affected by the declaratory order.

12.2(4) The petition is to be dated and signed by the petitioner or, if applicable, petitioner's representative.

12.2(5) If applicable, the petition is also to include the name, address and telephone number of the petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

12.2(6) The date of receipt of the petition is the day it reaches the department's rules administrator. The administrator will within five days of receipt send an acknowledgment of receipt with the assigned docket number to the petitioner or, if applicable, petitioner's representative.

761—12.3(17A) Action on petition.

12.3(1) A declaratory order or an order declining to issue a declaratory order is issued by the director.

12.3(2) The director may issue an order declining to issue a declaratory order on some or all of the questions raised in the petition for any of the following reasons:

a. The petition does not substantially comply with the required form.

b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department to issue a declaratory order.

c. The department does not have jurisdiction over the questions presented in the petition.

d. The questions presented in the petition are also presented in a current rulemaking, contested case, or other agency or judicial proceeding that may definitively resolve them.

e. The questions presented in the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

f. The questions posed or facts presented in the petition are unclear, vague, incomplete, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a declaratory order.

g. There is no need to issue a declaratory order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a department decision already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.

j. The petitioner requests the department to determine whether a statute is unconstitutional on its face.

12.3(3) If the director issues an order declining to issue a declaratory order, the order needs to indicate the specific grounds for declining to issue a declaratory order and constitutes final agency action on the petition.

761—12.4(17A) Effect of a declaratory order. A declaratory order is binding on the department and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code sections 17A.9 and 17A.19.

ARC 9098C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to transporter plates and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 424, "Transporter Plates," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)"j" and 321.57 through 321.63.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 424 in compliance with Executive Order 10. Proposed Chapter 424 implements Iowa Code sections 321.57 through 321.63, which address the eligibility to use transporter plates.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 14, 2025

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on May 8, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

May 7, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 369 983 88
May 8, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 213 892 773

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

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

Review by Administrative Rules Review Committee

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

ITEM 1. Rescind 761—Chapter 424 and adopt the following **new** chapter in lieu thereof:

CHAPTER 424
TRANSPORTER PLATES

761—424.1(307,321) Definitions.

"Operating authority" means the authority issued by the department or the Federal Motor Carrier Safety Administration under Iowa Code chapter 325A or 327B that is required for the delivery of a vehicle for compensation.

"Transporter" means a person who is engaged in the business of delivering vehicles owned by the person or delivering vehicles owned by other persons for compensation and who has an established place of business for such purpose in this state. An authorized vehicle recycler under Iowa Code chapter 321H who delivers vehicles in the course of the recycler's business meets this definition.

"Transporter plate" means a special plate for transporters as authorized by Iowa Code sections 307.12(1)*"j"* and 321.57 through 321.63.

761—424.2(307,321) Application and requirements for transporter plates.

424.2(1) *Application.* A transporter may obtain transporter plates from the department by submitting an application on Form 417003 to the department with the applicable statutory fees under Iowa Code sections 321.58 through 321.60. Applications are to be submitted by mail to Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Form 417003 may be obtained by contacting the motor vehicle division by phone at 515.237.3156, by email to dealer.programs@iowadot.us or on the department's website at iowadot.gov/mvd/buyingselling/buyingselling/misc.

424.2(2) *Required information.* Each application shall include the following information:

a. The transporter's business name, bona fide address and telephone number.

b. The legal name, bona fide address and phone number of an owner when the owner of the business is an individual, or the name, bona fide address and phone number of at least two partners or officers if the business is a partnership or corporation.

c. The federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application is to include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

d. Certification on the application that the applicant possesses all necessary operating authority to conduct business as a transporter in the state.

424.2(3) *Permitted uses of a transporter plate.* The person delivering the vehicle must carry evidence issued by the owner of the vehicle authorizing the delivery. The evidence shall include the origin and destination of the vehicle delivery, the vehicle owner's name and address and a description of

the vehicle being delivered. Subject to these stipulations, a transporter plate may be displayed on a vehicle being operated or moved on the highway for the purpose of delivery to a place designated by the owner of the vehicle.

424.2(4) *Prohibited uses of a transporter plate.* A transporter plate shall not be displayed on a vehicle being delivered or displayed in any manner not specifically permitted under Iowa Code section 321.57 or subrule 424.2(3).

These rules are intended to implement Iowa Code sections 307.12(1)*"j,"* 321.1 and 321.57 through 321.63.

ARC 9096C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to motor vehicle leasing licenses and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 430, "Motor Vehicle Leasing Licenses," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 321F.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 321F.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 430 in compliance with Executive Order 10. Proposed Chapter 430 implements Iowa Code chapter 321F, which requires individuals engaged in the business of leasing motor vehicles to obtain a leasing license from the Department. Iowa Code chapter 321F requires the Department to adopt rules administering leasing licenses. The purpose of this chapter is to provide clarity and consistency on the requirements for leasing licenses and encourage compliance with the statutory requirements.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 14, 2025

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on May 9, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

May 8, 2025 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 956 613 250
May 9, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 755 874 408

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

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

Review by Administrative Rules Review Committee

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

ITEM 1. Rescind 761—Chapter 430 and adopt the following **new** chapter in lieu thereof:

CHAPTER 430
MOTOR VEHICLE LEASING LICENSES

761—430.1(321F) General.

430.1(1) *Information.* Information and forms relating to this chapter may be obtained from the Motor Vehicle Division, Iowa Department of Transportation, by mail at P.O. Box 9278, Des Moines, Iowa 50306-9278; by telephone at 515.237.3156; by email at dealer.programs@iowadot.us; or from the department's website at www.iowadot.gov/mvd/buyingselling.

430.1(2) *Definition.*

"Engage in the business" means leasing two or more motor vehicles that are subject to registration in a 12-month period if the lessee is a resident of this state and first takes possession of the vehicle in this state, or if the lessor's business address is located in this state. A person is not considered to be engaged in the business if the business address is located outside of this state and the lessee first takes possession of the motor vehicle outside of this state.

761—430.2(321F) Application.

430.2(1) *Form and submission.* Application for a motor vehicle leasing license shall be made on Form 417034 and submitted to the address provided in subrule 430.1(1).

430.2(2) *Required information.* Each application is to include the following information:

a. The applicant's business name, bona fide address and telephone number under which the applicant will engage in the business and where an individual, partner or corporate officer can be reached during normal business hours.

b. The legal name, bona fide address and phone number of the owner when the owner of the business is an individual, or the name, bona fide address and phone number of at least two partners or officers if the business is a partnership or corporation.

c. The federal employer identification number of the business, or, if the business is owned by an individual who is not required to have a federal employer identification number, the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

430.2(3) *Supplemental statements.* The licensee shall notify the department, in writing, within ten days, at the address shown in subrule 430.1(1), of any change in the information required on the original application.

761—430.3(321F) Separate licenses required. A separate license is required for:

430.3(1) Each address under which a single business entity will conduct business under Iowa Code chapter 321F and these rules.

430.3(2) Each address that will be used for titling or registering vehicles subject to registration in Iowa.

These rules are intended to implement Iowa Code chapter 321F.

ARC 9097C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to vehicle recyclers and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 431, "Vehicle Recyclers," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j" and 321H.4A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 307.12(1)"j" and chapter 321H.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 431 in compliance with Executive Order 10. Proposed Chapter 431 complies with Iowa Code chapter 321H by outlining the application and eligibility requirements to become a licensed vehicle recycler in the state.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 14, 2025

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on May 8, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

May 7, 2025 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 258 660 198
May 8, 2025 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 406 465 405

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

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

Review by Administrative Rules Review Committee

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

ITEM 1. Rescind 761—Chapter 431 and adopt the following **new** chapter in lieu thereof:

CHAPTER 431
VEHICLE RECYCLERS

761—431.1(307,321H) Definitions.

"NMVTIS" means the National Motor Vehicle Title Information System.

"Principal place of business" means a building actually occupied where the public and the department may contact the owner or operator during regular business hours. The principal place of business must be located in this state.

"Regular business hours" means to be consistently open to the public on a weekly basis at hours reported to the motor vehicle division. Regular business hours shall include a minimum of 32 posted hours between 7 a.m. and 9 p.m., Monday through Friday.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321H.2 and 321H.4.

761—431.2(307,321,321H) Authorized vehicle recycler.

431.2(1) *General requirements.* Every authorized vehicle recycler shall:

a. Maintain a principal place of business that includes separate and adequate office space for the recycler's business records and a working telephone service provided specifically for business use, which will allow the public, the department and law enforcement to contact the licensee during business hours.

b. Maintain regular business hours at the principal place of business.

c. Comply with local zoning laws.

d. Comply with the provisions of Iowa Code chapter 306C, relating to the Iowa junkyard control law, when applicable.

e. If subject to the requirements of 28 CFR Section 25.56, effective July 1, 2023, as adopted in Iowa Code section 321H.4A(2)*"a,"* do all of the following:

(1) Obtain and maintain a registered account with the NMVTIS.

(2) Report, or verify reporting of, inventory to the NMVTIS.

(3) If applicable, verify the seller of a vehicle purchased by the recycler has complied with 28 CFR Section 25.56, effective July 1, 2023, and document such verification on a form prescribed by the department if third-party electronic records are insufficient to verify compliance with 28 CFR Section 25.56, effective July 1, 2023, because the vehicle has been crushed or flattened by mechanical means as stated in Iowa Code section 321H.4A.

(4) Retain records of compliance, including verification forms completed under subparagraph 431.2(1)*"e"*(3), at the vehicle recycler's principal place of business for at least three years after the purchase of the vehicle. Records may be stored either in hard copy or electronically.

f. Only represent or advertise the business under the name or style that appears on the recycler's license.

g. Allow any peace officer to inspect vehicles or component parts of vehicles and the records and documents required to be kept under Iowa Code chapter 321H and this chapter.

431.2(2) *Vehicle rebuilder qualifications.* For every licensed location, a vehicle rebuilder must have:

a. An unobstructed area inside a building for rebuilding and restoring vehicles. The inside measurement of the unobstructed area must be at least 14 feet by 24 feet.

b. Sufficient storage for all vehicles in the rebuilder's inventory.

c. Equipment necessary to perform rebuilding and restoring of vehicles in the inventory, such as frame-straightening equipment, a hydraulic jack, alignment and calibration equipment, and tools.

431.2(3) *Used vehicle parts dealer qualifications.* For every licensed location, a used vehicle parts dealer must have sufficient storage for the vehicle parts in the dealer's inventory.

431.2(4) *Vehicle salvager qualifications.* For every licensed location, a vehicle salvager must have:

a. Sufficient storage for vehicles, vehicle parts and vehicle bodies included in the salvager's inventory.

b. Sufficient equipment necessary to perform dismantling, scrapping or storing of vehicles and vehicle parts in the inventory.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.95, 321H.4 and 321H.4A.

761—431.3(307,321H) Application and requirements for license.

431.3(1) *Application submission.* Application for an authorized vehicle recycler's license shall be made on Form 411117 and submitted to the department with the applicable statutory fee by mail to Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Form 411117 may be obtained by contacting the motor vehicle division, by phone at 515.237.3156, by email to dealer.programs@iowadot.us or on the department's website at www.iowadot.gov/mvd/buyingselling/buyingselling/recycler.

431.3(2) *Required information.* Each application shall include all information required by Iowa Code section 321H.4 and the following information:

a. The business's name, bona fide address and telephone number.

b. The legal name, bona fide address and telephone number of an owner when the owner of the business is an individual, or the name, bona fide address and phone number of at least two partners or officers if the business is a partnership or corporation.

c. The federal employer identification number of the business. If the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

d. The address of any extension of the applicant's place of business.

e. Certification the applicant complies with the requirements for the type of business the applicant engages in as specified under Iowa Code section 321H.4(2)*"b."*

f. A letter from the appropriate city or county zoning official stating that the business, or any extension of the applicant's business, complies with all applicable zoning provisions or is a legal nonconforming use. The letter must include acknowledgment by the zoning official of the type, or types, of business the applicant is engaged in.

g. A statement of the previous criminal history of the applicant. If the applicant is a corporation, the statement is required from each officer. If the applicant is a partnership, the statement is required from each partner.

h. The unique NMVTIS identification number as proof of compliance with registration requirements.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321H.4 and 321H.4A.

761—431.4(17A,307,321H) Denial, suspension or revocation.

431.4(1) *Denial.* The department shall deny an application if the applicant fails to meet the criteria for issuance of a license under this chapter and is authorized to deny the application for any of the reasons stated in Iowa Code section 321H.6.

431.4(2) *Suspension or revocation.* The department may suspend or revoke the recycler's license for failure to comply with the provisions of this chapter or for any of the reasons stated in Iowa Code section 321H.6.

431.4(3) *Appeal.* A person aggrieved by a decision of the department may contest the decision pursuant to 761—Chapter 13 by submitting an appeal request in writing to the director of the motor vehicle division.

This rule is intended to implement Iowa Code chapter 17A and sections 307.12(1)*"j"* and 321H.6.

ARC 9094C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to general information and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 600, "General Information," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j" and 321.445.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)"j" and 321.445.

Purpose and Summary

The Department proposes to permanently rescind Chapter 600. Rules 761—600.1(321) (definitions) and 761—600.2(17A) (information and location) will be rescinded because the content is unnecessary or duplicative. The content in rule 761—600.3(321) (seat belt exemptions) will be moved to Chapter 450, "Motor Vehicle Equipment," but the language will not change.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 14, 2025

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on May 8, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

May 7, 2025 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 904 555 110

May 8, 2025 3 to 3:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 429 069 001

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

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

Review by Administrative Rules Review Committee

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

ITEM 1. Rescind and reserve **761—Chapter 600**.

ARC 9106C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed Emergency After Notice

Rulemaking related to model rules

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 506, "Model Rules for Contested Cases Before Licensing Boards and Informal Settlements," and adopts a new Chapter 506, "Model Rules for Contested Cases Before Licensing Boards and Settlements," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.3 and 272C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3 and 272C.3; 2024 Iowa Acts, Senate File 2385; and Executive Order 10.

Purpose and Summary

This rulemaking revises the Department's model rules for broader applicability to boards under the Department's administrative authority, with the goal of increased standardization. Chapter 506 was repromulgated effective July 31, 2024, when 15 current boards under the Department's administrative authority adopted the chapter through the 2023 Red Tape Review pursuant to Executive Order 10. The repromulgation adopted herein further refines the chapter for consistency with the contested case chapters of other boards under the Department's administrative authority, such that an additional 11 or more boards will be able to easily adopt this chapter. Such boards include the Board of Medicine, Board of Pharmacy, Board of Nursing, and Dental Board, all of which are in the process of rescinding their individual contested case hearings chapters through their 2024 Red Tape Reviews pursuant to Executive Order 10. This rulemaking thus aligns with Executive Order 10's goal of reducing and simplifying the Iowa Administrative Code and creating unity throughout the Department since additional boards under the administrative authority of the Department are in the process of rescinding substantively similar chapters in reliance upon the rules proposed for promulgation herein.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 19, 2025, as **ARC 8953C**. No public comments were received. Nonsubstantive but clarifying changes from the Notice have been made to subrule 506.9(4) and paragraph 506.25(2)"a."

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Department finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective on March 28, 2025, because this rulemaking confers a benefit on the public by providing one source for multiple boards' contested case hearing procedures. The boards that will be imminently finalizing the rescission of their individual contested case hearing procedures in favor of adoption of the model chapter will have varying adoption and effective dates in light of their meeting schedules and rulemaking publication dates, and thus it is of benefit to all licensees that this chapter is effective prior to any such board action.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 26, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking became effective on March 28, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 481—Chapter 506 and adopt the following **new** chapter in lieu thereof:

CHAPTER 506
MODEL RULES FOR CONTESTED CASES BEFORE
LICENSING BOARDS AND SETTLEMENTS

481—506.1(17A) Scope and applicability. This model chapter provides rules for contested cases and settlements that licensing boards and commissions may adopt for procedural consistency. This chapter is deemed applicable to any licensing board under the administrative authority of the department, excluding the department's attached units, unless the licensing board has separate rulemaking authority and has adopted rules governing contested cases and settlements.

481—506.2(17A) Definitions. For the purpose of these rules, the following definitions apply:

"Attached units" includes the employment appeal board, office of civil rights, racing and gaming commission, and state public defender's office as described in Iowa Code chapter 10A.

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

"Department" means the department of inspections, appeals, and licensing.

"Issuance" means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

"Licensing board" or *"board"* includes any licensing board set forth in Iowa Code section 272C.1(6) that is under the administrative authority of the department pursuant to Iowa Code chapter 10A, with the exception of the director or the department as referenced in Iowa Code section 272C.1(6) *"ad"* and *"ae,"* and also includes any other licensing board under the administrative authority of the department pursuant to Iowa Code chapter 10A that has expressly adopted this chapter.

"Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, including the state of Iowa as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent or applicant, or an intervenor.

"Presiding officer" includes the licensing board, administrative law judge, or panel of not less than three board members who are licensed in the profession as described in Iowa Code section 272C.6(1).

"Probable cause" means a reasonable ground for belief in the existence of facts warranting the specified proceeding.

"Quorum" means a majority of the members of the board unless otherwise defined by the board's authorizing statute.

481—506.3(17A) Time requirements.

506.3(1) Time will be computed as provided in Iowa Code section 4.1(34).

506.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

481—506.4(17A) Probable cause. If the board finds there is probable cause for taking disciplinary action against a licensee following investigation, the board may order that a contested case hearing be commenced by the filing and service of a statement of charges and notice of hearing.

481—506.5(17A) Statement of charges and notice of hearing.

506.5(1) *Legal review.* Every statement of charges and notice of hearing prepared by the board will be reviewed by the office of the attorney general prior to filing.

506.5(2) *Service.* Service of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Service may be executed by:

a. Personal service as provided in the Iowa Rules of Civil Procedure; or

b. Restricted certified mail, return receipt requested; or

c. Signed acknowledgment accepting service; or

d. Publication, as provided in the Iowa Rules of Civil Procedure, when service cannot be accomplished using the above methods.

506.5(3) *Contents.* The statement of charges and notice of hearing will contain the following information:

a. A statement of probable cause to file the statement of charges;

b. A statement of the time, place, and nature of the hearing;

c. A statement of the legal authority and jurisdiction under which the hearing is to be held;

d. A reference to the particular sections of the statutes and rules involved;

e. A short and plain statement of the matters asserted containing sufficient detail to give the respondent fair notice of the allegations so that the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;

f. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the parties' counsel, if known;

g. Reference to the procedural rules governing conduct of the contested case proceeding;

h. Reference to the procedural rules governing settlement;

i. Identification of the presiding officer;

j. Notification of the time period in which a party may request, when applicable, and pursuant to Iowa Code section 17A.11 that the presiding officer be an administrative law judge;

k. Notification of the time period in which the respondent may file an answer; and

l. Notification of the respondent's right to request a closed hearing, if applicable.

506.5(4) *Public record.* A statement of charges and notice of hearing is a public record and open for inspection under Iowa Code chapter 22. Notwithstanding, investigative information included in the statement of charges and notice of hearing as set forth in subparagraph 506.5(3)*"e"* is confidential

pursuant to Iowa Code section 272C.6(4)*"a"* and should not be included in the public record. Such confidential information should be redacted from the public record or set forth in a separate document that is not included with the public record.

481—506.6(17A,272C) Legal representation. Following the filing of the statement of charges and notice of hearing, the office of the attorney general will be responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest. All other parties to a proceeding before the board are entitled to legal representation at their own expense.

481—506.7(17A,272C) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case may be the board, an administrative law judge delegated in accordance with rule 481—506.8(17A,272C), or a panel of the board as described in Iowa Code section 272C.6(1). The board may also request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 481—506.24(17A). An administrative law judge may also assist and advise the board at the contested case hearing.

481—506.8(17A,272C) Delegation by board to administrative law judge.

506.8(1) *Delegation.* Upon majority vote of the board, a contested case, whether disciplinary or nondisciplinary, may be delegated to an administrative law judge. The board may delegate the entirety of the case or parts of the case to the administrative law judge. The delegation may occur at the time of filing the notice of hearing and statement of charges and should occur as early as practicable.

506.8(2) *Proposed decisions.* Decisions issued by an administrative law judge are proposed decisions in accordance with Iowa Code section 17A.15. A proposed decision issued by an administrative law judge becomes a final decision if not timely appealed or reviewed in accordance with this rule.

a. Appeal by party. Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

b. Review. The board may initiate review of the proposed decision on its own motion at any time within 30 days following the issuance of the proposed decision.

c. Exhaustion. A party must timely appeal a proposed decision to the board in order to adequately exhaust administrative remedies.

d. Notice of appeal. An appeal of a proposed decision is initiated by the filing of a timely notice of appeal with the board. The notice of appeal must be signed by the appealing party or an attorney for that party and contain a certificate of service. The notice shall specify:

(1) The party initiating the appeal;

(2) The proposed decision or order being appealed;

(3) The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

(4) The relief sought; and

(5) The grounds for relief.

506.8(3) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or by a nonappealing party within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

506.8(4) *Scheduling.* The board will issue a schedule for consideration of the appeal.

a. Briefs and arguments. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions

of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

b. Record. The record on appeal or review shall be the entire record made before the administrative law judge.

481—506.9(17A) Presiding officer in a nondisciplinary contested case.

506.9(1) Any party in a nondisciplinary contested case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing must file a written request within 20 days after service of a notice of hearing that identifies or describes the presiding officer as the board.

506.9(2) The board may deny the request only upon a finding that one or more of the following apply:

a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

b. An administrative law judge is unavailable to hear the case within a reasonable time.

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

506.9(3) The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 506.9(4), the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

506.9(4) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek appeal to the board in order to exhaust adequate administrative remedies. Such appeals must be filed within ten days of the date the challenged ruling was issued by the administrative law judge, but no later than the time for compliance with the order or the date of hearing, whichever is first.

506.9(5) Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon appeal, the board will have the powers of and will comply with the provisions of subrule 506.8(2).

481—506.10(17A) Disqualification.

506.10(1) A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. Has a personal bias or prejudice concerning a party or a representative of a party;

b. Has personally investigated, prosecuted or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship that is:

(1) A party to the case, or an officer, director or trustee of a party;

(2) A lawyer in the case;

(3) Known to have an interest that could be substantially affected by the outcome of the case; or

(4) Likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

506.10(2) The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include:

a. General direction and supervision of assigned investigators;

b. Unsolicited receipt of information that is relayed to assigned investigators;

c. Review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or

d. Exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter that culminates in a contested case. A person voluntarily appearing before the board or a committee of the board waives any objection to a board member or board staff both participating in the appearance and later participating as a decision maker or aid to the decision maker in a contested case.

506.10(3) Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3), rule 481—506.10(17A), or subrule 506.22(9).

506.10(4) In a situation where a presiding officer or other person knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information for the record by affidavit, including a statement of the reasons for the determination that withdrawal is unnecessary.

506.10(5) If a party asserts disqualification on any appropriate ground, including those listed in subrule 506.10(1), the party will file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board will determine the matter as part of the record in the case.

506.10(6) If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but will need to establish the grounds by the introduction of evidence into the record.

481—506.11(17A) Consolidation—severance.

506.11(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

a. The matters at issue involve common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues involved; and

c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

506.11(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

481—506.12(17A) Pleadings.

506.12(1) *Pleadings.* Pleadings may be required by rule, by the statement of charges and notice of hearing, or by order of the presiding officer.

506.12(2) *Answer or appearance.* An answer or appearance, if required, shall be filed by respondent within 20 days of service of the statement of charges and notice of hearing.

a. An answer or appearance will state the name, address, and telephone number of the person filing the answer; the person or entity on whose behalf it is filed; and the attorney representing that person, if any. If the attorney is not licensed to practice law in Iowa, the attorney must fully comply with Iowa Court Rule 31.14.

b. The presiding officer may refuse to consider any defense not raised in the answer that could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

506.12(3) *Amendments.* Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Otherwise, a party may amend a pleading only with the consent of the other parties or at the discretion of the presiding officer, who may impose terms or grant a continuance.

481—506.13(17A) Service and filing.

506.13(1) *Service—when required.* Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as prosecutor for the state, simultaneously with its filing. Except for the original statement of charges and notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

506.13(2) *Service—how made.* Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

506.13(3) *Filing—when required.* After the statement of charges and notice of hearing, all pleadings and motions in a contested case proceeding shall be filed with the board. All documents that are required to be filed with the board shall be appropriately served upon all parties.

506.13(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board office at 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321; delivered to an established courier service for immediate delivery to that office; mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing; or filed electronically through AEDMS in accordance with 481—Chapter 16.

506.13(5) *Proof of mailing.* Proof of mailing includes:

a. A legible United States Postal Service postmark on the envelope, or

b. A certificate of service, or

c. A notarized affidavit, or

d. A certification in substantially the following form:

> I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the _____ Board, and to the names and addresses of the parties listed below by depositing the same in (a United States Post Office mailbox with correct postage properly affixed or state interoffice mail).
>
> (Date) (Signature)

481—506.14(17A) Discovery.

506.14(1) Discovery procedures applicable in civil actions are applicable in contested cases, with the exception of the mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507. Unless lengthened or shortened by these rules, by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery will be as provided in the Iowa Rules of Civil Procedure. Discovery will be served on all parties to the contested case proceeding but not be filed with the board.

506.14(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided by rule. The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

506.14(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

506.14(4) The board's investigative file is available to the respondent or applicant upon request only after the commencement of a contested case and prior to the resolution of the contested case. A licensee who elects to enter into a combined statement of charges and settlement agreement is not entitled to request the investigative file. In accordance with Iowa Code section 272C.6(4), information contained within an investigative file is confidential and may only be used in connection with the disciplinary proceedings.

481—506.15(17A,272C) Subpoenas in a contested case.

506.15(1) Subpoenas issued in a contested case may compel the attendance of witnesses at depositions or hearings and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at a deposition or hearing, or may be issued separately. Subpoenas shall be issued by the board administrator or designee upon written request. A request for a subpoena of mental health records must confirm the conditions described in 481—subrule 503.5(1) prior to the issuance of the subpoena.

506.15(2) A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

a. The name, address and telephone number of the person requesting the subpoena;

b. The name and address of the person to whom the subpoena shall be directed;

c. The date, time, and location at which the person shall be commanded to attend and give testimony;

d. Whether the testimony is requested in connection with a deposition or hearing;

e. A description of the books, papers, records or other real evidence requested;

f. The date, time and location for production, or inspection and copying; and

g. In the case of a subpoena request for mental health records, confirmation that the conditions described in 481—subrule 503.5(1) have been satisfied.

506.15(3) Each subpoena will contain, as applicable:

a. The caption of the case;

b. The name, address and telephone number of the person who requested the subpoena;

c. The name and address of the person to whom the subpoena is directed;

d. The date, time, and location at which the person is commanded to appear;

e. Whether the testimony is commanded in connection with a deposition or hearing;

f. A description of the books, papers, records or other real evidence the person is commanded to produce;

g. The date, time and location for production, or inspection and copying;

h. The time within which a motion to quash or modify the subpoena must be filed;

i. The signature, address and telephone number of the board administrator or designee;

j. The date of issuance; and

k. A return of service.

506.15(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the board administrator or designee will email the subpoena to the requesting party, with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

506.15(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena, must file with the board a motion to quash or modify the subpoena describing the legal reasons why the subpoena should be quashed or modified before the earlier of the date specified for compliance or 14 days after the subpoena is served. The motion may be accompanied by legal briefs or factual affidavits. However, if a subpoena solely requests the production of books, papers, records, or other real evidence and does not also seek to compel testimony, the person who is aggrieved or adversely affected by compliance with the subpoena may alternatively serve written objection on the requesting party before the earlier of the date specified

for compliance or 14 days after the subpoena is served. The serving party may then file a motion asking the presiding officer to issue an order compelling production.

506.15(6) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to issue a decision, or the board may issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

506.15(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board administrator, either in person, by email, or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

506.15(8) If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

481—506.16(17A) Motions.

506.16(1) Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

506.16(2) Any party may file a written response to a motion within ten days after the motion is served unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

506.16(3) The presiding officer may schedule oral argument on any motion.

506.16(4) Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

506.16(5) Dispositive motions, such as motions for summary judgment or motions to dismiss, must be filed and served on all parties at least 30 days prior to the scheduled hearing date unless otherwise ordered or permitted by the presiding officer. Any party may file a written response to a dispositive motion within ten days after the motion is served unless the time for response is otherwise lengthened or shortened by the presiding officer.

481—506.17(17A) Prehearing conferences.

506.17(1) A prehearing conference may be ordered by the presiding officer, and any party may request a prehearing conference. Prehearing conferences will be conducted by an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the board administrator's own motion will be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date. Written notice of the prehearing conference will be given by the board administrator to all parties. For good cause the board administrator may permit variances from this rule.

506.17(2) The parties at a prehearing conference shall be prepared to discuss the following subjects, and the administrative law judge may issue appropriate orders concerning:

a. The possibility of settlement.

b. The entry of a scheduling order to include deadlines for completion of discovery.

c. Stipulations of law or fact.

d. Stipulations on the admissibility of exhibits.

e. Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the administrative law judge at the prehearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.

f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the administrative law judge at the prehearing

conference. Exhibits other than rebuttal exhibits that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.

g. Stipulations of any provision of law.

h. Identification of matters that the parties intend to request be officially noticed.

i. Consideration of any additional matters that will expedite the hearing.

506.17(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

481—506.18(17A) Continuances.

506.18(1) Unless otherwise provided, an application for continuance shall be filed with the board at least seven days before the date scheduled for hearing. If the application for continuance is not contested, the board administrator or designee may issue an order or delegate the matter to an administrative law judge. If the application for continuance is contested, the matter will be heard by the board or may be delegated by the board to an administrative law judge. No continuance shall be granted within seven days of the date of hearing except for extraordinary, extenuating or emergency circumstances.

506.18(2) A written application for a continuance shall:

a. Be made at the earliest possible time and no less than seven working days before the hearing, except in cases of unanticipated emergencies;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

506.18(3) An oral application for continuance may be made if the board or the presiding officer waives the requirement for a written motion. No application for continuance shall be made or granted without notice to all parties, except in an emergency where notice is not feasible.

506.18(4) The presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The public interest;

d. The likelihood of informal settlement;

e. The existence of an emergency;

f. Any objection;

g. Any applicable time requirements;

h. The existence of a conflict in the schedules of counsel, parties, or witnesses;

i. The timeliness of the request; and

j. Other relevant factors.

481—506.19(17A,272C) Hearing procedures.

506.19(1) Hearings are conducted before a quorum of the board or an administrative law judge. With respect to contested cases before the board of medicine, if an insufficient number of board members are available to hear a contested case, the executive director, or designee, may request alternate members as defined in rule 653—1.1(17A,147) and Iowa Code sections 148.2A and 148.7(4) to serve on the hearing panel. A hearing panel must include at least six members, at least half of whom must be current board members and at least half of whom must be licensed to practice medicine under Iowa Code chapter 148.

506.19(2) The presiding officer has the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The board may request that an administrative law judge perform any of these functions and may be assisted and advised by an administrative law judge.

506.19(3) All objections will be timely made and stated on the record.

506.19(4) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case.

506.19(5) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument. Subject to terms and conditions prescribed by the presiding officer, parties may present the testimony of witnesses by affidavit, by written or video deposition, in person, by telephone, or by videoconference.

506.19(6) The presiding officer maintains the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

506.19(7) Witnesses may be sequestered during the hearing.

506.19(8) The presiding officer has the authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

506.19(9) The presiding officer conducts the hearing in the following manner:

a. The presiding officer gives an opening statement briefly describing the nature of the proceedings;

b. The parties are given an opportunity to present opening statements;

c. The parties present their cases in the sequence determined by the presiding officer;

d. Each witness is sworn or affirmed by the presiding officer or the court reporter and subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

506.19(10) The board members and the administrative law judge have the right to question a witness. Examination of witnesses is subject to properly raised objections.

506.19(11) The hearing will be open to the public unless the licensee requests that the hearing be closed. At the request of either party, or on the board's own motion, the presiding officer may issue a protective order to protect documents that are privileged or confidential by law.

506.19(12) Contested case hearings shall be recorded by electronic means or by a certified shorthand reporter. A party may request that a hearing be recorded by a certified shorthand reporter instead of through electronic means by filing a request with the board at least 14 days in advance of the hearing. Parties who request that a hearing be recorded by a certified shorthand reporter rather than by electronic means shall bear the cost of the certified shorthand reporter. Upon request, the board shall provide a copy of the whole or any portion of the record costs. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party. If the request for the hearing record is made as a result of a petition for judicial review, the party who filed the petition shall be considered the requesting party.

481—506.20(17A) Evidence.

506.20(1) The presiding officer rules on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

506.20(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

506.20(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless a party waives the party's right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

506.20(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence will be appropriately marked and be made part of the record.

506.20(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

506.20(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

506.20(7) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs and may be based on hearsay or other types of evidence that may or would be inadmissible in a jury trial.

481—506.21(17A) Default.

506.21(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

506.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

506.21(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated. A motion to vacate must state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

506.21(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

506.21(5) Properly substantiated and timely filed motions to vacate will be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties will be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

506.21(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

506.21(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 481—506.24(17A).

506.21(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and statement of charges and the contested case will proceed accordingly.

506.21(9) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 481—506.26(17A).

481—506.22(17A) Ex parte communication.

506.22(1) Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges and notice of hearing, there will be no communication,

directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

506.22(2) Prohibitions on ex parte communications commence with the issuance of the statement of charges and notice of hearing in a contested case and continue for as long as the case is pending before the board.

506.22(3) Written, oral or other forms of communication are ex parte if made without notice and opportunity for all parties to participate.

506.22(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 481—506.6(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call, including all parties or their representatives.

506.22(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

506.22(6) The board administrator or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a final decision under any provision of law and they comply with this rule.

506.22(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and will notify other parties when seeking to continue hearings or other deadlines.

506.22(8) A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

a. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication will be submitted for inclusion in the record under seal by protective order.

b. If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

506.22(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

506.22(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule, including default, a decision against the offending party, censure, suspension or revocation of the privilege to practice before the agency. Violation of ex parte

communication prohibitions by board personnel will be reported to the board and its board administrator for possible sanctions, including censure, suspension, dismissal, or other disciplinary action.

481—506.23(17A) Recording costs. Upon request, the board will provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record is paid by the requesting party.

481—506.24(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the board administrator or an administrative law judge. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first. In determining whether to review an interlocutory order, the board will consider:

506.24(1) The extent to which granting the interlocutory appeal would expedite final resolution of the case; and

506.24(2) The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

481—506.25(17A) Decisions.

506.25(1) *Final decisions.*

a. When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision. A final decision of the board is an open record. Final decisions shall be served on the parties in accordance with rule 481—506.13(17A).

b. A decision of a hearing panel of the board of medicine containing alternate members is considered a final decision of the board in accordance with Iowa Code section 148.2A.

506.25(2) *Proposed decisions.*

a. Panel of specialists for board of medicine. When a panel of three specialists for the board of medicine presides over the hearing, the panel shall issue a proposed decision that includes findings of fact but does not include conclusions of law. A proposed decision of a panel of specialists, together with a transcript of the proceedings and the exhibits presented, shall be reviewed by the board within 30 days of the date of the proposed decision was issued and a final decision issued.

b. Panel of board members or administrative law judge. When a panel of three or more board members or an administrative law judge presides over the hearing, the panel or administrative law judge shall issue a proposed decision that includes proposed findings of fact, conclusions of law, and an order. A proposed decision shall be reviewed by the board within 30 days of the date of the proposed decision was issued. A proposed decision becomes a final decision without further proceedings unless appealed in accordance with paragraph 506.25(2)*"c."*

c. Appeal of proposed decisions. A proposed decision pursuant to paragraph 506.25(2)*"a"* or *"b"* may be appealed to the full board by either party by serving on the board administrator, either in person, by email or by certified mail, a written notice of appeal within three days after service of the proposed decision on the appealing party.

(1) Following receipt of a notice of appeal, the board will enter an order establishing a schedule for further proceedings, which may include submission of briefs and oral argument. The parties shall serve their briefs on the board and each party.

(2) Oral argument may be heard by the board and may be waived by the parties. The time granted each party for oral argument is established by the board.

(3) The record on appeal includes the entire record made before the presiding officer. Costs associated with the appeal shall be paid by the appealing party.

d. Confidentiality. At no time prior to the release of the final decision by the board shall a proposed decision be made public or distributed to any person other than the parties.

e. Requests to present additional evidence. A party may request the taking of additional evidence after the issuance of a proposed decision only by establishing that:

(1) The evidence is material; and

(2) The evidence arose after the completion of the original hearing; or

(3) Good cause exists for failure to present the evidence at the original hearing; and

(4) The party has not waived the right to present additional evidence.

A written request to present additional evidence must be filed with the notice of appeal or by a nonappealing party within 14 days of service of the notice of appeal. The board may remand a case to the hearing panel or administrative law judge for further hearing or may itself preside at the taking of additional evidence.

481—506.26(17A) Applications for rehearing.

506.26(1) *Who may file.* Any party to a contested case proceeding may file an application for rehearing from a final order. The filing of an application for rehearing is not necessary to exhaust administrative remedies for purposes of judicial review.

506.26(2) *Content of application.* The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether the applicant requests an opportunity to submit additional evidence.

506.26(3) *Additional evidence.* A request that additional evidence be considered on rehearing is governed by paragraph 506.25(2)*"e."*

506.26(4) *Filing deadline.* The application shall be filed with the board within 20 days after issuance of the final decision.

506.26(5) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

506.26(6) *Disposition.* Any application for a rehearing is deemed denied unless the agency grants the application within 20 days after its filing.

506.26(7) *Only remedy.* Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

506.26(8) *Proceedings.* If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

481—506.27(17A) Stays of agency actions.

506.27(1) *When available.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy. A party must petition the board for a stay pursuant to this rule prior to requesting a stay from the district court in a judicial review proceeding.

506.27(2) *When granted.* In determining whether to grant a stay, the board will consider the factors listed in Iowa Code section 17A.19(5)*"c."* The board will not grant a stay in any case in which the district court would be expressly prohibited by statute from granting a stay.

506.27(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

481—506.28(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

481—506.29(17A) Emergency adjudicative proceedings.

506.29(1) *Emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order.

506.29(2) *Factors for consideration.* Before issuing an emergency adjudicative order, the board will consider factors, including but not limited to the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances that pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

506.29(3) *Issuance of order.*

a. An emergency adjudicative order contains findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order will be immediately served upon the person who is required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the agency;

(3) Certified mail to the last address on file with the agency;

(4) Email to the last email on file with the agency; or

(5) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

506.29(4) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order is issued, the board will make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

506.29(5) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

a. Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for hearing.

b. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the person who is required to comply with the order is the party requesting the continuance.

481—506.30(17A) Appeal. Any appeal to district court from a decision in a contested case will be taken within 30 days from the date of issuance of the decision by the board pursuant to Iowa Code section 17A.19.

481—506.31(272C) Public record. The final decision of the board in a contested case is a public record. The board will report final decisions to the appropriate organizations, which may include but are

not limited to the National Practitioner Data Bank and any media or other organizations that have filed a request for public information.

481—506.32(272C) Reinstatement.

506.32(1) Any person whose license to practice has been revoked or suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension unless the order of revocation provides that the license is permanently revoked.

506.32(2) Unless otherwise provided by law, if the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

506.32(3) All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement will be subject to the same rules of procedure as other cases before the board.

506.32(4) An application for reinstatement will allege facts that, if established, will be sufficient to enable the board to determine that the basis for the revocation, suspension or voluntary surrender of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts is on the respondent.

506.32(5) An order of reinstatement will be based upon a decision that incorporates findings of facts and conclusions of law. The order will be published as provided for in this chapter.

481—506.33(17A,272C) License denial. An applicant may appeal a preliminary notice of denial of license by filing a written notice of appeal and request for hearing with the board within 30 days of the date that the preliminary notice of denial of license was mailed or emailed by the board. The hearing is a contested case conducted in accordance with this chapter.

481—506.34(272C) Disciplinary hearings—fees and costs.

506.34(1) *Definitions.* As used in this rule in relation to formal disciplinary action filed by the board against a licensee, the following definitions apply:

"Deposition" means the testimony of a person taken pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

"Evaluation fees" means actual costs incurred by the board in a physical, mental, chemical abuse, other impairment-related examination or evaluation or clinical competency evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

"Expenses" means costs incurred by persons appearing pursuant to a subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and includes mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

"Transcript" means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

"Witness fees" means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation is the same as outlined in Iowa Code section 622.69 or 622.72, as applicable.

506.34(2) *Disciplinary hearing fee and related hearing costs.* As set forth in Iowa Code section 272C.6(6), a board created pursuant to Iowa Code chapter 147, 154A, 155, 169, 542, 542B, 543B, 543D, 544A, or 544B may charge a fee not to exceed $75 for conducting a disciplinary hearing that results in disciplinary action taken against the licensee by the board. The board may also recover from the licensee the costs for transcripts, witness fees and expenses, depositions, and medical examination fees incurred relating to a person licensed under Iowa Code chapter 147, 154A, 155, or 169. An order assessing a fee

will be included as part of the board's final decision and will direct the licensee to deliver payment directly to the board. The allocation of fees and costs collected pursuant to this subrule is in accordance with Iowa Code section 272C.6(6)*"b."* The board may assess these costs in the manner it deems most equitable in accordance with the following:

a. Transcript costs. The board may recover the costs for the court reporter and assess the transcript costs against the licensee pursuant to Iowa Code section 272C.6(6), if applicable, or against the requesting party pursuant to Iowa Code section 17A.12(7).

(1) The cost of the transcript includes the transcript of the original contested case hearing before the board, as well as transcripts of any other formal proceedings before the board that occur after the notice of the contested case hearing is filed.

(2) In the event of an appeal to the full board from a proposed decision, the appealing party shall timely request and pay for the transcript necessary for use in the agency appeal process.

b. Witness fees and expenses. The parties in a contested case are responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing. In addition, the board may assess the licensee the witness fees and expenses incurred by the witnesses called to testify on behalf of the state of Iowa, provided that the costs are calculated as follows:

(1) The costs for lay witnesses are determined in accordance with Iowa Code section 622.69. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(2) The costs for expert witnesses are determined in accordance with Iowa Code section 622.72. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(3) The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences for failure to make such payment are applicable with regard to witnesses who are subpoenaed by either party to testify at the hearing.

(4) The board may assess as costs the meal and lodging expenses necessarily incurred by witnesses testifying at the request of the state of Iowa. Meal and lodging costs shall not exceed the reimbursement employees of the state of Iowa receive for these expenses under the department of revenue guidelines.

c. Deposition costs. Deposition costs for purposes of allocating costs against a licensee include only those deposition costs incurred by the state of Iowa. The licensee is directly responsible for the payment of deposition costs incurred by the licensee.

(1) The costs for depositions include the cost of transcripts, the daily charge of the court reporter for attending and transcribing the deposition, and all mileage and travel time charges of the court reporter for traveling to and from the deposition that are charged in the ordinary course of business.

(2) If the deposition is of an expert witness, the deposition cost includes a reasonable fee for an expert witness. This fee will not exceed the expert's customary hourly or daily fee and shall include the time reasonably and necessarily spent in connection with such deposition, including the time spent in travel to and from the deposition, but excluding time spent in preparation for that deposition.

d. Medical examination fees. All costs of physical or mental examinations or substance abuse evaluations or drug screening or clinical competency evaluations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation of a pending complaint or as a sanction following a contested case shall be paid directly by the licensee.

506.34(3) *Certification of reimbursable costs.* The board administrator or designee will certify any reimbursable costs incurred by the board. The board administrator will calculate the specific costs, certify the cost calculated, and file the certification as part of the record in the contested case. A copy of the certification shall be served on the party responsible for payment of the certified costs at the time of the filing.

506.34(4) *Assessment of fees and costs.* A final decision of the board imposing disciplinary action against a licensee shall include the amount of any disciplinary hearing fee assessed. If the board also assesses reimbursable costs against the licensee, the board will file a certification of reimbursable costs that includes a statement of costs delineating each category of costs and the amount assessed. The board will specify the time period in which the fees and costs must be paid by the licensee.

a. Prior to seeking judicial review, a party shall file an objection to any fees or costs imposed by the board in order to exhaust administrative remedies. An objection shall be filed in the form of an application for rehearing pursuant to Iowa Code section 17A.16(2).

b. The application will be resolved by the board consistent with the procedures for ruling on an application for rehearing. Any dispute regarding the calculation of any fees or costs to be assessed may be resolved by the board upon receipt of the parties' written objections.

506.34(5) *Payment of fees and costs.* All fees and costs assessed pursuant to this rule shall be made in the form of a check or money order made payable to the board and delivered to the board office.

506.34(6) *Failure to make payment.* Failure of a licensee to pay any fees and costs within the time specified in the board order constitutes a violation of an order of the board and may be grounds for disciplinary action.

481—506.35(17A,272C) Settlement agreements.

506.35(1) Upon a determination by the board that probable cause exists to take public disciplinary action, the board and the licensee may enter into a combined statement of charges and settlement agreement or consent order. Entering into a combined statement of charges and settlement agreement or consent order is voluntary, and no licensee is entitled to be offered a combined statement of charges and settlement agreement or consent order. The combined statement of charges and settlement agreement or consent order shall include a brief statement of the charges, the circumstances that led to the charges, and the terms of settlement. Execution of a combined statement of charges and settlement agreement or consent order constitutes the commencement and resolution of a contested case proceeding. By electing to sign a combined statement of charges and settlement agreement, the licensee waives the right to a contested case hearing on the matter and waives the right to receive the investigative file. A combined statement of charges and settlement agreement is a public record open for inspection pursuant to Iowa Code chapter 22.

506.35(2) Any contested case may be resolved by settlement agreement or consent order. Settlement negotiations may be initiated by any party at any stage of a contested case. No party is required to participate in the settlement process. The assistant attorney general representing the state of Iowa or approved department personnel are authorized to negotiate on behalf of the board.

506.35(3) The full board will not be involved in negotiations until a written proposed settlement is submitted to the full board for approval unless both parties waive this prohibition.

506.35(4) Consent to negotiation by the respondent during settlement negotiations constitutes a waiver of notice and opportunity to be heard during settlement negotiation pursuant to Iowa Code section 17A.17. Thereafter, the prosecuting attorney is authorized to discuss settlement with the board chairperson or designee or approved department personnel. By signing the proposed consent order, the respondent authorizes the prosecuting attorney or executive officer to have ex parte communications with the board related to the terms of settlement. A board member who is designated to act in negotiation of settlement is not disqualified from participating in the contested case should the case proceed to hearing.

506.35(5) Settlement agreements shall be completed at least seven days prior to the date scheduled for hearing whenever possible.

506.35(6) All settlements are subject to approval by the majority of the board. If the board fails to approve the settlement, it will be of no force or effect to either party and will not be admissible at hearing. Upon rejecting a proposed consent order, the board may suggest alternative terms of settlement that the respondent is free to accept or reject.

506.35(7) A settlement agreement is a public record open for inspection pursuant to Iowa Code chapter 22.

506.35(8) The board may accept the voluntary surrender of a license if it is accompanied by a written statement of intention. A voluntary surrender, when accepted in connection with a disciplinary proceeding, has the same force and effect as an order of revocation.

481—506.36(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver if it deems the waiver to be inconsistent with the public interest.

These rules are intended to implement Iowa Code chapters 17A and 272C.

[Filed Emergency After Notice 3/28/25, effective 3/28/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9100C

ARCHITECTURAL EXAMINING BOARD[193B]

Adopted and Filed

Rulemaking related to continuing education

The Architectural Examining Board hereby amends Chapter 3, "Continuing Education," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272C and section 544A.29.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 544A.

Purpose and Summary

This rulemaking brings the Board into compliance with 2024 Iowa Acts, House File 2686, which amended Iowa Code section 272C.2(2) to allow a licensee to apply continuing education credits obtained in excess of the requirements for a renewal period to the continuing education requirements for the following renewal period in an amount not to exceed 50 percent of the continuing education credits required for a renewal period.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8552C**. A public hearing was held on the following date(s):

- January 28, 2025
- January 29, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 20, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind subrule 3.3(2) and adopt the following **new** subrule in lieu thereof:

3.3(2) All 24 CEHs must be completed in health, safety, and welfare subjects acquired in structured educational activities. CEHs may be acquired at any location. A licensee may carry over up to 12 CEHs obtained in excess of the requirements for a renewal period to the following renewal period.

[Filed 3/20/25, effective 5/21/25]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9138C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rulemaking related to public records and fair information practices

The Economic Development Authority hereby rescinds Chapter 195, "Public Records and Fair Information Practices," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 22.11.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is rescinding Chapter 195 and adopting a new chapter in lieu thereof. The new chapter incorporates the text of the Uniform Rules on Agency Procedure regarding fair information practices in addition to other information the Authority is required to address as set out at Iowa Code section 22.11.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8663C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 16, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on February 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 261—Chapter 195 and adopt the following **new** chapter in lieu thereof:

PART IX
UNIFORM PROCEDURES: RECORDS, RULEMAKING, DECLARATORY ORDERS, RULE WAIVERS

CHAPTER 195
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

261—195.1(15,22) Definitions. As used in this chapter:

"Authority" means the Iowa economic development authority created in Iowa Code section 15.105.

"Confidential records" means records, as identified in Iowa Code section 15.118 or 22.7 or any other provision of law, that are not disclosed to members of the public unless otherwise ordered by a court, by the custodian of the records, or by another person duly authorized to release the records. A record may be partially or wholly confidential.

"Custodian" means a lawful custodian as defined in Iowa Code section 22.1.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about or pertaining to an individual in a record that identifies the individual and that is contained in a record system.

"Record" means the whole or a part of a "public record" as defined in Iowa Code section 22.1 that is owned by or is in the physical possession of the authority.

"Record system" means any group of records under the control of the authority from which a record may be retrieved by a personal identifier, such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

"Request for confidential treatment" means a request, made pursuant to rule 261—195.4(15,22), for the authority to treat a record as a confidential record and withhold such record from public inspection.

261—195.2(15,22) Requests for access to authority records.

195.2(1) *Location of record.* A request for access to an authority record should be directed to the authority at 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50309, or an email address indicated on the authority's website for the purpose of requesting records. If a request for access to a record is misdirected, authority staff will promptly forward the request to the appropriate person within the authority.

195.2(2) *Office hours.* Open records are available during customary office hours of 8 a.m. to 4:30 p.m. on Monday through Friday, excluding legal holidays.

195.2(3) *Request for access.* Requests for access to authority records may be made in writing, including by email, in person, or by telephone. Requests must identify the particular records sought by name or description in order to facilitate the location of the record. A request made other than in person must include the name, email address if available and telephone number of the person requesting the information. If a person asks to be mailed paper copies of a record, a mailing address must be included in the request. A person is not required to give a reason for requesting an open record.

195.2(4) *Response to requests.* The authority is authorized to grant or deny access to records according to the provisions of Iowa Code chapter 22, this chapter or any other provision of law. Access to an open record shall be granted promptly upon request. If the size or nature of the request necessitates time for compliance, the authority shall comply with the request as soon as possible. The authority may delay access to a record for any of the reasons set forth in Iowa Code section 22.8(4) or 22.10(4). The authority must promptly give written notice to the requester of the reason for any delay in access to a record and the estimated length of that delay.

195.2(5) *Security of record.* No person may, without permission from the authority, search or remove any record from authority files. Examination and copying of records will be done under the supervision of authority staff to ensure records are protected from damage and disorganization.

195.2(6) *Copying.* The authority will permit the copying of records as described in Iowa Code section 22.3.

195.2(7) *Fees.* The authority may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. An hourly fee may be estimated in advance and charged for actual authority expenses in the inspection, reviewing, and copying of requested records when the total staff time dedicated to fulfilling the request requires an excess of two hours. When the estimated fee chargeable under this subrule exceeds $25, the authority may require a requester to make an advance payment of all or part of the estimated fee. When a requester has previously failed to pay a fee charged under this subrule, the authority may require advance payment of the full amount of any estimated fee before the authority processes a new or pending request for access to records from that requester, as well as payment in full of the amount previously owed.

261—195.3(15,22) Access to confidential records. The following procedures for access to confidential records are in addition to those specified for all authority records in rule 261—195.2(15,22).

195.3(1) A person requesting access to a confidential record may be required to provide proof of identity or authority if access to the record is limited to a particular person or class of persons.

195.3(2) The authority may require a request for access to a confidential record to be in writing. A person requesting access to a confidential record may be required to sign a certified statement or affidavit enumerating the specific grounds justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

195.3(3) When the authority denies a request for access to a confidential record, in whole or in part, the requester shall be notified in writing. The written notice will include:

a. The name and title or position of the person or persons responsible for the denial; and

b. A brief statement of the grounds for the denial, including a citation to the applicable provision of law vesting authority in the authority to deny disclosure of the record.

195.3(4) When the authority grants a request for access to a confidential record to a particular person, the authority will indicate any lawful restrictions imposed by the authority on that person's examination and copying of the record.

261—195.4(15,22) Requests for confidential treatment.

195.4(1) A request for confidential treatment must be submitted in writing to the authority and:

a. Identify the information for which confidential treatment is sought.

b. Cite the legal and factual basis for confidential treatment.

c. Identify the name, address, telephone number, and email address if available of the person authorized to respond to any inquiry or action of the authority concerning the request.

d. Specify the precise period of time for which the confidential treatment is requested, if applicable.

195.4(2) The authority may request additional factual information from the person requesting confidential treatment.

195.4(3) The authority must notify the requester in writing of the granting or denial of the request. If a request for confidential treatment is denied, the authority shall notify the requester in writing of the reasons for the authority's denial. Pursuant to Iowa Code section 22.8, the authority may reasonably delay examination of the record. However, if the authority determines that the requester had no reasonable grounds for the request for confidential treatment, then such record shall not be withheld from public inspection for any period of time after the denial of the request. The authority may notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The authority may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the authority to treat the record as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

195.4(4) Failure of a person to request confidential treatment for a record does not preclude the authority from treating the record as a confidential record.

261—195.5(15,22) Additions, dissents or objections. Except as otherwise provided by law, the person who is the subject of a record may have a written statement of additions, dissents or objections entered into that record. The statement must be filed with the authority, be dated and signed by the person who is the subject of the record, and include the person's current address and telephone number, and email address if available. This rule does not authorize the person who is the subject of the record to alter the original record or to expand the official record of any authority proceeding.

261—195.6(15,22) Notices to suppliers of information. The authority will notify suppliers of information of the use that will be made of the information, which persons outside the authority might routinely be provided the information collected and identify which parts of the requested information are required and which are optional and will state the consequences of failing to provide the information. This notice may be given in the authority's rules, on written forms used to collect the information, in contracts, in program guidance, verbally, or by other appropriate means.

261—195.7(15,22) Disclosure of records—consent.

195.7(1) *Disclosure for routine use.* In this chapter, "routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. To the extent allowed by law, the following uses are considered routine uses of all authority records, including confidential records:

a. Disclosure to those officers, employees, and agents of the authority who have a need for the record in the performance of their duties.

b. Disclosure to a contractor, including but not limited to the department of inspections, appeals, and licensing, for matters in which the contractor is performing services or functions on behalf of the authority.

c. Transfers of information within the authority, to other state agencies, or to units of local government as appropriate to administer the program for which the information is collected.

d. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the authority is operating a program lawfully.

e. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

195.7(2) *Other disclosures of confidential records.* To the extent allowed by law, the following uses may result in disclosure of confidential records without the consent of the subject:

a. Disclosure to a recipient who has provided the authority with advance written assurance that the record will be used solely as statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of such government agency or instrumentality has submitted a written request to the authority specifying the record desired and the law enforcement activity for which the record is sought.

d. Disclosure pursuant to a showing of compelling circumstances affecting the health or safety of any individual.

e. Disclosure to the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. Disclosure in response to a court order or subpoena.

195.7(3) *Consent to disclosure of confidential records.*

a. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to the subject or to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, if applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, if applicable, the person to whom the record is to be disclosed may be required to provide proof of identity.

b. When a record has multiple subjects with interest in the confidentiality of the record, the authority may take reasonable steps to protect confidential information relating to another subject.

261—195.8(15,22) Availability of records.

195.8(1) Authority open records are open for public inspection and copying unless otherwise prohibited by current rule or law.

195.8(2) Certain records identified in rules 261—195.9(15,22) and 261—195.10(15,22), or otherwise maintained by the authority, may be confidential records, in whole or in part, and not routinely made available for public inspection pursuant to Iowa Code section 15.118, 22.7, or 22A.2 or other applicable law.

261—195.9(15,22) Personally identifiable information.

195.9(1) *Collection, maintenance, and retrieval.* The authority collects personally identifiable information pursuant to Iowa Code provisions relating to the responsibilities of the authority, including but not limited to Iowa Code chapters 15, 15E, 15J, 73, 404A, and 473; Iowa Code sections 403.19A and 476.46A; and other applicable laws relating to the responsibilities of the authority. Personally identifiable information is stored by electronic and physical methods. The authority's record systems do not match, collate or compare personally identifiable information in each system with personally identifiable information contained in other record systems. The authority's record systems can collect, maintain and retrieve information by personal identifiers, including names, mailing addresses, and email addresses. This rule describes the nature and extent of personally identifiable information that is collected, maintained and retrieved by the authority by personal identifier in record systems.

195.9(2) *Program records.* Records of persons or organizations participating in the authority's programs are collected by the authority. These records may contain information about individuals collected pursuant to specific federal or state statutes or regulations. Personally identifiable information, such as name, address, social security number and telephone number, may be included in these records

when the applicant is an individual. Portions of program records may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

195.9(3) *Correspondence.* Records of correspondence from persons outside the authority or sent to persons outside the authority may contain personally identifiable information provided by the sender or recipient of such correspondence. Portions of correspondence may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

195.9(4) *Litigation files.* The authority maintains records regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. These records contain materials that are confidential as attorney work product and attorney-client communications pursuant to Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa Rule of Civil Procedure 1.503(3); Federal Rule of Civil Procedure 26(b)(3); the rules of evidence; the Code of Professional Responsibility; and case law. Some materials are confidential under other applicable provisions of law or as directed by a court order.

195.9(5) *Personnel files.* The authority maintains files containing information about employees, families and dependents, and applicants for positions with the authority. Portions of personnel files may be confidential pursuant to Iowa Code section 22.7(11).

261—195.10(15,22) Other groups of records. This rule describes groups of records maintained by the authority other than record systems. These records are routinely available to the public. All or portions of such records may contain confidential information pursuant to Iowa Code section 22.7 or other applicable law. The records are stored by electronic and physical methods.

195.10(1) *Rulemaking records.* Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

195.10(2) *Meeting records.* Agendas, minutes and materials presented to boards and other bodies associated with the authority are available from the authority, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(4) or that are otherwise confidential by law. Authority meeting records contain information about people who participate in meetings. The information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier.

195.10(3) *Publications.* News releases, annual reports, project reports, newsletters, and related documents are available from the authority. Authority news releases, project reports, and newsletters may contain information about individuals, including authority staff. This information is not retrieved by individual identifier.

195.10(4) *Statistical reports.* Periodic reports for various authority programs are available from the authority. Statistical reports do not contain personally identifiable information.

195.10(5) *Published materials.* The authority uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

195.10(6) *Policy manuals.* The authority employees' manual, containing procedures describing the authority's regulations and practices, is available. Policy manuals do not contain information about individuals.

195.10(7) *Other records.* All other records that are not exempt from disclosure by law are available from the authority.

261—195.11(15,22) Applicability. This chapter does not:

195.11(1) Require the authority to index or retrieve records that contain information about an individual by that person's name or other personal identifier.

195.11(2) Make available to the general public records that would otherwise not be available pursuant to Iowa Code chapter 22.

195.11(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the authority that are governed by the regulations of another agency.

195.11(4) Make available records compiled by the authority in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, rules of discovery, evidentiary privileges and applicable regulations of the authority.

These rules are intended to implement Iowa Code chapters 15 and 22.

[Filed 3/28/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9139C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rulemaking related to petition for rulemaking

The Economic Development Authority hereby rescinds Chapter 197, "Petition for Rule Making," and adopts a new Chapter 197, "Petition for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is rescinding Chapter 197 and adopting a new chapter in lieu thereof. The new chapter incorporates Iowa Code chapter 17A by reference and removes language that repeats statute or is otherwise unnecessary.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8664C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 16, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on February 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 261—Chapter 197 and adopt the following **new** chapter in lieu thereof:

CHAPTER 197
PETITION FOR RULEMAKING

261—197.1(17A) Incorporation by reference. The authority incorporates by this reference all such matters in Iowa Code chapter 17A that relate to petitions for rulemaking.

261—197.2(17A) Petition for rulemaking. Petitions for rulemaking or inquiries about such petitions may be directed to Director, Iowa Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315 or director@iowaeda.com. A petition for rulemaking that substantially conforms to the following form will be considered by the authority:

BEFORE THE IOWA ECONOMIC DEVELOPMENT AUTHORITY		
Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}	PETITION FOR RULEMAKING

The petition should provide the following information:

1. A statement of the specific rulemaking action sought by the petitioner, including the text or a summary of the contents of the proposed rule or amendment to a rule.
2. The name, mailing address, and telephone number of the petitioner and any other person to whom communications concerning the petition should be directed.
3. An explanation of petitioner's arguments in support of the action urged in the petition, including but not limited to a citation to any law deemed relevant to the petition and any data supporting the action requested.
4. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action that is the subject of the petition.

261—197.3(17A) Consideration and disposition of petition. Prior to granting or denying a petition for rulemaking, the authority may request additional information from the petitioner. The authority may schedule a meeting between the petitioner and the authority. The final decision on whether the circumstances justify the granting of a petition is in the sole discretion of the authority. A decision will be issued in accordance with Iowa Code section 17A.7(1).

These rules are intended to implement Iowa Code section 17A.7.

[Filed 3/28/25, effective 5/21/25]
[Published 4/16/25]
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ARC 9140C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rulemaking related to petition for declaratory order

The Economic Development Authority hereby rescinds Chapter 198, "Petition for Declaratory Order," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is rescinding Chapter 198 and adopting a new chapter in lieu thereof. The new chapter removes language that repeats statute or is otherwise unnecessary.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8665C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 16, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on February 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

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

individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 261—Chapter 198 and adopt the following **new** chapter in lieu thereof:

CHAPTER 198
PETITION FOR DECLARATORY ORDER

261—198.1(17A) Petition for declaratory order. Any person may file a petition with the authority for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the authority at Iowa Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, Attn: Legal Counsel. Petitions may also be delivered by email to an email address supplied by the authority's legal counsel. A petition is deemed filed when it is received by the authority. The authority will provide the petitioner with a file-stamped copy of the petition if the petitioner provides the authority an extra copy for this purpose. The authority will accept only typewritten petitions that substantially conform to the following form:

BEFORE THE ECONOMIC DEVELOPMENT AUTHORITY

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by or interested in the questions presented in the petition.
8. Any request by the petitioner for a meeting provided for by rule 261—198.7(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

261—198.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the authority shall give notice of the petition to all persons not served by the petitioner pursuant to rule 261—198.6(17A) to whom notice is required by any provision of law. The authority may give notice to any other persons. The authority may require the petitioner to serve the notice on all persons to whom

notice is required by any provision of law and provide a written statement to the authority attesting that notice has been provided.

261—198.3(17A) Intervention.

198.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order may intervene in a proceeding for a declaratory order.

198.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the authority.

198.3(3) A petition for intervention shall be filed at the address or email address indicated in rule 261—198.1(17A). A petition is deemed filed when it is received by the authority. The authority will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. The authority will accept only typewritten petitions that substantially conform to the following form:

BEFORE THE ECONOMIC DEVELOPMENT AUTHORITY

Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by or interested in the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented by the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and the intervenor's representative, and a statement indicating the person to whom communications should be directed.

261—198.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The authority may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

261—198.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the address or email address indicated in rule 261—198.1(17A).

261—198.6(17A) Service and filing of petitions and other documents.

198.6(1) Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing with the authority. The party filing a document is responsible for service on all parties and other affected or interested persons.

198.6(2) All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed at the address or email address indicated in rule 261—198.1(17A). All documents are considered filed upon receipt.

261—198.7(17A) Consideration. The authority may schedule a brief and informal meeting between the original petitioner, all intervenors, and authority staff to discuss the questions raised. The authority may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the authority by any person.

261—198.8(17A) Action on petition.

198.8(1) The authority shall take action on the petition in the time frame established by Iowa Code section 17A.9(5).

198.8(2) The date of issuance of an order or of a refusal to issue an order is the date of mailing of the order or refusal or date of delivery if service is by other means unless another date is specified in the order.

261—198.9(17A) Refusal to issue order.

198.9(1) The authority shall not issue a declaratory order if prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

a. The petition does not substantially comply with the form indicated in rule 261—198.1(17A).

b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the authority to issue an order.

c. The authority does not have jurisdiction over the questions presented in the petition.

d. The questions presented by the petition are also presented in a current rulemaking, contested case, or other authority or judicial proceeding that may definitively resolve them.

e. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

f. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.

g. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct to establish the effect of that conduct or to challenge a decision the authority has already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition, and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.

j. The petitioner requests the authority to determine whether a statute is unconstitutional on its face.

198.9(2) If the authority refuses to issue a declaratory order, the authority must indicate the specific grounds for the refusal. Refusal to issue a declaratory order constitutes final agency action on the petition.

198.9(3) The authority's refusal to issue a declaratory order pursuant to this provision does not preclude a petitioner from filing a new petition that seeks to eliminate the grounds for the authority's refusal to issue an order.

261—198.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion. A declaratory order is effective on the date of issuance.

261—198.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be provided promptly to the original petitioner and all intervenors.

261—198.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the authority, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the authority. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code section 17A.9.

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ARC 9141C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rulemaking related to uniform waiver rules

The Economic Development Authority hereby rescinds Chapter 199, "Uniform Waiver Rules," and adopts a new Chapter 199, "Waivers from Administrative Rules," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 15.106A and 17A.9A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.9A.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is rescinding Chapter 199 and adopting a new chapter in lieu thereof. The new chapter eliminates language that is duplicative of statutory language, eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms, and updates outdated and unclear language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8666C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 16, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on February 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 261—Chapter 199 and adopt the following **new** chapter in lieu thereof:

CHAPTER 199
WAIVERS FROM ADMINISTRATIVE RULES

261—199.1(17A,15) Definitions.
"Authority" means the Iowa economic development authority created in Iowa Code section 15.105.
"Director" means the same as defined in Iowa Code section 15.102(8).
"Person" means the same as defined in Iowa Code section 17A.2(9).
"Waiver" means the same as defined in Iowa Code section 17A.9A(5).

261—199.2(17A,15) Applicability of chapter. The authority may grant a waiver of a rule as permitted by Iowa Code section 17A.9A.

261—199.3(17A,15) Criteria for waiver. In response to a petition filed pursuant to this chapter, the authority may grant a waiver if the authority finds, based on clear and convincing evidence, all of the factors listed in Iowa Code section 17A.9A(2).

261—199.4(17A,15) Filing of petition. Petitions for waiver should be submitted in writing to the Director, Iowa Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315. If the petition relates to a pending contested case, the petition is filed in the contested case proceeding, using the caption of the contested case. Petitions may be delivered by email to an email address supplied by the authority's legal counsel.

261—199.5(17A,15) Content of petition. A completed petition for waiver includes the following information where applicable and known to the petitioner:

199.5(1) The name, address, and telephone number of the person for whom a waiver is being requested and the case number of any related contested case.

199.5(2) A description and citation of the specific rule from which a waiver is requested.

199.5(3) The specific waiver requested, including the precise scope and duration.

199.5(4) The relevant facts that the petitioner believes would justify a waiver under criteria described in Iowa Code section 17A.9A(2). This statement shall include a signed statement from the

petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

199.5(5) A history of any prior contacts between the authority and the petitioner relating to the regulated activity, license, financial assistance, or incentives affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

199.5(6) Any information known to the petitioner regarding the authority's treatment of similar cases.

199.5(7) The name, address, and telephone number of any public agency or political subdivision that might be affected by the granting of a waiver.

199.5(8) The name, address, and telephone number of any person who would be adversely affected by the granting of a waiver.

199.5(9) The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

199.5(10) Signed releases of information authorizing persons with knowledge regarding the request to furnish the authority with information relevant to the waiver.

261—199.6(17A,15) Notice. The authority will acknowledge a petition within five business days of its receipt. Within 30 days of the receipt of the petition, the authority will provide notice of the pendency of the petition and a copy of the petition or a concise summary of the petition to all persons to whom notice is required by any provision of law. In addition, the authority may give notice to other persons. To accomplish this provision, the authority may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the authority attesting that notice has been provided.

261—199.7(17A,15) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to the following:

199.7(1) When any petition for a waiver is filed within a contested case;

199.7(2) When the authority so provides by rule or order; or

199.7(3) When required to do so by statute.

261—199.8(17A,15) Authority responsibilities regarding petition for waiver.

199.8(1) *Additional information.* Prior to issuing an order granting or denying a waiver, the authority may request additional information from the petitioner relative to the petition and surrounding circumstances. The authority may schedule a meeting between the petitioner and the authority or, if the petition was filed in a contested case, between the petitioner and all parties to the contested case.

199.8(2) *Compliance with Iowa Code standards.* The authority applies the standards and burdens in Iowa Code section 17A.9A(3).

199.8(3) *Final discretion.* The final decision on whether the circumstances justify the granting of a waiver is in the sole discretion of the authority.

199.8(4) *Ruling.* An order granting or denying a waiver will be in writing and will contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is granted.

199.8(5) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the authority will balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

199.8(6) *Time for ruling.* The authority will grant or deny a petition for a waiver as soon as practicable but, in any event, will do so within 90 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a pending contested case, the authority will grant or deny the petition no later than the time at which the final decision in that matter is issued. Failure of the authority to grant or deny a petition within the required time period is deemed a denial of that petition by the authority. However, the authority remains responsible for issuing an order denying a waiver.

199.8(7) *Service of order.* Within seven days of its issuance, the authority will transmit an order issued under this chapter to the petitioner or any other person entitled to such notice.

261—199.9(17A,15) Public availability. The authority will comply with the public availability and filing procedures of Iowa Code section 17A.9A(4).

261—199.10(17A,15) After issuance of a waiver.

199.10(1) *Voiding or cancellation.* A waiver is void if the material facts upon which the petition is based are not true or if material facts have been withheld. The authority may withdraw, cancel or modify a waiver if, after appropriate notice and hearing, the authority issues an order finding any of the following: facts as stated in the request are not true; material facts have been withheld; the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute or substantially equal protection of public health, safety, and welfare; or the requester has failed to comply with the conditions of the order.

199.10(2) *Violations.* Violation of a condition in a waiver order is the equivalent of a violation of the particular rule for which the waiver is granted. The recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

199.10(3) *Defense.* After the authority issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

199.10(4) *Judicial review.* Judicial review of the authority's decision to grant or deny a waiver petition may be undertaken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 17A.9A and chapter 15.

[Filed 3/28/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9101C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rulemaking related to open enrollment and other enrollment options

The State Board of Education hereby amends Chapter 17, "Open Enrollment and Other Enrollment Options," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 282.18.

Purpose and Summary

This rulemaking clarifies language regarding transportation for open enrollment. It incorporates statutory amendments from 2024 Iowa Acts, House File 2278, which allowed districts to provide transportation across district boundaries in certain circumstances, and 2024 Iowa Acts, Senate File 2435, which restored deadlines, made exceptions to those deadlines, and limited open enrollment by students who are truant.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 8, 2025, as **ARC 8761C**. A public hearing was held on the following date(s):

- January 28, 2025

No one attended the public hearing. No public comments were received. References to 2024 Iowa Acts, Senate File 2435 and House File 2278, have been removed since the amendments in the legislation have been codified in the 2025 Iowa Code. No other changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the State Board on March 20, 2025.

Fiscal Impact

While there may be a fiscal impact on school districts, this rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend subrule 17.2(1) as follows:

17.2(1) *Parent/guardian responsibilities.* Iowa Code section 282.18 governs the application process and responsibilities for parents/guardians and school districts. An application completed and submitted under this ~~rule~~ chapter will include all information set forth in, and within the timelines provided by, Iowa Code section 282.18(2)*"a."*

ITEM 2. Adopt the following **new** subrules 17.6(6) and 17.6(7):

17.6(6) *Failure to meet deadlines in subrule 17.2(1).* Iowa Code section 282.18(3A) and 282.18(3B) govern applications that do not meet the applicable deadlines in subrule 17.2(1).

17.6(7) *Determination of truancy by receiving district.* Iowa Code section 282.18(11A) governs circumstances where the receiving district determines a student participating in open enrollment is "truant" as defined by Iowa Code section 299.8.

ITEM 3. Amend rule 281—17.8(282) as follows:

281—17.8(282) Transportation.

17.8(1) No change.

17.8(2) *Economic qualifications, eligibility and provisions for transportation assistance.* Open enrollment pupils who meet the economic eligibility provisions established by the department of education will receive transportation assistance from their resident district under the terms and conditions established by the department and state board of education as outlined in Iowa Code section 282.18(8)*"c."* The resident district may withhold from the amount it is required to pay to a receiving district for an open enrollment pupil the actual amount or the average cost per pupil transported amount it pays for transportation assistance, whichever is the lesser amount. A sending district shall not be responsible for paying a parent or guardian pursuant to this subrule if the pupil is transported by the receiving district to and from school in the receiving district pursuant to subrule 17.8(3).

17.8(3) *Exception to subrule 17.8(1).* The provisions about transportation in another district provided by subrule 17.8(1) are subject to the exceptions contained in Iowa Code section 282.18(8)*"b"* and *"c."*

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ARC 9102C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rulemaking related to community colleges

The State Board of Education hereby amends Chapter 21, "Community Colleges," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 260C.73.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 260C.

Purpose and Summary

This rulemaking modernizes language, removes unnecessary or duplicative language, and updates provisions related to work-based learning pursuant to 2024 Iowa Acts, Senate File 2411.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 8, 2025, as **ARC 8760C**. A public hearing was held on the following date(s):

- January 28, 2025

No one attended the public hearing. The Department of Education received written comments on behalf of community college presidents and community college student services directors.

Regarding Item 8, commenters proposed revising paragraph 21.62(6)"b" regarding outcomes-based planning. The Department agrees in part with the proposed revisions. The Department adopted the proposed language for clarity; however, the Department concluded that there is a clear link between outcomes-based planning and the institutional effectiveness goal-setting required by paragraph 21.62(6) "a." The language in question was revised to include that express link.

Regarding Item 10, the commenters' suggestions improved the clarity and readability of the proposed rules. To improve the flow of the subrule, paragraph 21.62(9)"f" was removed and its substance moved into the introductory paragraph. Paragraph 21.62(9)"b" was revised for clarity and to

put explicit emphasis on college completion. In paragraph 21.62(9)"e," the term "co-curricular" was removed since it is unnecessary and confusing.

Adoption of Rulemaking

This rulemaking was adopted by the State Board on March 20, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** definition of "Full-time equivalent enrollment" in rule **281—21.1(260C)**:

"Full-time equivalent enrollment" or *"FTEE"* equals 24 credit hours for credit courses or 600 contact hours for noncredit courses generated by all eligible students enrolled in eligible courses.

ITEM 2. Amend paragraphs **21.2(9)"d"**, **21.2(9)"e"** and **21.2(9)"g"** as follows:

d. Associate of applied science (AAS). The degree is awarded upon completion of a state-approved program of study that is intended to prepare students for entry-level career and technical occupations. An associate of applied science degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied science degree program consists of a minimum of 15 semester (22.5 quarter) credit hours of general education and include at least one course from each of the following areas: communications, social science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be ~~documented through an integrated,~~ embedded~~, and interdisciplinary model adopted by the chief academic officers of the 15 community colleges in consultation with the department~~ within an existing course in the technical core. The technical core of the associate of applied science degree will constitute a minimum of 50 percent of the course credits.

e. Associate of applied arts (AAA). The degree is awarded upon completion of a state-approved program of study that is primarily intended for career training in providing students with professional skills for employment in a specific field of work, such as arts, humanities, or graphic design. An associate of applied arts degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied arts degree program will consist of a minimum of 15 semester (22.5 quarter) credit hours of general education and include at least one course from each of the following: communications, social

science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be ~~documented through an integrated,~~ embedded~~, and interdisciplinary model adopted by the chief academic officers of the 15 community colleges in consultation with the department~~ within an existing course in the technical core. The technical core of the associate of applied arts degree will constitute a minimum of 50 percent of the course credits.

g. Diploma. The diploma is awarded upon completion of a state-approved program of study that is a coherent sequence of courses consisting of a minimum of 15 semester (22.5 quarter) credit hours and a maximum of 48 semester (72 quarter) credit hours including at least 3 semester (4.5 quarter) credit hours of general education. The general education component may be embedded within an existing course in the technical core and will be from any of the following areas: communications, social science or humanities, and mathematics or science. The technical core of the diploma will constitute a minimum of 70 percent of the course credits. A diploma may be a component of and apply toward subsequent completion of an associate of applied science or associate of applied arts degree.

ITEM 3. Amend rule 281—21.62(260C), introductory paragraph, as follows:

281—21.62(260C) Accreditation components and criteria—additional state standards. To be granted accreditation by the state board of education, an Iowa community college will also meet additional standards pertaining to minimum or quality assurance standards for faculty (Iowa Code section 260C.48(1)); faculty load (Iowa Code section 260C.48(2)); special needs and protected classes (Iowa Code section 260C.48(3)); career and technical education program evaluation (Iowa Code section 256.130(7)); facilities, parking lots and roads; ~~strategic planning;~~ institutional effectiveness and outcomes-based planning; quality faculty plan (Iowa Code section 260C.36); senior year plus programs (Iowa Code chapter 261E); and student services; as well as any other items referenced in this chapter.

ITEM 4. Amend paragraph **21.62(1)"c"** as follows:

c. Developmental education ~~and noncredit~~ instructors ~~are not subject to standards under this subrule~~ will possess a minimum of a bachelor's degree. Noncredit instructors are not subject to the standards in this subrule.

ITEM 5. Rescind paragraph **21.62(1)"f"**.

ITEM 6. Amend subrule 21.62(4) as follows:

21.62(4) *Career and technical education evaluation.* ~~The director of the department shall ensure that Iowa's community colleges annually review at least 20 percent of approved career and technical education programs.~~ The community college career and technical program review and evaluation system must ensure that the programs meet requirements as specified in 281—Chapter 46.

ITEM 7. Amend subrule 21.62(5) as follows:

21.62(5) *Facilities, parking lots and roads.*

a. ~~Facilities~~ Infrastructure and facilities master planning. Each community college shall present evidence of adequate planning, including a board-approved ~~facilities~~ plan that includes facilities, technology, and campus safety. At a minimum, the plan will include scheduling periodic maintenance, planning for facilities and infrastructure expansions and renovations, major equipment upgrades, and processes for continuity of service and instruction. ~~Planning includes tentative program approval, a master campus plan, written educational specifications, site plot showing location of proposed and existing facilities, elevations and floor plans.~~

b. Adequate facilities. The site, buildings and equipment of the community college will be well maintained and in good condition. The physical plant and technological infrastructure will be adequate in size and properly equipped for the program offered. All remodeling of existing facilities will comply with Iowa Code chapter 104A and the federal Americans with Disabilities Act, 42 U.S.C. §12101 et seq.

~~*b.*~~ *c. Accessibility and safety.* All new or remodeled facilities (buildings and programs offered in such facilities) and services in such facilities shall be made functional and usable for persons with special needs, comply with Iowa Code chapter 104A and the Americans With Disabilities Act, 42 U.S.C. §12101, and address issues of campus safety and security as required by Iowa Code chapter 260C and by

the federal Clery Act, 20 U.S.C. §1092(f). All parking areas and roads will comply with all state and federal rules and regulations dealing with roads, parking ramps, and accessibility requirements.

~~*e. Adequate facilities.* All administrative facilities, classrooms, laboratories, and related facilities will be educationally adequate for the purpose for which they are designed.~~

d. Library or learning resource center. A library or learning resource center will be planned as part of the master campus plan and space made for library or learning resource center services within the initial construction.

(1) Facilities. Community college libraries or learning resource centers shall provide the facilities and resources needed to support the total educational program of the institution and shall show evidence that the facilities and the resources are being used effectively and efficiently. Adequate consideration shall be given to the seating, comfort, setting, and technology of the facility used to house the collection and learning resources.

(2) Staffing. The library or learning resource center will be adequately staffed with qualified professionals and skilled nonprofessional personnel.

(3) Collection. The library and learning resource center materials collection of a community college shall be accessible and adequate in size and scope to serve effectively the number and variety of programs offered and the number of students enrolled, including distance and satellite sites. The library and learning resource center materials collection will show evidence of having been selected by faculty as well as professional library or learning resource staff and shall be kept up to date through a planned program of acquisition and deletion. ~~The library and learning resource center materials collection will contain a range and number of print and nonprint materials and appropriate electronic information resources.~~

(4) No change.

e. and *f.* No change.

~~*g. Physical plant.* The site, buildings and equipment of the community college will be well maintained and in good condition. At a minimum, a five-year ongoing, systematic maintenance and facilities plan approved by the local community college board will be in evidence. The physical plant will be adequate in size and properly equipped for the program offered. All remodeling of existing facilities will comply with Iowa Code chapter 104A and the federal Americans with Disabilities Act, 42 U.S.C. §12101 et seq.~~

ITEM 8. Rescind subrule 21.62(6) and adopt the following **new** subrule in lieu thereof:

21.62(6) *Institutional effectiveness and outcomes-based planning.*

a. Institutional effectiveness. The community college will prepare a high-quality, board-approved strategic plan that is regularly reviewed and revised, at least once every five years. The plan will guide the college and its decision-making. It will contain a list of goals, objectives and metrics and will be developed with input from internal and external stakeholders. The college should regularly track and communicate progress towards meeting plan goals.

b. Outcomes-based planning. The community college will review outcomes data regularly provided by the department and illustrate how the data informs institutional decision making in order to meet the plan goals identified in paragraph 21.62(6)*"a."*

ITEM 9. Rescind subrule 21.62(7) and adopt the following **new** subrule in lieu thereof:

21.62(7) *Quality faculty plan.* The community college will establish a quality faculty committee consisting of instructors and administrators to develop and maintain a plan for hiring and developing quality faculty. Each college will comply with the appropriate standards defined in Iowa Code section 260C.36.

ITEM 10. Rescind subrule 21.62(9) and adopt the following **new** subrule in lieu thereof:

21.62(9) *Student services.* A program of student services will be provided to meet the needs of students in the community college. Services will be reviewed periodically and incorporated into the college's planning for effectiveness. The program of student services, at a minimum, will include the following functional areas:

a. A systematic onboarding process that includes recruitment, evaluation and support of college readiness, orientation to college processes and policies, and initial program and course selection.

b. Programs and resources to help students understand how to finance college, including access to federal, state and local financial aid to facilitate community college enrollment and completion.

c. A student-centered advising program related to career and academic goals focused on persistence, retention, completion, and transition to further education or employment.

d. Campus safety and security as required by Iowa Code chapter 260C; the federal Clery Act, 20 U.S.C. §1092(f); and 34 CFR Section 668.46.

e. Opportunities for students to participate in experiences and programs that supplement classroom learning experiences and provide an optimal climate for social and academic development.

ITEM 11. Amend paragraph **21.63(1)"b"** as follows:

b. The department will conduct a comprehensive on-site accreditation evaluation of each community college on a ten-year interval. An interim evaluation midway between comprehensive evaluations will also be conducted. The format, length and scope of the interim evaluation will be determined by the department based on the results of the most recent comprehensive evaluation and an analysis of desk review materials and annual outcomes data prepared by the department. The department will prepare a staggered evaluation schedule that sets no more than three comprehensive or interim evaluations in any one year. No comprehensive or interim evaluation will be required for continued accreditation prior to a community college's first evaluation under the schedule. The department has the authority to conduct focused evaluation visits as needed.

ITEM 12. Amend paragraph **21.63(4)"e"** as follows:

e. Failure to correct deficiencies. If the deficiencies have not been corrected in a program of a community college, ~~the community college board of directors will take one of the following actions within 60 days from removal of accreditation:~~ the provisions of Iowa Code section 260C.47(5) apply.

~~(1) Merge the deficient program or programs with a program or programs from another accredited community college.~~

~~(2) Contract with another accredited postsecondary educational institution for purposes of program delivery at the community college.~~

~~(3) Discontinue the program or programs that have been identified as deficient.~~

[Filed 3/21/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9103C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rulemaking related to career and technical education

The State Board of Education hereby amends Chapter 46, "Career and Technical Education," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.129(2).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 256, subchapter VII, part 2.

Purpose and Summary

This rulemaking modernizes language, removes unnecessary or duplicative language, and updates provisions related to work-based learning pursuant to 2024 Iowa Acts, Senate File 2411.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 8, 2025, as **ARC 8759C**. A public hearing was held on the following date(s):

- January 28, 2025

No one attended the public hearing. The Department of Education received one public comment on behalf of the community college presidents regarding paragraph 46.6(4)"a."

Changes from the Notice have been made in Item 1 to subparagraphs 46.6(4)"a"(1) and 46.6(4)"a"(10) and to add a new subparagraph 46.6(4)"a"(11). The revision to subparagraph 46.6(4)"a"(1) adds clarity and removes unintended consequences of the term "mastery." The revision to subparagraph 46.6(4)"a"(10) broadens further education and training opportunities to include training provided by business and industry. New subparagraph 46.6(4)"a"(11) creates a continuous improvement cycle.

Adoption of Rulemaking

This rulemaking was adopted by the State Board on March 20, 2025.

Fiscal Impact

This rulemaking has no fiscal impact beyond that of the legislation it is intended to implement.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind subrule 46.6(4) and adopt the following **new** subrule in lieu thereof:

46.6(4) *Postsecondary program review.*

a. General. The postsecondary program review process is to ensure career and technical education programs meet standards adopted by the board. The program review will include an assessment of the extent to which:

(1) Students are proficient in the knowledge and skills aligned with industry expectations;

(2) The program yields a positive return on investment for students;

(3) The general education curriculum in the program is aligned with the program outcomes;

(4) The program provides opportunities for students to pursue other educational opportunities, other co-curricular opportunities, or both at the community college;

(5) The program removes barriers for all students, including special populations defined by the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., to access educational and employment opportunities;

(6) The curriculum is current and relevant;

(7) There is continued professional development of instructors;

(8) The equipment and facilities are adequate;

(9) Student outcomes, including, at a minimum, program enrollment rates, retention rates, completion rates, and employment rates and wages, are disaggregated, at a minimum, by gender, race and ethnicity, and other special populations defined by the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., and addressed by the program;

(10) The program aligns to additional education and training opportunities; and

(11) The program has implemented prior cycle goals and has developed additional plans for improvement.

b. Process. Each community college will establish a process that ensures at least 20 percent of career and technical education programs are reviewed on an annual basis. The department will ensure compliance with this paragraph through the community college accreditation process established in 281—Chapter 21.

c. Additional components. The following minimum components will also be addressed through the program review process outlined in paragraph 46.6(4)*"a."*

(1) Industry or professional standards. Community colleges will utilize program standards established and recognized by industry or professional organizations when available and appropriate. In lieu of these standards, community colleges will develop program standards through a structured group interview process, which involves committees of incumbent workers within an occupational cluster analyzing standards that include new and emerging technologies, and job-seeking, leadership, entrepreneurial, and occupational competencies. This analysis includes identifying standards that ensure program participants have access to instruction that leads to employment and further training. All standards will be analyzed for the reinforcement of academic skills.

(2) Advisory council. The community college will document how the program engages with the business community to recruit members for the advisory council under rule 281—46.8(258). Program review documentation will include a current member list with titles and employer; advisory committee meeting logistics, including but not limited to meeting frequency, agendas, and minutes; advice the advisory council has suggested for the program; and any actions or results taken by the program that stem from this advice.

(3) Pathways with secondary institutions. Teachers and administrators from both secondary and postsecondary instructional levels (when applicable) meet to identify competencies required at each level and to jointly develop pathways between secondary and postsecondary levels for specific occupational areas. Such collaborative efforts will facilitate the secondary-postsecondary transition and help reduce duplication between the two levels.

ITEM 2. Amend subrule 46.10(3) as follows:

46.10(3) *Membership.* The membership of each partnership will consist of stakeholders in a position to contribute to the development and successful implementation of high-quality career and technical education programs. Each district that falls within the boundaries of the partnership will be represented on the partnership. Once established pursuant to subrule 46.10(1), the partnership is responsible for identifying and maintaining appropriate membership. Membership of the partnership will include the following:

a. to *c.* No change.

~~*d. Representatives of a regional work-based learning intermediary network.*~~

~~*e.*~~ *d.* Representatives of regional economic and workforce entities including regional advisory boards established under Iowa Code section 84A.4.

~~*f.*~~ *e.* Representatives of business and industry, including representatives of regional industry sector partnerships.

~~*g.*~~ *f.* Career and technical education secondary teachers and postsecondary faculty.

ITEM 3. Amend paragraph **46.11(1)"b"** as follows:

b. Establish a program of study that meets all of the following criteria:

(1) No change.

(2) Integrates academic coursework; includes foundational and transitory career and technical education coursework; includes either work-based learning or the potential to earn an industry-recognized credential or a community college credential as defined in 281—subrule 21.2(9); and utilizes the individual career and academic planning process established under 281—Chapter 49.

(3) No change.

(4) Allows students enrolled in the academy an opportunity to continue on to an associate degree and, if applicable, a postsecondary baccalaureate degree program.

Only institutions that comply with the provisions of this rule may use the term "career academy."

ITEM 4. Amend **281—Chapter 46**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter ~~258~~ 256, subchapter VII, part 2.

[Filed 3/21/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9104C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rulemaking related to standards for practitioner and administrator preparedness programs

The State Board of Education hereby amends Chapter 79, "Standards for Practitioner and Administrator Preparation Programs," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.7(3).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.16.

Purpose and Summary

This rulemaking implements the following legislation from the following 2024 Legislative Session related to practitioner preparation: 2024 Iowa Acts, House Files 255, 2545, and 2618 and Senate File 2411.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 8, 2025, as **ARC 8757C**. A public hearing was held on the following date(s):

- January 28, 2025

No one attended the public hearing. The Department received written comments on behalf of practitioner preparation programs. The Department also received technical assistance from the publisher of the Foundation of Reading assessment.

Concerning Item 1, commenters objected to the 90 percent pass rate for the Foundation of Reading assessment to avoid a possible required self-study and institutional report. The Department removed the pass rate language since it is unnecessary. The Department has the authority to take monitoring and enforcement action for any practitioner preparation program with a pass rate of concern. The rulemaking has been updated based on this comment.

Concerning Item 5, commenters objected to the prohibition on including the three-cueing method in "teaching foundational reading," citing its usefulness in teaching English learners. No change from the Notice has been made based on this comment. The three-cueing method has no empirical support as a method of teaching reading (e.g., Petscher, Yaacov et al., How the Science of Reading Informs 21st Century Education, 55 Reading Research Q. S267 (2020)). Further, while using visuals is a useful way to make content comprehensible for English learners, it is not an evidence-based method to help English learners crack the code of English. For English learners, the purpose of visuals is to aid in making meaning, rather than a strategy to guess what a word is (the three-cueing method).

A reference to 2024 Iowa Acts, House File 2411, in subrule 79.14(9) has been removed since that House File has been codified in the 2025 Iowa Code.

Adoption of Rulemaking

This rulemaking was adopted by the State Board on March 20, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

By statute (Iowa Code section 256.7(3)), this chapter is not subject to waiver.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend subrules 79.13(4) to 79.13(5) as follows:

79.13(4) Individual candidate assessment includes all of the following:

a. Measures used for candidate assessment are fair, reliable and valid.

b. Candidates are assessed on their demonstration/attainment of unit standards.

c. Multiple measures are used for assessment of the candidate on each unit standard.

d. Candidates are assessed on unit standards at different developmental stages.

e. Candidates within designated endorsement areas, as determined on the department website (educate.iowa.gov), complete the foundations of reading assessment.

~~*e.*~~ *f.* Candidates are provided with formative feedback and opportunities to utilize the feedback to reflect upon and guide their development and growth toward attainment of unit standards.

79.13(5) The unit will document regular reviews, evaluation and revision to the system of assessment.

a. No change.

b. Comprehensive unit assessment includes all of the following:

(1) Individual candidate assessment data on unit standards, as described in subrule 79.13(4), are analyzed.

(2) Preparation programs will annually report assessment data from the Foundations of Reading assessment, as described in subrule 79.13(4), and services provided for candidates to the department. Analysis of aggregated state data will be utilized to determine Iowa's average passage rate.

~~(2)~~ (3) The aggregated assessment data are analyzed to evaluate programs.

~~(3)~~ (4) Findings from the evaluation of aggregated assessment data are shared with stakeholders and utilized for program improvement decisions.

ITEM 2. Amend subrule 79.13(7) as follows:

79.13(7) For teacher intern preparation programs, candidate assessment includes clear criteria for the following:

a. Acceptance requirements, including:

(1) Completion of a baccalaureate degree from ~~a regionally accredited institution~~ a college or university accredited by an institutional accrediting agency as recognized by the United States Department of Education that meets program-established required grade point criteria for the baccalaureate degree and content area;

(2) and (3) No change.

b. ~~Continuation in the program with clearly defined checkpoints/gates, including~~ Prior to teacher intern licensure, verification of an offer of employment as an intern from a school or district administrator.

c. No change.

If a candidate who was recommended for a teacher intern license exits the program or stops attending, the program is required to immediately report this change of status to the board of educational examiners.

ITEM 3. Amend paragraph **79.14(6)"a"** as follows:

a. ~~Includes a full-time experience for~~ Shall be a minimum of 14 weeks in duration during the teacher candidate's final year of the teacher preparation program.

ITEM 4. Adopt the following **new** subrule 79.14(9):

79.14(9) For teacher candidates with prior experience as a substitute teacher or a paraeducator, the terms of Iowa Code section 256.16(1)*"c"* apply. The unit will record evidence of prior experiences accepted under this subrule toward the student teaching experience.

ITEM 5. Amend subrule 79.15(3) as follows:

79.15(3) Literacy instruction and practical application include all of the following:

a. ~~Each~~ All teacher ~~candidate demonstrates~~ candidates demonstrate competency in literacy, including reading theory, knowledge, and evidence-based reading strategies and approaches, and integrating literacy instruction into content areas. The teacher candidate demonstrates competency in responsive teaching and making appropriate accommodations for students who struggle with literacy. Demonstrated competency shall address the needs of all students, including students with disabilities; students who are at risk of academic failure; students who have been identified as gifted and talented or English learners; and students with dyslexia, whether or not such students have been identified as children requiring special education under Iowa Code chapter 256B. Literacy ~~instruction~~ curriculum shall include evidence-based ~~best practices~~ reading instruction, determined by research, including those practices identified ~~by the Iowa reading research center~~ within the statewide literacy plan, and institutions ensuring the preparation shall not include instruction or practical application on teaching foundational reading that incorporates the three-cueing system.

b. Each teacher candidate in specified endorsement areas listed on the department website (educate.iowa.gov), determined by the department, demonstrates competency in direct and explicit strategies and systematic and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension. Literacy instruction and practical application shall include

evidence-based reading instruction and shall not include instruction or practical application on teaching foundational reading that incorporates the three-cueing system.

ITEM 6. Amend subrules 79.24(3) and 79.24(4) as follows:

79.24(3) Coursework and competencies to be completed ~~prior to the beginning of the candidate's initial employment as an intern~~ will include but not be limited to:

a. to *e.* No change.

79.24(4) Additional coursework and competencies to be completed ~~prior to~~ upon the recommendation for an initial teaching license will include:

a. to *d.* No change.

ITEM 7. Amend subrules 79.24(9) to 79.24(11) as follows:

79.24(9) Each teacher intern candidate will be engaged in field experiences that include opportunities for both observation of exemplary instruction and involvement in co-planning and co-teaching. Each teacher intern candidate will complete at least 50 hours of field experience ~~prior to the candidate's initial employment as an intern~~. The institution will enter into a written contract with the cooperating school or district providing ~~preinternship~~ field experiences.

79.24(10) The teacher intern preparation program will provide a teacher intern seminar during the ~~teacher internship~~ year leading to postintern licensure to support and extend coursework from the teacher intern content and facilitate teacher intern reflection.

79.24(11) In accordance with 281—Chapter 83, all teacher interns will be provided with a district-level mentor in addition to the program supervisor. The teacher intern will work under the teacher leader's supervision, including during co-teaching and planning time. The purpose of this district-level mentor is to provide coaching feedback dependent on the teacher intern's classroom experience. This district-level mentor shall not serve in an evaluative role. The district-level mentor shall complete specialized training for serving as a mentor as required in rule 281—83.3(284). The program will coordinate support between the teacher intern candidate's local district mentor and program supervisor.

[Filed 3/21/25, effective 5/21/25]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9105C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to more options for maternal support (MOMS) program

The Department of Health and Human Services hereby adopts new Chapter 164, "More Options for Maternal Support (MOMS) Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 217.41C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 217.41C and 2024 Iowa Acts, Senate File 2252.

Purpose and Summary

The MOMS program is designed to do the following:

- Provide personalized support to pregnant women to provide stabilization for families.
- Promote improved pregnancy outcomes, including reducing abortions, by helping women practice sound, health-related behaviors and improve prenatal nutrition.
- Improve child health and development by helping parents provide responsible and competent care for their children.
- Improve family economic self-sufficiency by linking parents to services that address individual economic and social needs.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8541C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

Multiple public comments were received expressing concerns that MOMS service providers were not subject to HIPAA. However, services provided with MOMS funding are, by definition in the Iowa Code, nonmedical and are not considered health care services or treatment for purposes of the HIPAA privacy laws. Iowa Code section 217.41C(4)"j" specifies that MOMS providers shall "maintain confidentiality of all data, files, and records related to the pregnancy support services provided to persons accessing the pregnancy support services through the program in compliance with state and federal laws." Because that language exists in the Iowa Code, it was not included in the rules.

One change has been made since publication of the Notice. The Department revised the definition of "program administrator" to make it clear that the Department may serve as the program administrator, consistent with the changes enacted by 2024 Iowa Acts, Senate File 2252.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 28, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on June 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 441—Chapter 164:

CHAPTER 164
MORE OPTIONS FOR MATERNAL SUPPORT (MOMS) PROGRAM

441—164.1(217) Definitions.

"Client" means an individual receiving the services enumerated in Iowa Code section 217.41C through the program.

"Pregnancy support services" means the same as defined in Iowa Code section 217.41C.

"Program" means the more options for maternal support (MOMS) program outlined in Iowa Code section 217.41C.

"Program administrator" means the department or a nonprofit entity incorporated in this state with a tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code that is awarded a contract by the department to administer the program, including managing a statewide network of providers and other duties outlined in Iowa Code section 217.41C.

"Provider of pregnancy support services" or *"provider"* means the same as defined in Iowa Code section 217.41C.

441—164.2(217) Pregnancy support services. Pregnancy support services do not include health care treatment or services for purposes of the Health Insurance Portability and Accountability Act of 1996.

441—164.3(217) Program administrator responsibilities.

164.3(1) If a nonprofit entity is awarded a contract by the department though the request for proposals process to administer the program, that program administrator may assume ownership and oversight of any existing contracts providers have with the department. The program administrator will work with the department to facilitate and execute the contract reassignments.

164.3(2) A program administrator shall prepare and submit an annual program evaluation report in a format prescribed by the department at the end of each contracted year. The program administrator shall use the results of the evaluation report at a minimum to support and assist providers in the continuous quality improvement process.

164.3(3) A program administrator shall maintain a minimum number of providers, as specified by the department, to include any provider contracts reassigned by the department, if applicable.

164.3(4) A program administrator shall only be eligible to receive reimbursement for services described in its contract and shall not charge additional fees to the department or to providers.

441—164.4(217) Client feedback. The department will create a process for clients to provide confidential feedback regarding their experience with providers.

441—164.5(217) Appeals. An applicant for program administrator, provider, or client who disagrees with a decision of the department may submit an appeal in accordance with 441—Chapter 7.

These rules are intended to implement Iowa Code section 217.41C.

[Filed 3/28/25, effective 6/1/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9107C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rulemaking related to continuing education for massage therapists

The Department of Inspections, Appeals, and Licensing hereby amends Chapter 823, "Continuing Education for Massage Therapists," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 152C and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 152C and 272C.

Purpose and Summary

This rulemaking implements Iowa Code chapter 152C and Iowa Code section 272C.2 as amended by 2024 Iowa Acts, House File 2686. Chapter 823 sets forth continuing education and training requirements for massage therapists. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board of Massage Therapy reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrule 823.2(4) is being amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking grants massage therapists the ability to carry over up to 8 hours of continuing education earned in excess of the 16 hours required every two years.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 8, 2025, as **ARC 8790C**. Public comments were received in support of the rulemaking. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 4, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend subrule 823.2(4) as follows:

823.2(4) ~~No hours of continuing education will be carried over into the next renewal period.~~ Licensees who complete continuing education hours in excess of the requirements for renewal may apply up to 50 percent of the required hours to the following renewal period. Licensees may apply a maximum of eight hours from the previous renewal period. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

[Filed 3/25/25, effective 5/21/25]
[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9108C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rulemaking related to continuing education for dietitians

The Department of Inspections, Appeals, and Licensing hereby amends Chapter 922, "Continuing Education for Dietitians," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 152A and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2686.

Purpose and Summary

2024 Iowa Acts, House File 2686, required that the Board of Dietetics adopt rules allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. The rulemaking grants dietitians the ability to carry over up to 15 hours of continuing education earned in excess of the 30 hours required by Iowa law every two years.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8799C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend subrule 922.2(4) as follows:

922.2(4) ~~No hours of continuing education will be carried over into the next biennium except as stated for the second renewal.~~ Licensees who complete continuing education hours in excess of the requirements for renewal may apply up to 50 percent of the required hours to the following renewal period. Licensees may apply a maximum of 15 hours from the previous renewal period. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

[Filed 3/25/25, effective 5/21/25]
[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9109C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to administrative and regulatory authority

The Board of Medicine hereby rescinds Chapter 1, "Administrative and Regulatory Authority," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A and 147.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 147.

Purpose and Summary

This rulemaking rescinds Chapter 1 and adopts a new chapter with the same title. This rulemaking provides the public with information relating to the mission of the Board of Medicine. The rules describe the organization of the Board and its statutory authority to oversee the practice of medicine and enforce the minimum standards in the practice of medicine.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8659C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ADMINISTRATIVE AND REGULATORY AUTHORITY

653—1.1(17A,147) Definitions. The following definitions are applicable to the rules of the board of medicine:

"Acupuncture" means a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

"Acupuncturist" means a person licensed to practice acupuncture in this state.

"Alternate member" means a person who is qualified under Iowa Code section 148.2A to substitute for a board member who is disqualified or becomes unavailable for a contested case hearing. An alternate board member is deemed a member of the board only for the hearing panel(s) for which the alternate board member serves.

"Board" means the board of medicine of the state of Iowa.

"Department" means the Iowa department of inspections, appeals, and licensing.

"Director" means the director of the department.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a certificate issued to a person licensed to practice medicine and surgery, osteopathic medicine and surgery, or acupuncture under the laws of the state of Iowa.

"Licensee" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, or acupuncture under the laws of the state of Iowa.

"Licensee discipline" or *"discipline"* means any sanction the board may impose upon its licensees for conduct that threatens or denies citizens of this state a high standard of professional care.

"Malpractice" means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a physician in the practice of the physician's profession.

"Medical practice Acts" refers to Iowa Code chapters 147 and 148.

"Order" means a requirement, procedure or standard of specific or limited application adopted by the board relating to any matter the board is authorized to act upon, including the professional conduct of licensees and the examination for licensure and licensure of any person under the laws of this state.

"Peer review" means evaluation of professional services rendered by a professional practitioner.

"Peer reviewer(s)" means one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

"Physician" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery under the laws of this state.

"Practice of acupuncture" means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medical concepts.

"The practice of medicine and surgery" means holding one's self out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical or mental condition and who shall either offer or undertake, by any means or methods, to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical or mental condition. This rule shall not apply to licensed podiatrists, chiropractors, physical therapists, nurses, dentists, optometrists, acupuncturists, pharmacists, and other licensed health professionals who are exclusively engaged in the practice of their respective professions.

"Prescription drugs" means drugs, medicine and controlled substances that by law can only be prescribed for human use by persons authorized by law.

"Profession" means medicine and surgery, osteopathic medicine and surgery, or acupuncture.

"Respondent" means a licensee charged by the board in a complaint and statement of charges with violations of statutes or rules relating to the practice of medicine and surgery, osteopathic medicine and surgery, or acupuncture.

"Rule" means a regulation, requirement, procedure, or standard of general application prescribed by the board relating to either the administration or enforcement of Iowa Code chapters 147, 148, and 148E.

653—1.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 147, 148, 148E, and 272C with regard to the practice of medicine and surgery, osteopathic medicine and surgery, and acupuncture.

653—1.3(17A) Organization of board.

1.3(1) The board:

a. Makes policy relative to matters involving medical and acupuncture education, licensure, practice, and discipline.

b. Conducts business according to board-approved policy.

c. Elects a chairperson, vice chairperson and a secretary from its membership at the last regular board meeting prior to May 1 or at another date in April scheduled by the board.

d. Has the authority and powers conferred in Iowa Code chapters 17A, 147, 148 and 272C and may establish committees of the board, the members of which, except for the executive committee, shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons. Committees of the board may include:

(1) Executive committee. The membership is composed of the elected officers of the board and two at-large members appointed by the chairperson. At least one public member is appointed to the executive committee. The executive committee duties may include but are not limited to:

1. Guidance and supervision of the executive director.
2. Budgetary review and recommendations to the board.
3. Review and recommendations to the board on rules and legislative proposals.
4. Study and recommendations to the board on practice issues and policy.

(2) Screening committee. The committee reviews complaints and makes recommendations to the board on appropriate action including further investigation or referral to the board for closure.

(3) Licensure committee. Its duties may include:

1. Recommending appropriate action on completed applications for licensure.
2. Conducting interviews with applicants when appropriate.
3. Reviewing licensure examination matters.
4. Reviewing and recommending to the board appropriate changes in licensure application forms.
5. Reviewing and making recommendations to the board regarding volunteer physician applicants who wish to participate in the state-indemnified volunteer physician program and who are under investigation or who have or have had disciplinary action against a license in the present or in the past.
6. Making recommendations on licensure policy issues.

(4) Monitoring committee. The committee oversees the monitoring of licensees under board orders and makes recommendations to the board on these matters.

e. Establishes, in accordance with Iowa Code section 148.2A, a pool of alternate board members.

1.3(2) A majority of the members of the board shall constitute a quorum. Official action, including filing of formal charges or imposition of discipline, requires a majority vote of members present.

653—1.4(17A) Official communications. All official communications, including submissions and requests, should be addressed to the Executive Director, Iowa Board of Medicine, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

653—1.5(17A) Office hours. The office of the board is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

653—1.6(17A) Meetings. The board shall meet at least six times per year. Dates and location of board meetings may be obtained from the board's office or on the board's website at dial.iowa.gov. Except as otherwise provided by statute, all board meetings are open, and the public is permitted to attend the meetings.

653—1.7(17A,272C) Adoption of uniform and model rules. The board hereby adopts by reference the following:

1. Uniform Rules on Agency Procedure, 481—Chapter 2, 481—Chapter 3, 481—Chapter 4, 481—Chapter 5, and 481—Chapter 6.
2. Military Service, Veteran Reciprocity, and Spouses of Active-Duty Service Members, 481—Chapter 7.
3. Licensing and Child Support Noncompliance, Student Loan Repayment Noncompliance, and Nonpayment of State Debt, 481—Chapter 8.
4. Model Rules for Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions, 481—Chapter 502.
5. Model Rules for Licensee Review Committee, 481—Chapter 505.

6. Model Rules for Contested Cases Before Licensing Boards, 481—Chapter 506.

These rules are intended to implement Iowa Code chapters 17A and 272C.

[Filed 3/26/25, effective 5/21/25]
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ARC 9110C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to rescission of chapters

The Board of Medicine hereby rescinds Chapter 2, "Public Records and Fair Information Practices," Chapter 3, "Waivers," Chapter 12, "Nonpayment of State Debt," Chapter 14, "Iowa Physician Health Committee—Iowa Physician Health Program," Chapter 15, "Child Support Noncompliance," Chapter 18, "Military Service and Veteran Reciprocity," and Chapter 25, "Contested Case Proceedings," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 22, 147, 148, 148E, 252J, 272C and 272D.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 22, 147, 148E, 252J and 272D and section 272C.3.

Purpose and Summary

This rulemaking is rescinding and reserving Chapters 2, 3, 12, 14, 15, 18 and 25. In light of the Board's realignment with the Department of Inspections, Appeals, and Licensing (agency number [481]) resulting from 2023 Iowa Acts, Senate File 514, the Board finds it is unnecessary and unreasonably duplicative to repromulgate these chapters. It is the Board's intent to rely on the model chapters of the Department. The rescission of these chapters is in line with the stated goal of Iowa Code chapter 17A to "simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions."

Chapter 2 provides guidance on public records and how individuals can receive public records from the Board. The chapter is substantially similar to 481—Chapter 5, which the Board will adopt by reference and utilize for the purposes of public records.

Chapter 3 provides guidance to the public and licensees on when and how to request a waiver of an administrative rule. The chapter is substantially similar to 481—Chapter 6, which will be utilized by the Board for waivers.

Chapter 12 implements Iowa Code chapter 272D, which provides for procedures when a license may be denied, suspended, or revoked for nonpayment of a state debt and child support obligations. This chapter is substantially similar to 481—Chapter 8, which will be utilized by the Board for these procedures.

Chapter 14 creates the Iowa Physician Health Program and Committee. This is a confidential program to ensure that licensees are safe to practice their profession. The program provides ongoing monitoring for eligible participants. This chapter is substantially similar to 481—Chapter 505, which will be utilized by the Board for its impaired practitioner program for physicians.

Chapter 15 implements Iowa Code chapter 252J and provides the process for taking action against a licensee if the licensee is not compliant with child support orders. This chapter is substantially similar to 481—Chapter 8, which will be utilized by the Board to carry out these statutory requirements.

Chapter 18 provides a mechanism for United States veterans and spouses of veterans to apply for and be granted reciprocity for licensing requirements in the state of Iowa. This chapter is substantially similar to 481—Chapter 7, which the Board will adopt by reference in place of this chapter.

Chapter 25 provides the licensee an outline of how a contested case proceeding is initiated and the rights and responsibilities of the licensee during that process. The Board intends to rescind this chapter and adopt by reference 481—Chapter 506, which is a model rules chapter and substantially similar to this chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8706C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **653—Chapter 2**.

ITEM 2. Rescind and reserve **653—Chapter 3**.

ITEM 3. Rescind and reserve **653—Chapter 12**.

ITEM 4. Rescind and reserve **653—Chapter 14**.

ITEM 5. Rescind and reserve **653—Chapter 15**.

ITEM 6. Rescind and reserve **653—Chapter 18**.

ITEM 7. Rescind and reserve **653—Chapter 25**.

[Filed 3/26/25, effective 5/21/25]
[Published 4/16/25]
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ARC 9111C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to fees

The Board of Medicine hereby rescinds Chapter 8, "Fees," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 147, 148 and 272C.

State or Federal Law Implemented

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

Purpose and Summary

This rulemaking establishes fees for physicians, acupuncturists, and genetic counselors. Fees include initial licensing fees, renewal fees, late fees, and reinstatement fees.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8695C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
FEES

653—8.1(147,148,272C) Definitions.

"Board" means the Iowa board of medicine.

"Online transaction fee" means a fee of $7 assessed by the board for completing an online purchase. The online transaction fee is in addition to the actual service provided.

653—8.2(147,148,272C) Application and licensure fees for acupuncturists.

8.2(1) The fees are as follows:

a. Initial application fee for licensure as an acupuncturist, $300.

b. Reactivation of application for licensure, $100.

c. Renewal fee for licensure as an acupuncturist, $300.

d. Fee for the evaluation of the fingerprint packet and the division of criminal investigation (DCI) and Federal Bureau of Investigation (FBI) criminal history background checks, $45.

e. Fee for reapplication of an acupuncture license, $400.

f. Penalty for failure to renew before expiration, $50.

8.2(2) Upon written request and payment of the designated fee, the board shall provide the following information about the status of an acupuncturist's license or acupuncturist's past registration:

a. Certified statement that verifies the status of licensure or past registration in Iowa that requires the board seal or a letter of good standing, $25.

b. Verification of the status of licensure or past registration in Iowa that does not require a certified statement or letter, $20.

653—8.3(147,148,272C) Interstate medical licensure compact (IMLC) fees.

8.3(1) *Service fee for an application for an IMLC letter of qualification.* The service fee is paid directly to the interstate medical licensure compact commission. The interstate commission retains a portion of this service fee and remits a portion of this service fee to the board. The service fee paid to the interstate commission includes the $45 fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI.

8.3(2) *Licensure fee for an Iowa license issued through the IMLC.* The licensure fee is paid directly to the interstate medical licensure compact commission. An applicant shall pay a licensure fee of $450 plus a service fee retained by the interstate commission.

8.3(3) *Licensure fee for renewal of active Iowa license issued through the IMLC.* The licensure fee is paid directly to the interstate medical licensure compact commission. The licensee shall pay the licensure fee described in subparagraph 8.4(1)*"c"*(1) plus a service fee retained by the interstate commission. If the license is not renewed prior to expiration, the licensee will incur a penalty as described in paragraph 8.4(1)*"d."*

653—8.4(147,148,272C) Application and licensure fees to practice medicine and surgery or osteopathic medicine and surgery or administrative medicine.

8.4(1) Fees for permanent licensure.

a. Initial licensure, $450 plus the $45 fee for evaluation of the fingerprint packet and the criminal history background checks by the DCI and FBI.

b. Reactivation of application for licensure, $150.

c. Renewal of an active license to practice.

(1) $550 if renewal is made via paper application, or $450 if renewal is made via online application, per biennial period or a prorated portion thereof if the current license was issued for a period of less than 24 months.

(2) No renewal fee if a physician was on active duty in the U.S. armed forces, reserves or national guard during the renewal period. "Active duty" means full-time training or active service in the U.S. armed forces, reserves or national guard.

d. Penalty for failure to renew before expiration, $100 per calendar month after the expiration date of the license up to $200.

e. Placing a license on inactive status or allowing a license to become inactive, no fee.

f. Reactivation of a license to practice one year or more after becoming inactive, $500 plus the $45 fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

g. Reactivation of a license within one year of becoming inactive, $550 except when the license in the most recent license period had been granted for less than 24 months. In that case, the reinstatement fee is prorated according to the date of issuance and the physician's month and year of birth.

8.4(2) Fees for resident physician licensure.

a. Application for a resident physician license, $100 plus the $45 fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

b. Extension of a resident physician license, $25.

c. Late fee for extension of a resident physician license, $50, to be paid in addition to the extension fee.

8.4(3) Fees for special physician licensure.

a. Application for a special physician license, $300 plus the $45 fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

b. Renewal of a special physician license, $200.

8.4(4) Fees for temporary physician licensure.

a. Application for a temporary physician license, $100 plus the $45 fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

b. Renewal of a temporary physician license, $50.

8.4(5) Fee for photocopy of a licensure application, $20.

8.4(6) Fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks, $45.

653—8.5(147,148,272C) Fees for verification of physician licensure and certification of examination scores.

8.5(1) *Verification fees.*

a. Physicians shall use VeriDoc to secure a certified statement that verifies Iowa licensure status for any state medical board that accepts VeriDoc. VeriDoc is accessible at www.veridoc.org. The fee for this service is $30.

b. A physician who needs a certified statement that verifies Iowa licensure status for a state medical board that does not accept verification from VeriDoc shall make a written request for a certified statement with payment of a $30 verification fee to the board of medicine. The board shall provide a certified statement that verifies Iowa licensure status to the nonaccepting state medical board.

c. The fee for verification of Iowa licensure status that does not require a certified statement or letter is $15.

d. The board provides an electronic verification service whereby users can input the licensee's license number to learn the licensee's current licensure status. There is no fee for this service. The board shall provide a license number for an individual caller to use in the automated telephone or electronic verification service. Businesses that utilize verifications will be required to utilize the automated telephone or electronic verification service or the alternative outlined in paragraph 8.5(1)*"c."*

8.5(2) *Fees for certification of physician examination scores.* Upon request and payment of the designated fee, the board may provide certification of scores of an examination given by the board in Iowa as permitted under Iowa Code section 147.21 and 653—paragraph 2.13(2)*"f."* The scores available from the board are those from examinees who took the state-constructed examination.

a. Certified statement of grades attained by examination, $45.

b. Certified statement of grades attained by examination including examination history or additional documentation, $55.

653—8.6(147,148,272C) Public records.

8.6(1) *Public records available at no cost.* The following records are available at no cost to the public:

a. Public action taken by the board against a licensee may be found under the licensee's name on the board's website under "Find A Physician." Public actions are posted on the board's website within approximately one week after the board has taken action.

b. Electronic files of press releases, statements of charges, final orders and consent agreements from each board meeting are available on the board's website.

8.6(2) *Purchase of public records.* Public records are available according to 481—Chapter 5.

653—8.7(147,148,272C) Licensee data list. A data list of all physicians and acupuncturists includes the following information about each licensee: full name, year of birth, work address and telephone number (or other contact information on file if licensee's work address and telephone number are not available), Iowa county (if applicable), medical school (if applicable), year of graduation from medical school (if applicable), two medical specialties (if available), license issue date, license expiration date, license number, license type, license status, and an indicator of whether the board has taken any public action on the license. There is no fee for an electronic file of this list. A printed copy of the data list is available for a fee.

653—8.8(147,148,272C) Returned checks. The board will charge a fee of $25 for a check returned for any reason. If a license had been issued by the board office based on a check that is later returned by the bank, the board shall request payment by certified check or money order. If the fees are not paid within two weeks of notification of the returned check by certified mail, the licensee shall be subject to disciplinary action for noncompliance with board rules.

653—8.9(147,148,272C) Copies of the laws and rules. Electronic copies of laws and rules pertaining to the practice of medicine or acupuncture are available at www.legis.iowa.gov at no cost. Printed copies of these laws and rules are available for a fee.

653—8.10(147,148,272C) Refunds. Application and licensure fees will be collected by the board and are not refundable except by board action in unusual instances.

653—8.11(17A,147,148,272C) Waiver prohibited. Licensure and examination fees in this chapter are not subject to waiver.

653—8.12(8,147,148,272C) Monitoring fee. The board may require payment of up to $300 per quarter to cover the board's expenses to monitor a licensee's compliance with a settlement agreement or final decision and order.

653—8.13(147,148,272C) Application and licensure fees for genetic counselors.

8.13(1) The fees are as follows:

a. Initial application fee for licensure, $200.

b. Reactivation of application for licensure, $100.

c. Renewal of an active license, $200.

d. Penalty for failure to renew before expiration, $50.

e. Fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks, $45.

f. Fee for reactivation of a license, $300.

8.13(2) Upon written request and payment of the designated fee, the board shall provide the following information about the status of a genetic counselor's license:

a. Certified statement that verifies the status of licensure in Iowa that requires the board seal or a letter of good standing, $25.

b. Verification of the status of licensure in Iowa that does not require a certified statement or letter, $20.

These rules are intended to implement Iowa Code sections 147.11, 147.80, 148.3, 148.5, 148.10, and 148.11.

[Filed 3/27/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9112C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to licensure

The Board of Medicine hereby rescinds Chapter 9, "Permanent and Administrative Medicine Physician Licensure," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 147 and 148.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147 and 148.

Purpose and Summary

This rulemaking sets minimum standards for entry into the medical profession. Iowa residents, licensees, and employers benefit from the rulemaking because it articulates the processes by which individuals apply for licensure as a physician in the state of Iowa, as directed by statute. This includes the processes for initial licensure, renewal, and reactivation. These requirements ensure individuals entering the profession have minimum competency through educational qualifications and examinations.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8699C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
PERMANENT AND ADMINISTRATIVE MEDICINE PHYSICIAN LICENSURE

653—9.1(147,148) Definitions.

"ABMS" means the American Board of Medical Specialties.

"ACGME" means the Accreditation Council for Graduate Medical Education.

"AMA" means the American Medical Association.

"Any jurisdiction" means any state, the District of Columbia or territory of the United States of America or any other nation.

"Any United States jurisdiction" means any state, the District of Columbia or territory of the United States of America.

"AOA" means the American Osteopathic Association.

"Applicant" means a person who seeks authorization to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine in this state by making application to the board, or a physician who seeks licensure through the IMLC.

"Approved abuse education training program" means a training program using a curriculum approved by the abuse education review panel of the department of health and human services or a training program offered by a hospital, a professional organization for physicians, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

"Board" means the board of medicine.

"Board-approved resident training program" means a hospital-affiliated graduate medical education program accredited by ACGME, AOA, RCPSC, or CFPC at the time the applicant is enrolled in the program.

"Candidate" means a person who applies to sit for an examination administered by the board or its designated testing service.

"Category 1 credit" means any formal education program that is sponsored or jointly sponsored by an organization accredited for continuing medical education by the Accreditation Council for Continuing Medical Education, the Iowa Medical Society, or the Council on Continuing Medical Education of AOA. Credits designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credits by the American Academy of Family Physicians are accepted as equivalent to category 1 credits.

"CFPC" means the College of Family Physicians of Canada.

"COCA" means the Commission on Osteopathic College Accreditation.

"COMLEX" means the Comprehensive Osteopathic Medical Licensing Examination.

"Committee" means the licensure committee of the board.

"COMVEX-USA" means the Comprehensive Osteopathic Medical Variable-Purpose Examination for the United States of America.

"Core credentials" means those documents that demonstrate the applicant's identity, medical training and practice history.

"Current, active status" means a license that is in effect and grants the privilege of practicing administrative medicine, medicine and surgery or osteopathic medicine and surgery, as applicable.

"ECFMG" means the Educational Commission for Foreign Medical Graduates.

"Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the IMLC.

"FCVS" means the Federation Credentials Verification Service.

"FLEX" means the Federation Licensing Examination.

"Foreign medical school," also known as an "international medical school," means a medical school that is located outside of any United States jurisdiction or Canada.

"FSMB" means the Federation of State Medical Boards.

"IMLC" means the Interstate Medical Licensure Compact enacted in Iowa Code chapter 147B.

"Inactive license" means any license that is not in current, active status.

"Incidentally called into this state in consultation with a physician and surgeon licensed in this state" as set forth in Iowa Code section 148.2(5) means all of the following shall be true:

1. The consulting physician shall be involved in the care of patients in Iowa only at the request of an Iowa-licensed physician.
2. The consulting physician has a license in good standing in another United States jurisdiction.
3. The consulting physician provides expertise and acts in an advisory capacity to an Iowa-licensed physician. The consulting physician may examine the patient and advise an Iowa-licensed physician as to the care that should be provided, but the consulting physician may not personally perform procedures, write orders, or prescribe for the patient.
4. The consulting physician practices in Iowa for a period not greater than 10 consecutive days and not more than 20 total days in any calendar year. Any portion of a day counts as one day.
5. The Iowa-licensed physician requesting the consultation retains the primary responsibility for the management of the patient's care.

"Initial license" means the first permanent or administrative medicine license granted to a qualified individual.

"International medical school," also known as a "foreign medical school," means a medical school that is located outside of any United States jurisdiction or Canada.

"Interstate commission" means the interstate commission created pursuant to Iowa Code chapter 147B.

"LCME" means Liaison Committee on Medical Education.

"LMCC" means enrollment in the Canadian Medical Register as Licentiate of Medical Council of Canada with a certificate of registration as proof.

"MCCEE" means the Medical Council of Canada Evaluating Examination.

"Medical degree" means a degree of doctor of medicine and surgery or osteopathic medicine and surgery or comparable education from a foreign medical school.

"National Practitioner Data Bank" is a national data bank of disciplinary actions taken against health professionals, including physicians.

"NBME" means the National Board of Medical Examiners.

"NBOME" means the National Board of Osteopathic Medical Examiners.

"Observer" means a person who is not enrolled in an LCME- or COCA-accredited medical school or osteopathic medical school, who observes care to patients in Iowa for a defined period of time and for a noncredit experience, and who is supervised and accompanied by an Iowa-licensed physician as defined in subrule 9.2(3). An observer shall not provide or direct hands-on patient care, regardless of the observer's level of training or supervision. The supervising physician may authorize an observer to read a chart, observe a patient interview or examination, or witness procedures, including surgery. An observer shall not chart; touch a patient as part of an examination; conduct an interview; order, prescribe or administer medications; make decisions that affect patient care; direct others in providing patient care; or conduct procedures, including surgery. Any of these activities requires licensure to practice in Iowa. An unlicensed physician observer or a medical student observer who is not enrolled in an LCME- or COCA-accredited medical school may touch a patient to verify a physical finding in the immediate presence of a physician but shall not conduct a more inclusive physical examination.

An unlicensed physician observer may:

1. Participate in discussions regarding the care of individual patients, including offering suggestions about diagnosis or treatment, provided the unlicensed physician observer does not direct the care; and
2. Elicit information from a patient provided the unlicensed physician observer does not actually perform a physical examination or otherwise touch the patient.

"Permanent licensure" means licensure granted after review of the application and core credentials to determine that the individual is qualified to enter into clinical practice.

"Practice" means the practice of medicine and surgery or osteopathic medicine and surgery.

"Primary source verification" means:

1. Verification of the authenticity of documents with the original source that issued the document.
2. Original source verification by another jurisdiction's physician licensing organization.
3. Original source verification by the FSMB's Federation Credentials Verification Service.

"RCPSC" means the Royal College of Physicians and Surgeons of Canada.

"Reactivation" means the process for returning an inactive license to current, active status.

"Relinquishment" means that a person's permanent license to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine is deemed abandoned if the person fails to renew or reactivate the license within five years after its expiration. A license that has been relinquished is no longer valid or renewable. Relinquishment is not disciplinary in nature.

"Resident physician" means a physician enrolled in an internship, residency or fellowship.

"Resident training program" means a hospital-affiliated graduate medical education program that enrolls interns, residents or fellows and may be referred to as a postgraduate training program for purposes of licensure.

"Service charge" means the amount charged for making a service available online and is in addition to the actual fee for a service itself.

"SPEX" means Special Licensure Examination prepared by the Federation of State Medical Boards and administered by a licensing authority in any jurisdiction.

"Terminated license" means a nondisciplinary process by which an Iowa license issued through the Interstate Medical Licensure Compact is no longer eligible for renewal. A compact license is terminated when a licensee no longer meets the IMLC qualifications. A terminated IMLC license may not be reinstated.

"Uniform application for physician state licensure" means a web-based application that is intended to standardize and simplify the licensure application process for state medical licensure.

"USMLE" means the United States Medical Licensing Examination.

653—9.2(147,148) General licensure provisions.

9.2(1) *Licensure required.* Licensure is required for practice in Iowa as identified in Iowa Code section 148.1; the exceptions are identified in subrule 9.2(2).

9.2(2) *Licensure not required.* The following persons are not required to obtain a license to practice in Iowa:

a. Those persons described in Iowa Code section 148.2(1) through 148.2(5). A medical student or osteopathic medical student in an international medical school may not take on the role of a medical student in the patient care setting unless the student is enrolled in the University of Iowa's Carver College of Medicine or in Des Moines University's College of Osteopathic Medicine; however, an international medical student or graduate of an international medical school not enrolled at either of these institutions may be an observer as defined in rule 653—9.1(147,148).

b. Those persons who are incidentally called into this state in consultation with a physician or surgeon licensed in this state as described in Iowa Code section 148.2(5) and as defined in rule 653—9.1(147,148).

c. Physicians and surgeons who hold a current, active license in good standing in another United States jurisdiction and who come into Iowa on a temporary basis to aid disaster victims at the time of a disaster in accordance with Iowa Code section 29C.6.

d. Physicians and surgeons who hold a current, active license in good standing in another United States jurisdiction and who come to Iowa to participate in further medical education may participate in patient care under the request and supervision of the patient's Iowa-licensed physician in charge of the education. The Iowa-licensed physician shall retain the primary responsibility for management of the patient's care.

e. Physicians and surgeons who hold a current, active license in good standing in another United States jurisdiction and who come into Iowa to serve as expert witnesses as long as they do not provide treatment.

f. Physicians and surgeons from out of state who hold a current, active license in good standing in another United States jurisdiction and who accompany one or more individuals into Iowa for the purpose of providing medical care to these individuals on a short-term basis; e.g., a team physician for an out-of-state college football team that comes into Iowa for a game.

g. Physicians and surgeons who come to Iowa to observe patient care and who do not provide or direct hands-on patient care.

h. Visiting resident physicians who come to Iowa to practice as part of their resident training program if under the supervision of an Iowa-licensed physician. An Iowa physician license is not required of a physician in training if the physician has a resident or permanent license in good standing in the home state of the resident training program. An Iowa temporary license is required of a physician in training if the physician does not hold a resident or permanent physician license in good standing in the home state of the resident training program (more information can be found in rule 653—10.5(147,148)).

9.2(3) *Supervision of an observer.* An Iowa-licensed physician who supervises an observer shall accompany the observer and solicit consent from each patient, where feasible, for the observation. The physician shall inform the patient of the observer's background; e.g., a high school student considering a medical career or a medical graduate who is working on licensure. The supervising physician ensures that the observer remains within the scope of an observer as defined in rule 653—9.1(147,148).

653—9.3(147,148) Eligibility for licensure.

9.3(1) *Requirements.* To be eligible for permanent or administrative medicine licensure, an applicant shall:

a. Fulfill the application requirements specified in rule 653—9.4(147,148).

b. Hold a medical degree from an educational institution approved by the board at the time the applicant graduated and was awarded the degree.

(1) Educational institutions approved by the board shall be fully accredited by an accrediting agency recognized by the board as schools of instruction in medicine and surgery or osteopathic medicine and surgery and empowered to grant academic degrees in medicine.

(2) The accrediting bodies currently recognized by the board are:

1. LCME for the educational institutions granting degrees in medicine and surgery; and
2. AOA for educational institutions granting degrees in osteopathic medicine and surgery.

(3) If the applicant holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the applicant shall meet one of the following requirements:

1. Hold a valid certificate issued by ECFMG;
2. Pass the MCCEE;
3. Have successfully completed a fifth pathway program established in accordance with AMA criteria;
4. Have successfully passed either a basic science examination administered by a United States or Canadian medical licensing authority or SPEX; and have successfully completed three years of resident training in a program approved by the board; and have submitted evidence of five years of active practice without restriction as a licensee of any United States or Canadian jurisdiction; or
5. Have successfully passed either a basic science examination administered by a United States or Canadian medical licensing authority or SPEX; and hold board certification by a specialty board approved by ABMS or AOA; and submit evidence of five years of active practice without restriction as a licensee of any United States or Canadian jurisdiction.

c. Have successfully completed one year of resident training in a hospital-affiliated program approved by the board at the time the applicant was enrolled in the program. An applicant who is a graduate of an international medical school must have successfully completed 24 months of such training.

(1) For those required to have 12 months of training, the program shall have been 12 months of progressive training in not more than two specialties and in not more than two programs approved for resident training by the board. For those required to have 24 months of training, the program shall have been 24 continuous months of progressive training in not more than two specialties and in not more than two programs approved for resident training by the board.

(2) Resident training approved by the board must be accredited by an accrediting agency recognized by the board for the purpose of accrediting resident training programs.

(3) The board approves resident training programs accredited by:

1. ACGME;
2. AOA;
3. RCPSC; and
4. CFPC.

(4) The board may accept resident training that is not accredited as specified in subparagraph 9.3(1) *"c"*(3) on a case-by-case basis. In making this determination, the board may consider any relevant factors, including but not limited to the following:

1. The length of time the program has been in existence;
2. The location of the program;
3. The institution or organization that administers the program;
4. The reason that the program is not accredited; and
5. Whether the program is accredited or recognized by any agency other than those listed in subparagraph 9.3(1)*"c"*(3).

(5) The board may accept each 12 months of practice as a special licensee as equivalent to one year of resident training in a hospital-affiliated program approved by the board.

(6) The board may accept a current, active ABMS or AOA board certification obtained through an alternate pathway as equivalent to resident training in a hospital-affiliated program approved by the

board. The alternate pathway must be a minimum of 24 months completed at an institution with a program approved by the board as specified in subparagraph 9.3(1)*"c"*(3).

d. Pass one of the licensure examinations or combinations as prescribed in rule 653—9.7(147,148).

9.3(2) *Exceptions to the eligibility requirements.*

a. A military service applicant or a veteran may apply for credit for verified military education, training, or service toward any experience or educational requirement for permanent licensure under this subrule or may be eligible for permanent licensure through reciprocity as specified in 653—Chapter 18.

b. A physician who holds a valid Letter of Qualification asserting eligibility for licensure through the IMLC is eligible for a permanent Iowa medical license.

653—9.4(147,148) Licensure application.

9.4(1) *Requirements.* To apply for licensure, an applicant shall:

a. Pay a nonrefundable initial application fee and fee for the evaluation of the fingerprint packet and the criminal history background checks by the division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) as specified in 653—paragraph 8.4(1)*"a"*; and

b. Complete and submit the application and forms provided by the board, including required core credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant that has been signed by the applicant in the physical presence of a notary public.

c. Pass one of the examinations as prescribed in rule 653—9.7(147,148) and authorize the testing authority to verify scores.

9.4(2) *Application.* The application shall require the following information:

a. Full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

b. A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

c. A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application.

d. A certified statement of scores on any licensure examination required in rule 653—9.7(147,148) that the applicant has taken in any jurisdiction. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

e. A photocopy of the applicant's medical degree issued by an educational institution.

(1) A complete translation of any diploma not written in English shall be submitted. An official transcript, written in English and received directly from the school, showing graduation from medical school is a suitable alternative.

(2) An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

(3) If a copy of the medical degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a medical degree from a specific educational institution.

f. A sworn statement from an official of the educational institution certifying the date the applicant received the medical degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. If a sworn statement from an official of the educational institution cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a medical degree from a specific educational institution.

g. An official transcript, or its equivalent, received directly from the school for every medical school attended if requested by the board. A complete translation of any transcript not written in English shall be submitted if requested by the board. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

h. If the educational institution awarding the applicant the degree has not been approved by the board, a current ECFMG status report or evidence of successful completion of a fifth pathway program in accordance with criteria established by AMA. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

i. Documentation of successful completion of resident training approved by the board as specified in paragraph 9.3(1)*"c."* An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

j. Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

k. A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction.

l. A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process.

m. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding to have the conviction or plea set aside is pending. Copies of the legal documents may be requested if needed during the review process.

n. A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

653—9.5(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

9.5(1) *Eligibility.* A person may seek licensure by verification if the person is currently licensed as a physician in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa.

9.5(2) *Board application.* The applicant must submit the following:

a. A completed application for licensure by verification.

b. A nonrefundable initial application fee and fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI as specified in 653—paragraph 8.4(1) *"a."*

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 passing an examination as required by rule 653—9.7(147,148).

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

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

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

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

9.5(3) *Applicants with prior discipline.* If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

9.5(4) *Applicants with pending licensing complaints or investigations.* If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

9.5(5) *Temporary licenses.* Applicants who satisfy all requirements for a license under this section except for passing a required examination specific to the laws of this state may be issued a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months. The applicant must submit proof of passing the required examination before the temporary license expires.

653—9.6(147,148) Licensure examinations.

9.6(1) *USMLE.*

a. The USMLE is a multipart examination consisting of Step 1, Step 2, and Step 3. Steps 1 and 2 are administered by NBME and ECFMG. The board contracts with FSMB for the administration of Step 3.

b. Applications are available at Department of Examination Services, FSMB, 400 Fuller Wiser Road, Suite 300, Euless, Texas 76039, or www.fsmb.org.

c. Candidates who meet the following requirements are eligible to take USMLE Step 3:

(1) Submit a completed application form and pay the required examination fee as specified in rule 653—8.3(147,148,272C).

(2) Document successful completion of USMLE Steps 1 and 2 in accordance with the requirements of NBME. Graduates of a foreign medical school shall meet the requirements of ECFMG.

(3) Document holding a medical degree from a board-approved educational institution. If a candidate holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the candidate shall meet the requirements specified in subparagraph 9.3(1)*"b"*(3).

(4) Document successful completion of a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for Step 3 or enrollment in a resident training program approved by the board at the time of the application for Step 3.

d. The following conditions apply to applicants for licensure in Iowa who utilize USMLE as the licensure examination:

(1) Passing Steps 1, 2, and 3 is required within a ten-year period beginning with the date of passing either Step 1 or Step 2, whichever occurred first. If the applicant did not pass Steps 1, 2, and 3 within the required time frame, then the requirement will be satisfied by either proof of active board certification by the ABMS or AOA or proof the delay was caused by participation in a joint M.D./Ph.D. or D.O./Ph.D. program.

(2) Step 3 may be taken and passed only after Steps 1 and 2 are passed.

(3) A score of 75 or better on each step shall constitute a passing score on that step.

(4) Successful completion of a continuous, progressive three-year resident training program is required if the applicant passes the examination after more than six attempts on Step 1 or six attempts on Step 2 CK and Step 2 CS combined or three attempts on Step 3.

9.6(2) *NBME.* Successful completion of NBME Parts I, II and III with a passing score of 75 or better on each part is required for NBME certification.

9.6(3) *FLEX.*

a. (Old) FLEX is a three-day examination administered from 1968 to 1985. Applicants who took (Old) FLEX shall provide evidence of successful achievement of at least two of the following:

(1) Certification under seal that the applicant passed FLEX with a FLEX-weighted average of 75 percent or better, as determined by the state medical licensing authority, in no more than two sittings.

(2) Verification under seal of medical licensure in the state that administered the examination.

(3) Evidence of current certification by an American specialty board approved or recognized by the Council of Medical Education of AMA, ABMS, or AOA.

b. (New) FLEX is a three-day nationally standardized examination administered from 1985 to 1994. To be eligible for licensure, the candidate must have passed both components with a FLEX score of 75 or better within a seven-year period beginning with the date of initial examination.

9.6(4) *Combination examination sequences.* The board approved the following licensing combinations of examinations for licensure only if completed prior to January 1, 2000. These combinations are now only acceptable from an applicant who already holds a license from any United States jurisdiction.

a. FLEX Component I plus USMLE Step 3 with a passing score of 75 or better on each examination;

b. NBME Part I or USMLE Step 1 plus NBME Part II or USMLE Step 2 plus FLEX Component II with a passing score of 75 or better on each examination; or

c. NBME Part I or USMLE Step 1 plus NBME Part II or USMLE Step 2 plus NBME Part III or USMLE Step 3 with a passing score of 75 or better on each examination.

9.6(5) *COMLEX.* COMLEX is a three-level examination that replaced the three-part NBOME examination. All three examinations must be successfully completed in sequential order within ten years of the successful completion of COMLEX Level 1. If the applicant did not pass Levels 1, 2, and 3 within the required time frame, then the requirement will be satisfied by either proof of active board certification by the ABMS or AOA or proof the delay was caused by participation in a joint D.O./Ph.D. or M.D./Ph.D. program.

a. A standard score of 400 on Level 1 or Level 2 is required to pass the examination. A standard score of 350 on Level 3 is required to pass the examination.

b. A candidate shall have successfully completed a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for Level 3 or enrollment in a resident training program approved by the board at the time of the application for Level 3.

c. Successful completion of a continuous, progressive three-year resident training program is required if the applicant passes the examination after more than six attempts on Level 1 or six attempts on Level 2 CE and Level 2 PF combined or three attempts on Level 3.

d. Each COMLEX level must be passed individually, and individual level scores shall not be averaged to compute an overall score.

e. Level 3 may be taken and passed only after Levels 1 and 2 are passed.

f. A failure of any COMLEX level, regardless of the jurisdiction for which it was taken, shall be considered a failure of that level for the purposes of Iowa licensure.

9.6(6) *NBOME.*

a. NBOME was a three-part examination. All three parts must have been successfully completed in sequential order within seven years of the successful completion of NBOME Part 1.

b. A passing score is required on each part of the examination.

c. A candidate shall have successfully completed a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for NBOME Part 3. Candidates shall have completed their resident training by the last day of the month in which the examination was taken.

d. Successful completion of a three-year resident training program is required if the applicant passes the examination after more than six attempts on Part 1 or six attempts on Part 2 or three attempts on Part 3.

e. Each NBOME part must have been passed individually, and individual part scores shall not be averaged to compute an overall score.

f. Part 3 must have been taken and passed only after Parts 1 and 2 were passed.

g. A failure of any NBOME part, regardless of the jurisdiction for which it was taken, shall be considered a failure of that part for the purposes of Iowa licensure.

9.6(7) *LMCC.* The board accepts toward Iowa licensure a verification of a licensee's registration with the Medical Council of Canada, based on passing both parts of the Medical Council of Canada Qualifying Examination.

9.6(8) *State licensing examinations.* Licensing examinations administered by the board of medicine or another U.S. jurisdiction prior to 1974 are accepted if the examination was passed according to criteria established by that state at the time and led to licensure in that state.

653—9.7(147,148) Permanent licensure application review process. The process below is utilized to review each application. Priority is be given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

9.7(1) An application for initial licensure will be considered open from the date the application form is received in the board office with the nonrefundable initial licensure fee.

9.7(2) After reviewing each application, board staff will notify the applicant about how to resolve any problems. An applicant shall provide additional information when requested by staff or the board.

9.7(3) If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant the license. The staff may grant the license without having received a report on the applicant from the FBI.

9.7(4) If the final review indicates questions or concerns that cannot be remedied by continued communication with the physician, the executive director, director of licensure and director of legal affairs will determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

a. If there is no current concern, staff will administratively grant the license.

b. If any concern exists, the application will be referred to the committee.

9.7(5) Staff will refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, or professional disciplinary history.

9.7(6) If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant the license administratively.

9.7(7) If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee will recommend that the board:

a. Request an investigation;

b. Request that the applicant appear for an interview;

c. If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

(1) Successfully pass a competency evaluation approved by the board;

(2) Successfully pass SPEX, COMVEX-USA, or another examination approved by the board;

(3) Successfully complete a retraining program arranged by the physician and approved in advance by the board; or

(4) Successfully complete a reentry to practice program or monitoring program approved by the board.

d. Grant a license;

e. Grant a license under certain terms and conditions or with certain restrictions;

f. Request that the applicant withdraw the licensure application; or

g. Deny a license.

9.7(8) The board will consider applications and recommendations from the committee and will:

a. Request further investigation;

b. Require that the applicant appear for an interview;

c. If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

(1) Successfully pass a competency evaluation approved by the board;

(2) Successfully pass SPEX, COMVEX-USA, or another examination approved by the board;

(3) Successfully complete a retraining program arranged by the physician and approved in advance by the board; or

(4) Successfully complete a reentry to practice program or monitoring program approved by the board.

d. Grant a license;

e. Grant a license under certain terms and conditions or with certain restrictions;

f. Request that the applicant withdraw the licensure application; or

g. Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule 653—9.17(147,148).

653—9.8(147,148) Licensure application cycle.

9.8(1) *Failure to submit application materials.* If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the board's initial request for further information, the application will be considered inactive.

9.8(2) *Reactivation of the application.* To reactivate the application, an applicant shall submit a nonrefundable fee for reactivation of the application as specified in 653—paragraph 8.4(1)*"b"* within 30 days. If the application is not reactivated within 30 days, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and core credentials.

9.8(3) *Period of reactivation.* The period for reactivation of application shall extend 90 days from the date the request and fee are received in the board office. During this period, the applicant shall update core credentials and submit the remaining requested materials. If the applicant does not update core credentials or submit all materials during the 90-day period of reactivation, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and core credentials.

653—9.9(147,148) Discretionary board actions on licensure applications. As circumstances warrant, the board may determine that any applicant for licensure is subject to the following:

9.9(1) The board may impose limits or restrictions on the practice of any applicant in this state that are equal in force to the limits or restrictions imposed on the applicant by any jurisdiction.

9.9(2) The board may defer final action on an application for licensure if there is an investigation or disciplinary action pending against an applicant in any jurisdiction until such time as the board is satisfied that licensure of the applicant poses no risk to the health and safety of Iowans.

9.9(3) The board is not precluded from taking disciplinary action after licensure is granted related to issues that arose in the licensure application process.

653—9.10(147,148) Issuance of a license.

9.10(1) *Issuance.* Upon the granting of permanent or administrative medicine licensure, staff will issue a license to practice that will expire on the first day of the licensee's birth month.

a. Licenses of persons born in even-numbered years shall expire in an even-numbered year, and licenses of persons born in odd-numbered years shall expire in an odd-numbered year.

b. The license shall not be issued for a period less than two months or greater than two years and two months, in accordance with the licensee's month and year of birth.

c. When a resident physician receives a permanent Iowa license, the resident physician license will immediately become inactive.

d. When a physician with a special license receives a permanent Iowa license, the special license will immediately become inactive.

e. When a physician with a permanent Iowa license receives an Iowa administrative medicine license, the permanent Iowa license will immediately become inactive.

f. A physician with an active permanent Iowa license is ineligible for an Iowa resident license.

9.10(2) *Display of license certificate.* The license certificate shall be displayed in the licensee's primary location of practice.

653—9.11(147,148) Notification required to change the board's data system.

9.11(1) *Change of contact information.* A licensee shall notify the board of any change in the home address, the address of the place of practice, home or practice telephone number, or personal email address regularly used by the applicant or licensee for correspondence with the board within one month of the change.

9.11(2) *Change of name.* A licensee shall notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

9.11(3) *Deceased.* A licensee file shall be closed and labeled "deceased" when the board receives a copy of the physician's death certificate or other reliable information of the licensee's death.

9.11(4) *Practice name.* A licensee shall practice under the licensee's full legal name.

653—9.12(147,148) Renewal of a permanent or administrative medicine license.

9.12(1) *Licensee obligation.* The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of responsibility for renewing that license.

9.12(2) *Renewal application requirements.* A licensee seeking renewal shall submit a completed renewal application; information on continuing education, training on chronic pain management, training on end-of-life care, and training on identifying and reporting abuse; and the required fee prior to the expiration date on the current license.

a. Renewal fee.

(1) The fees for renewal are specified in 653—subparagraph 8.4(1)*"c"*(1).

(2) There is no renewal fee due for a physician who was on active duty in the U.S. armed forces, reserves or national guard during the renewal period.

(3) A physician who fails to renew before the expiration of the license is charged a penalty fee as set forth in 653—paragraph 8.4(1)*"d."*

b. The requirements for continuing education and training on identifying and reporting abuse are found in 653—Chapter 11.

9.12(3) *Issuance of a renewal.* Upon receipt of the completed renewal application, staff will administratively issue a two-year license that expires on the first day of the licensee's birth month. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration.

9.12(4) *Failure to renew.* The license will become inactive and invalid if the licensee fails to renew a license within two months following its expiration date. A licensee whose license is invalid or inactive is prohibited from practice until the license is reactivated in accordance with rule 653—9.15(147,148).

9.12(5) *Display of license.* Renewal licenses shall be displayed along with the license certificate in the primary location of practice.

653—9.13(147,148) Inactive status of a license.

9.13(1) *Definition of inactive status.* An inactive license is any license that is not a current, active license.

a. "Inactive status" may include licenses formerly known as delinquent, lapsed, or retired.

b. A physician whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice medicine under an Iowa license until the license is reactivated to current, active status. A licensee who practices under an Iowa license when the license is inactive may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, or other available legal remedies.

9.13(2) *Mechanisms for becoming inactive.* A licensee seeking to become inactive may submit a written request to the board office, or a license may become inactive by failing to renew a license by the first day of the third month after the expiration date.

653—9.14(147,148) Reactivation of an unrestricted Iowa license.

9.14(1) *Reactivation within one year of the license's becoming inactive.* An individual whose license is in inactive status for up to one year and who wishes to reinstate the license shall submit a completed renewal application; the reinstatement fee; documentation of continuing education; and, if applicable, documentation on training on chronic pain management, end-of-life care, and identifying and reporting abuse. All of the information shall be received in the board office within one year of the license's becoming inactive for the applicant to reinstate under this subrule.

a. Fee for reactivation of an unrestricted Iowa license within one year of the license's becoming inactive. The reactivation fee is specified in 653—paragraph 8.4(1)*"g."*

b. Continuing education and training requirements. Applicants for reactivation shall provide documentation of having completed:

(1) The number of hours of category 1 credit needed for renewal in the most recent license period. None of the credits obtained in the inactive period may be carried over to a future license period; and

(2) Training on chronic pain management, end-of-life care, and identifying and reporting abuse, if applicable, within the previous five years.

c. Issuance of a reactivated license. Upon receiving the completed application, staff will administratively issue a license that expires on the renewal date that would have been in effect if the licensee had renewed the license before the license expired.

d. Reinstatement application process. The applicant who fails to submit all reinstatement information required within 365 days of the license's becoming inactive shall be required to meet the reinstatement requirements of subrule 9.15(2). For example, if a physician's license expires on January 1, the completed reinstatement application is due in the board office by December 31, in order to meet the requirements of this subrule.

9.14(2) *Reactivation of an unrestricted Iowa license that has been inactive for one year or longer.* An individual whose license is in inactive status and who has not submitted a reactivation application that was received by the board within one year of the license's becoming inactive shall follow the application cycle specified in this rule and shall satisfy the following requirements for reactivation:

a. Submit an application for reactivation to the board. The application shall require the following information:

(1) Full legal name, date and place of birth, license number, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board;

(2) A chronology accounting for all time periods from the date of initial licensure;

(3) Every jurisdiction in which the applicant is or has been authorized to practice including license numbers and dates of issuance;

(4) Documentation of successful completion of resident training approved by the board as specified in paragraph 9.3(1)*"c"* that was completed since the time of initial licensure. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative;

(5) Verification of the applicant's hospital and clinical staff privileges, and other professional experience for the past five years if requested by the board;

(6) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

(7) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside. Copies of the legal documents may be requested if needed during the review process; and

(9) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

b. Pay the reactivation fee plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks specified in 653—paragraph 8.4(1)*"f."*

c. Provide documentation of completion of 40 hours of category 1 credit within the previous two years and documentation of training on chronic pain management, end-of-life care, and identifying and reporting abuse as specified in 653—Chapter 11.

d. If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada:

(1) Successfully pass a competency evaluation approved by the board;

(2) Successfully pass SPEX, COMVEX-USA, or another examination approved by the board;

(3) Successfully complete a retraining program arranged by the physician and approved in advance by the board; or

(4) Successfully complete a reentry to practice program or monitoring program approved by the board.

e. An individual who is able to submit a letter from the board with different reactivation criteria is eligible for reactivation based on those criteria.

653—9.15(147,148) Reinstatement of a restricted Iowa license. A physician whose license has been suspended or revoked following a disciplinary proceeding is required to seek reinstatement pursuant to 653—Chapter 26.

653—9.16(147,148) Relinquishment of license to practice. A person's permanent license to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine shall be deemed relinquished if the person fails to apply for renewal or reactivation of the license within five years after its expiration.

9.16(1) A license will not be reinstated, reissued, or restored once it is relinquished. The person may apply for a new license pursuant to Iowa Code sections 148.3 and 148.11 and 653—Chapters 9 and 10.

9.16(2) The relinquishment of license may be stayed if, at the date of relinquishment, there is an active:

a. Evaluation order pursuant to Iowa Code section 272C.9(1) and rule 653—24.4(272);

b. Combined statement of charges and settlement agreement pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and rule 653—25.3(17A);

c. Statement of charges pursuant to Iowa Code section 17A.12(2) and rule 653—25.4(17A);

d. Settlement agreement pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and rule 653—25.17(272C);

e. Final decision pursuant to Iowa Code sections 17A.12 and 272C.6 and rule 653—25.24(17A); or

f. Application for reactivation of the license pursuant to rule 653—9.15(147,148) or 653—9.16(147,148).

653—9.17(147,148) Administrative medicine licensure.

9.17(1) *Application.* An application for an administrative medicine license shall be made to the board of medicine pursuant to the requirements established in Iowa Code section 148.3 and this chapter. An applicant for an administrative medicine license shall be subject to all of the permanent licensure requirements established in Iowa Code section 148.3 and this chapter, except that the applicant will not be required to demonstrate that the applicant has engaged in active clinical practice in the past three years as outlined in paragraphs 9.8(7)*"c"* and 9.15(2)*"d."*

The board may issue an administrative medicine license authorizing the licensee to practice administrative medicine only, as defined by this rule. The license shall be designated "administrative medicine license."

9.17(2) *Fees.* All license and renewal fees shall be paid to the board in accordance with 653—Chapters 8 and 9.

9.17(3) *Demonstration of competence.*

a. If an applicant for initial licensure or reactivation of an administrative medicine license has not actively practiced administrative or clinical medicine in a jurisdiction of the United States or Canada in the past three years, the board may require the applicant to demonstrate competence in a method prescribed by the board in accordance with paragraphs 9.8(7)*"c"* and 9.15(2)*"d."*

b. A physician who holds an administrative medicine license and has not engaged in active clinical practice in a jurisdiction of the United States or Canada for more than three years may be required to demonstrate competence to practice clinical medicine in a method prescribed by the board.

9.17(4) *No exemptions to laws and rules.* A physician with an administrative medicine license is subject to the same laws and rules governing the practice of medicine as a person holding a permanent Iowa medical license.

9.17(5) *Interstate medical licensure compact.* A physician who holds only an administrative medicine license may not be eligible for licensure under the interstate medical licensure compact.

653—9.18(147,147B,148) Licensure through IMLC.

9.18(1) *Requirements for seeking a Letter of Qualification from the board of medicine.* An applicant shall meet all of the following requirements:

a. Designate Iowa as state of principal license. To designate Iowa as state of principal license, the physician must possess a full, unrestricted, permanent Iowa medical license and meet one of the following requirements at the time the application for a Letter of Qualification is reviewed by board staff:

(1) Iowa is the physician's primary residence, or

(2) At least 25 percent of the physician's medical practice occurs in Iowa, or

(3) The physician's employer is located in Iowa, or

(4) If the applicant does not meet any of the requirements under subparagraph 9.18(1)*"a"*(1), (2), or (3), the applicant can designate Iowa as the state of principal license if Iowa is the applicant's state of residence for the purposes of federal income tax.

b. Provide evidence of the following qualifications:

(1) Graduation from a medical school accredited by the LCME, COCA, or a medical school listed in the International Medical Education Directory or its equivalent.

(2) Passage of each component of the USMLE or the COMLEX within three attempts, or any of its predecessor examinations accepted by the board as an equivalent examination for licensure purposes as prescribed in rule 653—9.7(147,148).

(3) Successful completion of graduate medical education approved by the ACGME or the AOA. "Successful completion" means participation in an ACGME or AOA postgraduate training program that achieves ABMS or AOA board eligibility status.

(4) At the time of application, hold specialty certification or a time-unlimited specialty certificate recognized by the ABMS or the AOA. The specialty certification or a time-unlimited specialty certificate does not have to be maintained once a physician is determined to be eligible for licensure through the IMLC.

(5) Has never been convicted of or received adjudication, deferred adjudication, community supervision, or deferred disposition for any criminal offense by a court of appropriate jurisdiction.

(6) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.

(7) Has never had a controlled substance license or permit suspended or revoked by a state or the U.S. Drug Enforcement Administration (DEA).

(8) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

9.18(2) *Application.* A physician seeking licensure through the IMLC who is qualified to designate Iowa as state of principal license shall file an application for a Letter of Qualification with the interstate commission at www.imlcc.org and pay the nonrefundable service fee. The application shall require the following:

9.18(3) *Letter of Qualification.*

a. After evaluation of the applicant's eligibility for licensure, the board will issue a Letter of Qualification to the applicant verifying or denying the applicant's eligibility. The applicant may appeal a determination of eligibility to the board of medicine within 30 days of issuance of the Letter of Qualification according to the processes outlined in rule 653—9.19(147,148).

b. The Letter of Qualification is valid for 365 days from its date of issuance to request licensure in a member state. The physician must maintain eligibility to claim Iowa as the state of principal license or designate a new state of principal license.

9.18(4) *Expedited licensure.* Physicians who have a valid Letter of Qualification may obtain licensure in Iowa through the IMLC. To obtain a permanent Iowa license through the IMLC, a qualified physician shall:

a. Complete the application process at the IMLC's website, www.imlcc.org.

b. Pay the licensure fee specified in 653—subrule 8.3(2) and any service fees that are required by the IMLC.

c. Comply with the continuing medical education requirements of the board, including mandatory trainings specified in 653—Chapter 11.

9.18(5) *Validity of a license issued through the IMLC.* A license issued through the IMLC is valid for a period consistent with other permanent licenses issued by the board. An Iowa license issued through the IMLC shall be deemed terminated if the licensee fails to maintain a state of principal license.

9.18(6) *Disciplinary actions against licenses issued through the IMLC.*

a. Physicians holding an Iowa license issued through the IMLC are subject to the laws and rules governing the practice of medicine in Iowa.

b. Any disciplinary action taken by another member board of the IMLC against a physician licensed through IMLC shall be deemed unprofessional conduct that may be subject to discipline by the board in addition to any other violation of the board's rules deemed appropriate by the board.

c. If a license issued through the IMLC to a physician is revoked, surrendered, or relinquished in lieu of discipline, or suspended by a member board of the IMLC, then the physician's Iowa expedited license is automatically and immediately suspended, without further action needed, for a period of 90 days upon entry of an order by the board. The 90-day suspension may be terminated early by the board.

d. Disciplinary actions by out-of-state boards can be considered conclusive regarding legal and factual matters. The home board may impose similar or lesser sanctions, as long as the sanctions comply with the board's laws, or pursue separate disciplinary action.

e. If the Iowa board, as the physician's state of principal license, revokes or suspends the physician's license, or accepts a license surrender in lieu of discipline, then all licenses issued to the physician through the IMLC shall automatically be placed, without further action necessary by any member board, on the same status. If the Iowa board subsequently reinstates the physician's license, the licenses issued by the other member boards shall remain encumbered until the member boards take action to reinstate the licenses.

9.18(7) *Renewal of license issued through the IMLC.* To be eligible for renewal of a license issued through the IMLC, a licensee shall:

a. Complete an online renewal application on a form provided by the IMLC at www.imlcc.org.

b. Complete an attestation that the licensee:

(1) Maintains eligibility to designate a state as the state of principal license, pursuant to paragraph 9.21(1)*"a"*;

(2) Maintains a full and unrestricted license in the designated state of principal license;

(3) Has not been convicted of or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(4) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;

(5) Has not had a controlled substance license or permit suspended or revoked by a state or the U.S. DEA.

c. Pay licensure fee for the renewal of a license issued through the IMLC and pay any service fee assessed by the IMLC.

d. If audited, submit verification of completion of continuing medical education requirements set forth in 653—Chapter 11.

9.18(8) *Waivers.* The laws and rules relating to the IMLC cannot be waived.

9.18(9) *Advisory opinions.* The board will recognize advisory opinions issued by the interstate commission on the meaning or interpretation of the IMLC, its bylaws, rules and actions when determining an applicant's eligibility for licensure through the IMLC.

653—9.19(147,148) Denial of licensure, determination of ineligibility for licensure through the IMLC, or termination of a license issued through the IMLC.

9.19(1) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the appeal process, and specify the date upon which the denial will become final if it is not appealed.

9.19(2) *Appeal procedure.* An applicant who has received a preliminary notice of licensure denial or a Letter of Qualification that asserts the board has determined that the applicant is ineligible for licensure through the IMLC, or a notice that a medical license is ineligible for renewal through the IMLC, may appeal and request a hearing on the issues related to the preliminary notice of licensure denial or ineligibility for licensure or licensure renewal through the IMLC by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the notice was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board shall consider the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure, or a Letter of Qualification that asserts the applicant is eligible for licensure through the IMLC, or the applicant is eligible for licensure renewal through the IMLC.

9.19(3) *Hearing.* If an applicant appeals the preliminary notice of licensure denial or a determination of ineligibility for licensure or licensure renewal through the IMLC and requests a hearing, the hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with rule 653—25.30(17A).

a. Hearings for applicants denied licensure, or determined to be ineligible for licensure or licensure renewal through the IMLC are contested cases open to the public.

b. Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.

c. Evidence supporting the denial of the license or the determination of ineligibility for licensure or licensure renewal through the IMLC may be presented by an assistant attorney general.

d. While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure or licensure eligibility or licensure renewal through IMLC.

e. The board, after a hearing on license denial, may grant or deny the application for licensure. The board shall state the reasons for its decision and may grant the license, grant the license with restrictions or deny the license. The final decision is a public record. After a hearing on ineligibility for licensure renewal through the IMLC, the board may uphold the termination of the license or allow the licensee to renew. The board shall state the reasons for its decision, which is a public record. After a hearing on a

Letter of Qualification determination, the board may uphold the ineligible determination or issue a Letter of Qualification asserting the applicant is eligible for licensure through the IMLC. The board shall state the reasons for its decision, which is a public record.

f. Judicial review of a final order of the board denying licensure, issuing a license with restrictions, terminating a license not eligible for renewal through the IMLC, or upholding a Letter of Qualification asserting that an applicant is ineligible for licensure through the IMLC may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

9.19(4) *Finality.* If an applicant does not appeal a preliminary notice of denial in accordance with subrule 9.17(2), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

9.19(5) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC, in accordance with subrule 9.17(2), but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and that the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC becomes final. A final decision under this rule is a public record.

These rules are intended to implement Iowa Code chapters 17A, 147, 147B, 148, and 272C.

[Filed 3/27/25, effective 5/21/25]
[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9113C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to licensure

The Board of Medicine hereby rescinds Chapter 10, "Resident, Special and Temporary Physician Licensure," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 147 and 148.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147 and 148.

Purpose and Summary

This rulemaking sets minimum standards for entry into the medical profession with a resident, special or temporary physician licensure. This rulemaking articulates the processes by which individuals apply for these types of physician licenses, including initial licensure, renewal and reactivation. These requirements ensure that any individual entering the profession has minimum competency.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8700C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
RESIDENT, SPECIAL AND TEMPORARY PHYSICIAN LICENSURE

653—10.1(147,148) Definitions.

"ABMS" means the American Board of Medical Specialties.

"ACGME" means the Accreditation Council for Graduate Medical Education.

"AMA" means the American Medical Association.

"Any jurisdiction" means any state, the District of Columbia or territory of the United States of America or any other nation.

"Any United States jurisdiction" means any state, the District of Columbia or territory of the United States of America.

"AOA" means the American Osteopathic Association.

"Applicant" means a person who seeks authorization to practice medicine and surgery or osteopathic medicine and surgery in this state by making application to the board.

"Approved abuse education training program" means a training program using a curriculum approved by the abuse education review panel of the department of health and human services or a training program offered by a hospital, a professional organization for physicians, the department of health and human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

"Board" means board of medicine.

"Board-approved activity" means one of the following activities:

1. Covering for an Iowa-licensed physician who unexpectedly is unavailable to provide medical care to the physician's patients;
2. Demonstrating or proctoring that involves providing hands-on patient care to patients in Iowa;
3. Conducting a procedure on a patient in Iowa when the consultant's expertise in the procedure is greater than that of the Iowa-licensed physician who requested the procedure;
4. Providing medical care to patients in Iowa, if the physician is enrolled in an out-of-state resident training program and does not hold a resident or permanent license in the home state of the resident training program;
5. Serving as a camp physician;
6. Participating as a learner in a program of further medical education that allows hands-on patient care when the physician does not currently hold a license in good standing in any United States jurisdiction; or
7. Any other activity approved by the board.

"Board-approved resident training program" means a hospital-affiliated graduate medical education program accredited by the ACGME, AOA, RCPSC, or CFPC at the time the applicant is enrolled in the program.

"Category 1 credit" means any formal education program that is sponsored or jointly sponsored by an organization accredited for continuing medical education by the Accreditation Council for Continuing Medical Education, the Iowa Medical Society, or the Council on Continuing Medical Education of AOA that is of sufficient scope and depth of coverage of a subject area or theme to form an educational unit and is planned, administered and evaluated in terms of educational objectives that define a level of knowledge or a specific performance skill to be attained by the physician completing the program. Credits designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credits by the American Academy of Family Physicians are accepted as equivalent to category 1 credits.

"CFPC" means the College of Family Physicians of Canada.

"Committee" means the licensure committee of the board.

"ECFMG" means the Educational Commission for Foreign Medical Graduates.

"FCVS" means the Federation Credentials Verification Service.

"FSMB" means the Federation of State Medical Boards.

"Incidentally called into this state in consultation with a physician and surgeon licensed in this state" as set forth in Iowa Code section 148.2(5) means all of the following shall be true:

1. The consulting physician shall be involved in the care of patients in Iowa only at the request of an Iowa-licensed physician.
2. The consulting physician has a license in good standing in another United States jurisdiction.
3. The consulting physician provides expertise and acts in an advisory capacity to an Iowa-licensed physician. The consulting physician may examine the patient and advise an Iowa-licensed physician as to the care that should be provided, but the consulting physician will not personally perform procedures, write orders, or prescribe for the patient.
4. The consulting physician practices in Iowa for a period not greater than 10 consecutive days and not more than 20 total days in any calendar year. Any portion of a day counts as one day.
5. The Iowa-licensed physician requesting the consultation retains the primary responsibility for the management of the patient's care.

"LCME" means Liaison Committee on Medical Education.

"Medical degree" means a degree of doctor of medicine and surgery or osteopathic medicine and surgery or comparable education from an international medical school.

"Permanent licensure" means licensure granted after review of the application and credentials to determine that the individual is qualified to enter into practice.

"Postgraduate training" means graduate medical education, e.g., an internship, residency or fellowship, in a hospital-affiliated training program approved by the board at the time the applicant was enrolled in the program.

"Practice" means the practice of medicine and surgery or osteopathic medicine and surgery.

"RCPSC" means the Royal College of Physicians and Surgeons of Canada.

"Resident physician" means a physician enrolled in an internship, residency or fellowship.

"Resident training program" means a hospital-affiliated graduate medical education program that enrolls interns, residents or fellows and may be referred to as a postgraduate training program for purposes of licensure.

"Service charge" means the amount charged for making a service available online and is in addition to the actual fee for a service itself. For example, one who renews a license online will pay the license renewal fee and a service charge.

"Training for chronic pain management" means required training on chronic pain management identified in 653—Chapter 11.

"Training for end-of-life care" means required training on end-of-life care identified in 653—Chapter 11.

"Training for identifying and reporting abuse" means training on identifying and reporting child abuse or dependent adult abuse required of physicians who regularly provide primary health care to children or adults, respectively.

"Uniform application for physician state licensure" means a web-based application that is intended to standardize and simplify the licensure application process for state medical licensure.

653—10.2(148) Licensure required. Licensure is required for practice in Iowa as identified in Iowa Code section 148.1; the exceptions are identified in 653—subrule 9.2(2).

653—10.3(147,148) Resident physician licensure.

10.3(1) *General provisions.*

a. The resident physician license authorizes the licensee to practice as an intern, resident or fellow while under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery in a board-approved resident training program in Iowa. When the ACGME, AOA, RCPSC, or CFPC fails to offer accreditation for a fellowship or the fellowship fails to seek accreditation, the board will approve the program if the parent program is accredited by one of the aforementioned accrediting bodies. Completion of one or more years of a program that itself lacks such accreditation does not fulfill the one-year resident training requirement for permanent licensure.

b. An Iowa resident physician license or an Iowa permanent physician license is required of any resident physician enrolled in an Iowa resident training program and practicing in Iowa.

c. A resident physician license will expire on the expected date of completion of the resident training program as indicated on the licensure application.

d. A resident physician license is valid only for practice in the program designated in the application. When the physician leaves that program, the license will immediately become inactive. The director of the resident training program must notify the board within 30 days of the licensee's terminating from the program.

e. A resident physician licensee who changes resident training programs must apply for a new resident physician license as described in subrule 10.3(3). Such changes include a transfer to a different program in the same institution, a move to a program in another institution, or becoming a fellow after completing a residency in the same core program. An individual who contracts with an institution to be in two programs from the time of application for the resident license shall not be required to apply for another resident license for the second program.

f. A visiting resident physician may come to Iowa to practice as a part of the physician's resident training program if the physician is under the supervision of an Iowa-licensed physician. An Iowa physician license is not required of a physician in training if the physician has a resident or permanent license in good standing in the home state of the resident training program. An Iowa temporary physician license is required of a physician in training if the physician does not hold a resident or permanent physician license in good standing in the home state of the resident training program (more information can be found in rule 653—10.5(147,148)).

g. An Iowa license is not required for residents when they are training in a federal facility in Iowa. An Iowa license is not required for faculty who are teaching in and employed by a federal facility in Iowa and who are licensed in another state.

h. The director of a resident training program that enrolls a resident with an Iowa resident physician license shall report annually on October 1 on the resident's progress and whether any warnings have been issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action.

i. A resident physician licensee must notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

j. A resident physician licensee's file shall be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

10.3(2) *Resident license eligibility.* To be eligible for a resident license, an applicant must meet all of the following requirements:

a. Fulfill the application requirements specified in subrule 10.3(3).

b. Be at least 20 years of age.

c. Hold a medical degree from an educational institution approved by the board at the time the applicant graduated and was awarded the degree.

(1) Educational institutions approved by the board must be fully accredited by an accrediting agency recognized by the board as schools of instruction in medicine and surgery or osteopathic medicine and surgery and empowered to grant academic degrees in medicine.

(2) The accrediting bodies currently recognized by the board are:

1. LCME for educational institutions granting degrees in medicine and surgery; and
2. AOA for educational institutions granting degrees in osteopathic medicine and surgery.

(3) If the applicant holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the applicant must:

1. Hold a valid certificate issued by ECFMG, or
2. Have successfully completed a fifth pathway program established in accordance with AMA criteria.

d. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

10.3(3) *Resident physician licensure application.*

a. Requirements. To apply for resident physician licensure, an applicant shall:

(1) Pay a nonrefundable initial application fee and fee for the evaluation of the fingerprint packet and the criminal history background checks by the division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) as specified in 653—paragraph 8.4(2)*"a"*; and

(2) Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant.

b. Application. The application shall require the following information:

(1) Full legal name, date and place of birth, home address, and mailing address;

(2) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance;

(3) A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

(4) A photocopy of the applicant's medical degree issued by an educational institution.

1. A complete translation shall be submitted for any diploma not written in English. An official transcript, written in English and received directly from the school, verifying graduation from medical school is a suitable alternative. An official FCVS Physician Information Profile is a suitable alternative.

2. If a copy of the medical degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a medical degree from a specific educational institution;

(5) If the educational institution awarding the applicant the degree has not been approved by the board, the applicant shall provide a valid ECFMG certificate or evidence of successful completion of a fifth pathway program in accordance with criteria established by the AMA. An official FCVS Physician Information Profile is a suitable alternative;

(6) A statement disclosing and explaining any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health care facility in any jurisdiction;

(7) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; and

(9) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

10.3(4) *Resident license application review process.* The process below shall be utilized to review each application for a resident license.

a. An application shall be considered open from the date the application form is received in the board office with the nonrefundable resident licensure fee.

b. After reviewing each application, staff shall notify the applicant or designee about how to resolve any problems identified by the reviewer.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may grant administratively a resident license.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, director of licensure and administration, and director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall grant administratively a resident license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, substance abuse, competency, physical or mental illness, or educational disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant administratively a resident license.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) Grant a resident physician license for a particular residency program;

(4) Grant a license under certain terms and conditions or with certain restrictions;

(5) Request that the applicant withdraw the licensure application; or

(6) Deny a license.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) Grant a resident physician license for a particular residency program;

(4) Grant a license under certain terms and conditions or with certain restrictions;

(5) Request that the applicant withdraw the licensure application; or

(6) Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule 653—9.15(147,148).

10.3(5) *Resident license application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application shall be considered inactive. An applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials.

10.3(6) *Extension of a resident physician license.*

a. If the licensee fails to complete the program by the expiration date on the license, the licensee has a one-month grace period in which to complete the program or secure an extension from the board.

b. The resident physician licensee must apply for an extension if the licensee has not been granted permanent physician licensure and the licensee will not complete the program within the grace period. The following extension application materials are due in the board office prior to the expiration of the license:

(1) A letter requesting an extension and providing an explanation of the need for an extension;

(2) The extension fee as specified in 653—paragraph 8.4(2)*"b"*; and

(3) A statement from the director of the resident training program attesting to the new expected date of completion of the program and the individual's progress in the program and whether any warnings have been issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action.

c. Failure of the licensee to extend a license within one month following the expiration date will cause the license to become inactive and invalid.

d. To extend an inactive resident license within one year of becoming inactive, an applicant shall submit the following:

(1) A letter requesting an extension and providing an explanation of the need for an extension;

(2) The extension fee as specified in 653—paragraph 8.4(2)*"b"*; and

(3) A late fee as specified in 653—paragraph 8.4(2)*"c"*; and

(4) A statement from the director of the resident training program attesting to the new expected date of completion of the program and the individual's progress in the program and whether any warnings have been issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action.

e. If more than one year has passed since the resident license became inactive, the applicant shall apply for a new resident license as described in subrule 10.3(3).

10.3(7) *Review process for extending a resident license.* The process below shall be utilized to review each request for an extension of a resident license.

a. An extension request shall be considered open from the date the required letters and nonrefundable extension fee are received in the board office.

b. After reviewing each request for extension, staff shall notify the licensee or designee about how to resolve any problems identified by the reviewer. The applicant for license extension shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for continued licensure, staff may grant administratively an extension to a resident license.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, the director of licensure and administration, and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall grant administratively an extension to a resident license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters that include but are not limited to falsification of information in the request, criminal record, substance abuse, competency, physical or mental illness, or educational disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant administratively an extension to a resident license.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request an investigation;

(2) Request that the licensee appear for an interview;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the licensee withdraw the request for an extension; or

(5) Deny a request for an extension of the license.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Request an investigation;

(2) Request that the licensee appear for an interview;

(3) Grant an extension to the resident physician license;

(4) Grant an extension to the resident physician license under certain terms and conditions or with certain restrictions;

(5) Request that the licensee withdraw the request for an extension; or

(6) Deny a request for an extension of the license. The board may deny an extension of a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial of an extension is set forth in rule 653—9.15(147,148).

10.3(8) *Discipline of a resident license.* The board may discipline a license for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code section 147.55 or 148.6, Iowa Code chapter 272C, and 653—Chapter 23.

10.3(9) *Transition from a resident license to a permanent license.* When a resident physician receives a permanent Iowa license, the resident physician license shall immediately become inactive.

653—10.4(147,148) Special licensure.

10.4(1) *General provisions.*

a. The board may grant a special license to a physician who is an academic staff member of a college of medicine or osteopathic medicine if that physician does not meet the qualifications for permanent licensure but is held in high esteem for unique contributions the individual has made to medicine and will make by practicing in Iowa. The license is not designed for physicians in regular faculty positions that could be filled by a physician qualified for permanent licensure in Iowa or for the purpose of training the physician who receives the license. The board will consider granting and renewing a special license on a case-by-case basis.

b. A special license may be issued for a period of not more than one year and may be renewed annually prior to expiration.

c. A special license will specifically limit the licensee to practice at the medical college and at any health care facility affiliated with the medical college.

d. A special license will automatically be placed on inactive status when the licensee discontinues service on the academic medical staff for which the special license was granted.

e. The board may cancel a special license if the licensee has practiced outside the scope of this license or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55, 148.6, and 272C.10 and 653—Chapter 23. When cancellation of such a license is proposed, the board shall promptly notify the licensee by sending a statement of charges and notice of hearing by certified mail to the last-known address of the licensee. This contested case proceeding shall be governed by the provisions of 653—Chapter 25.

f. A special physician licensee must notify the board of any change in home address or the address of the place of practice within one month of making an address change.

g. A special physician licensee must notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

h. A special physician licensee file will be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

i. The board may accept each 12 months of practice as a special licensee as equivalent to one year of postgraduate training in a hospital-affiliated program approved by the board for the purposes of permanent licensure.

10.4(2) *Special license eligibility.* To be eligible for a special license, an applicant shall meet all of the following requirements:

a. Fulfill the application requirements specified in subrule 10.4(3);

b. Be at least 21 years of age;

c. Be a physician in a medical specialty;

d. Present evidence of holding a medical degree from an educational institution that is located in a jurisdiction outside the United States or Canada and that is listed in the Directory of Medical Schools published by the International Medical Education Directory;

e. Have completed at least two years of postgraduate education in any jurisdiction;

f. Have practiced for five years after postgraduate education;

g. Demonstrate proficiency in English by providing a valid ECFMG certificate or verification of a passing score on the Test of Spoken English (TSE) or the Test of English as a Foreign Language (TOEFL) examination administered by the Educational Testing Service;

h. Be licensed in a jurisdiction outside the United States or Canada and present evidence that any licenses held in any jurisdiction are unrestricted; and

i. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

10.4(3) *Special license application.*

a. *Requirements.* To apply for a special license, an applicant must:

(1) Pay a nonrefundable special license fee and a fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI as specified in 653—paragraph 8.4(3) *"a"*;

(2) Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;

(3) Provide verification of successful completion of a medical degree;

(4) Provide a valid ECFMG certificate or verification of a passing score on the TSE or TOEFL examination administered by the Educational Testing Service;

(5) Present a letter from the dean of the medical college in which the applicant will be practicing that indicates all of the following:

1. The applicant has been invited to serve on the academic staff of the medical school and in what capacity;

2. The applicant's qualifications and the unique contributions the applicant has made to the practice of medicine;

3. The unique contributions the applicant is expected to make by practicing in Iowa and how these contributions will serve the public interest of Iowans; and

(6) Present at least two letters of recommendation from universities, other educational institutions, or research facilities that indicate the applicant's noteworthy professional attainment.

b. *Application.* The application shall request the following information:

(1) Name, date and place of birth, home address, and mailing address;

(2) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance;

(3) A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

(4) A photocopy of the applicant's medical degree issued by an educational institution and a sworn statement from an official of the educational institution certifying the date the applicant received the medical degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. A complete translation of any diploma not written in English shall be submitted;

(5) A statement disclosing and explaining any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

(6) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(7) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; and

(8) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

10.4(4) *Special license application review process.* The process below shall be utilized to review each application for a special license.

a. An application shall be considered open from the date the application form is received in the board office with the nonrefundable special licensure fee.

b. After reviewing each application, staff shall notify the applicant or the applicant's academic institution about how to resolve any problems identified by the reviewer. The applicant shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant a special license.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, director of licensure and administration, and director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall administratively grant a special license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, substance abuse, questionable competency, physical or mental illness, or educational disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant administratively a special license.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request that the applicant appear for an interview;

(2) Grant a special license for practice at the medical college designated in the application;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Request that the applicant appear for an interview;

(2) Grant a special license for practice at the medical college designated in the application;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule 653—9.15(147,148).

10.4(5) *Special license application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application will be considered inactive. An applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials.

10.4(6) *Renewal of a special license.*

a. If the special physician licensee has not qualified for and received a permanent license, the licensee must renew prior to expiration.

b. A special physician licensee may apply for a one-year renewal by submitting the following:

(1) A completed renewal application;

(2) The renewal fee as specified in 653—paragraph 8.4(3)*"b"*;

(3) Evidence of continuing education and training on chronic pain management, end-of-life care, and identifying and reporting abuse as specified in 653—Chapter 11; and

(4) A letter from the dean of the medical college that addresses the individual's unique contribution to the practice of medicine in Iowa, how the anticipated contribution will serve the public interest of Iowans, and the need for renewal of this license. For a licensee who received the initial special license prior to July 1, 2001, the only statement needed from the dean is verification of the academic appointment the licensee continues to hold.

c. Failure of the licensee to renew a license within one month of the expiration date will cause the license to become inactive. A licensee whose license is inactive is prohibited from practice until a new special license is granted according to subrules 10.4(3) and 10.4(4).

653—10.5(147,148) Temporary licensure. The board may issue a temporary license authorizing a physician to participate in a board-approved activity in Iowa. Temporary licensure is granted on a case-by-case basis and depends upon the applicant's education and training, experience and licensure status elsewhere and upon the intended use of the temporary license.

10.5(1) *General provisions.*

a. The temporary license to practice is intended for a physician to participate in a board-approved activity, as defined in rule 653—10.1(147,148), in Iowa that is short-term. Temporary licensure is not intended for locum tenens.

b. The license may be restricted to the board-approved activity, location(s) or time period of up to one year.

(1) A physician who is granted a temporary license for a board-approved activity may qualify for renewal of that license if the physician needs an extension of the license for the original purpose or to pursue more than one board-approved activity within a year.

(2) A physician who wishes to continue in a board-approved activity in Iowa for short intervals beyond one year is eligible for a temporary license each year after reapplying and qualifying on an annual basis.

c. A physician incidentally called into this state in consultation with a physician and surgeon licensed in this state, as defined in rule 653—10.1(147,148), is not required to obtain a temporary license in Iowa.

d. The board may take disciplinary action on a temporary license if the licensee has practiced outside the scope of the temporary license or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55, 148.6, and 272C.10 and 653—Chapter 23. Contested case proceedings shall be governed by the provisions of 653—Chapter 25.

e. A physician who holds a temporary license must notify the board of any change in address within three days of making an address change.

f. A physician who holds a temporary license must notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

g. The file of a physician who holds a temporary license will be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

10.5(2) *Temporary license eligibility.* To be eligible for a temporary license, an applicant must meet all of the following requirements:

a. Fulfill the requirements specified in subrules 10.5(3) and 10.5(4);

b. Be at least 21 years of age;

c. Hold a medical degree from an educational institution approved by the board (if the applicant is an international medical graduate, the educational institution must be listed in the International Medical Education Directory);

d. Hold a current active, unrestricted license to practice medicine issued by any jurisdiction;

e. Be fluent in the English language;

f. Present a letter justifying the need for temporary licensure from the organization or individual seeking the applicant's participation in a board-approved activity;

g. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

10.5(3) *Requirements for a temporary license.* To apply for a temporary license, an applicant must:

a. Pay a nonrefundable initial application fee and fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI as specified in 653—paragraph 8.4(4)*"a."* A physician who is serving as a camp physician and who is not receiving payment other than expenses shall be exempt from the license application fee and the fee for the criminal history background check.

b. Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet and a sworn statement by the applicant attesting to the truth of all information provided by the applicant.

10.5(4) *Application.* The application shall require the following information:

a. The applicant's full legal name, date and place of birth, home address, mailing address and principal business address;

b. A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including the applicant's license number and date of issuance of the license;

c. A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

d. A statement by the applicant that discloses and explains any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

e. A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

f. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant, filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

g. A statement from the applicant that justifies the need for a temporary license, including where the applicant intends to practice and the type of practice involved;

h. A letter from the Iowa organization or individual seeking the applicant's services that explains the need for the applicant's participation in the board-approved activity in Iowa, the time period involved, the scope of practice, and the exact location and facilities where the board-approved activity will occur;

i. For an international medical graduate who does not hold a license in good standing in any United States jurisdiction, a statement, which shall be submitted by the Iowa organization or individual offering the board-approved activity, identifying who the applicant's immediate supervisor will be;

j. For an international medical graduate who does not hold a license in good standing in any United States jurisdiction:

(1) Verification, which shall be submitted from the licensing authority of the country in which the physician is licensed, that the physician has a license in good standing;

(2) Evidence of fluency in the English language;

k. For a resident physician who does not hold a current, active resident or permanent license in the home state of the resident training program, a statement, which shall be submitted by the resident director or individual offering the board-approved activity, identifying who the applicant's immediate supervisor will be; and

l. A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

10.5(5) *Standard application review process for a temporary license.* The standard review process shall be utilized to review each application for a temporary license, except that the process identified in subrule 10.5(6) shall be used for any international medical graduate who does not currently hold a license in good standing in any United States jurisdiction or for any physician who seeks temporary licensure for an activity not listed in paragraphs "1" through "6" of the definition of "board-approved activity" in rule 653—10.1(147,148). The standard application review process is as follows:

a. An application shall be considered open from the date the application form and the nonrefundable fees are received in the board office.

b. After reviewing each application, staff shall notify the applicant or designee about how to resolve any problems identified by the reviewer.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for temporary licensure or the need for a temporary licensee, staff may administratively grant a temporary license to the applicant for a specific activity, location(s) or specified duration based on the nature of the board-approved activity. The license shall not be granted for a period longer than one year.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, then the executive director, the director of licensure and administration, and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for temporary licensure or the organization's or requesting individual's need for a licensee with a temporary license.

(1) If there is no current concern, staff shall administratively grant a temporary license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, educational disciplinary history, or questionable need on the part of the organization.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to administratively grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity;

(2) Grant a temporary license under certain terms and conditions or with certain restrictions;

(3) Deny a temporary license; or

(4) Request that the applicant withdraw the temporary licensure application.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity;

(2) Grant a temporary license under certain terms and conditions or with certain restrictions;

(3) Request that the applicant withdraw the temporary licensure application. The request shall not imply that the applicant is ineligible for permanent licensure if that application process is pursued; or

(4) Deny a temporary license. The board may deny a temporary license for any grounds on which the board may discipline a license or for lack of need for a physician's services by the organization or individual. The procedure for appealing a license denial is set forth in rule 653—9.17(147,148).

10.5(6) *Application review process for applicants with certain exceptions.* This application process shall be used to review applications submitted by an international medical graduate who does not currently hold a license in good standing in any United States jurisdiction or by a physician seeking temporary licensure for an activity not listed in paragraphs "1" through "6" of the definition of "board-approved activity" in rule 653—10.1(147,148). Following is the application review process for applicants with exceptions:

a. An application shall be considered open from the date the application form and the nonrefundable fees are received in the board office.

b. After reviewing each application, staff shall notify the applicant or designee about how to resolve any problems identified by the reviewer.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for temporary licensure or the need for a temporary license, staff shall submit the application to the committee for review and recommendation to the board about whether to grant a temporary license to the physician and whether the license should be granted for a specific activity, location(s) or specified duration based on the nature of the board-approved activity.

d. The board shall consider applications and recommendations from the committee and shall:

(1) Grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity;

(2) Grant a temporary license under certain terms and conditions or with certain restrictions;

(3) Request that the applicant withdraw the temporary licensure application. The request shall not imply that the applicant is ineligible for permanent licensure if that application process is pursued; or

(4) Deny a temporary license. The board may deny a temporary license for any grounds on which the board may discipline a license or for lack of need for a physician's services by the organization or individual. The procedure for appealing a license denial is set forth in rule 653—9.17(147,148).

10.5(7) *Temporary license application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application will be considered inactive. An applicant whose application is inactive must reapply and submit new nonrefundable fees and a new application, documents and credentials if the applicant wishes to pursue temporary licensure.

10.5(8) *Renewal of a temporary license.*

a. To apply for renewal of a temporary license, the licensee shall submit the following:

(1) A request for renewal;

(2) The renewal fee as specified in 653—paragraph 8.4(4)*"b"*; and

(3) Written justification for the renewal from the organization or individual seeking the applicant.

b. Failure of the licensee to renew a license by the expiration date will cause the license to become inactive. The individual shall not practice in Iowa until securing a permanent medical license or until becoming eligible for a second temporary license.

653—10.6(147,148,148J) Provisional licensure for foreign medical graduates.

10.6(1) *General provisions.*

a. The board may grant a provisional license to a foreign medical graduate who meets the qualifications provided in Iowa Code chapter 148J and these rules.

b. A provisional license may be issued for a period of not more than one year and may be renewed annually prior to expiration.

c. A provisional license will specifically limit the licensee to practice at the health care facility that provided the foreign medical graduate with the offer of employment as required by Iowa Code chapter 148J to qualify for this license.

d. The board may cancel a provisional license if the licensee has practiced outside the scope of this license, the licensee's employment is terminated with the health care facility who offered the licensee employment to qualify for the provisional license, or the licensee ceases to have an eligible immigration

status for employment in the United States of America or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55, 148.6, and 272C.10 and 653—Chapter 23. When cancellation of such license is proposed, the board will promptly notify the licensee by serving a statement of charges and notice of hearing upon the licensee pursuant to 481—Chapter 506. This contested case proceeding shall be governed by the provisions of 481—Chapter 506.

e. A provisional licensee must notify the board of any change in the licensee's home address or the address of the place of practice within one month of making an address change.

f. A provisional licensee must notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

g. A provisional licensee file will be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

10.6(2) *Provisional license eligibility.* To be eligible for a provisional license, an applicant shall meet all of the following requirements:

a. Fulfill the application requirements specified in subrule 10.6(3);

b. Be at least 21 years of age;

c. Present evidence of holding a medical degree from an international medical program in good standing. This can be achieved in the following two ways:

(1) The international medical program the licensee successfully completed is approved by the ECFMG; or

(2) By presenting sufficient evidence to the board that the international medical program the applicant completed is substantially similar to the requirements of the LCME;

d. Be in good standing with and have no pending discipline before the licensing or regulatory institution in the foreign country;

e. Have practice in medicine and surgery or osteopathic medicine and surgery as a licensed physician for five years following the completion of a residency or substantially similar postgraduate medical training. The applicant can demonstrate the postgraduate medical training is substantially similar to a residency in the following two ways:

(1) The residency or postgraduate training is approved by the ACGME, AOA, RCPSC, or CFPC; or

(2) By presenting sufficient evidence to the board that the residency or postgraduate training is substantially similar to the requirements of one of the four agencies listed in subparagraph 10.6(2)*"e"*(1);

f. Demonstrate proficiency in English by providing a valid ECFMG certificate or verification of a passing score on the TSE or TOEFL examination administered by the Educational Testing Service;

g. Be licensed in a jurisdiction outside the United States or Canada and present evidence that any licenses held in any jurisdiction are unrestricted;

h. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 655—subrule 9.3(3); and

i. Have a passing score in all steps of the USMLE.

10.6(3) *Provisional license application.*

a. Requirements. To apply for a provisional license, an applicant must:

(1) Pay a nonrefundable special license fee and a fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI as specified in 653—paragraph 8.4(3)*"a"*;

(2) Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all the information provided by the applicant;

(3) Provide a sworn statement from the director or the director's designee of the medical licensing or regulatory institution in the individual's resident country that the applicant's license is in good standing and is not subject to any pending discipline;

(4) Provide a certified record from the national policy agency in the individual's resident country of a complete criminal history of the applicant;

(5) Provide verification of successful completion of a medical degree;

(6) Provide a valid ECFMG certificate or verification of a passing score on the TSE or TOEFL examination administered by the Educational Testing Service; and

(7) Provide a sworn statement and supporting documents from the health care facility offering employment to the provisional licensee applicant that the facility has had the applicant's immigration status reviewed by a licensed attorney of this jurisdiction and a determination was made that the applicant has proper immigration status for employment in the United States of America.

b. Application. The application shall request the following information:

(1) Name, date and place of birth, home address, and mailing address;

(2) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance;

(3) A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

(4) A photocopy of the applicant's medical degree issued by an educational institution and a sworn statement from an official of the educational institution certifying the date the applicant received the medical degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. A complete translation of any diploma not written in English shall be submitted;

(5) A statement disclosing and explaining any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, educational institution, training or research program, or health facility in any jurisdiction;

(6) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(7) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; and

(8) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

10.6(4) *Provisional license application review process.* The process below shall be utilized to review each application for a provisional license.

a. An application is considered open from the date the application form is received in the board office with the nonrefundable provisional licensure fee.

b. After reviewing each application, staff will notify the applicant or the health care facility offering the applicant employment about how to resolve any problems identified by the reviewer. The applicant shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant a provisional license.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, director of licensure and administration, and director of legal affairs will determine whether the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff will administratively grant a provisional license.

(2) If any concern exists, the application will be referred to the committee.

e. Staff will refer to the committee for review matters that include but are not limited to falsification of information on the application, criminal record, substance abuse, questionable competency, physical or mental illness, or educational disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to administratively grant a provisional license.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee will recommend that the board:

(1) Request that the applicant appear for an interview;

(2) Grant a provisional license;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license.

h. The board will consider applications and recommendations from the committee and:

(1) Request that the applicant appear for an interview;

(2) Grant a provisional license for practice at the medical college designated in the application;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule 653—9.15(147,148).

10.6(5) *Provisional license application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application will be considered inactive. An applicant must reapply and submit a new nonrefundable application fee and a new application, new documents and new credentials.

10.6(6) *Renewal of a provisional license.*

a. If the provisional licensee has not qualified for and received a permanent license, the licensee must renew prior to expiration.

b. A provisional licensee may apply for a one-year renewal by submitting the following:

(1) A completed renewal application;

(2) The renewal fee as specified in 653—paragraph 8.4(3)*"b"*;

(3) Evidence of continuing education and training on chronic pain management, end-of-life care, and identifying and reporting abuse as specified in 653—Chapter 11; and

(4) A letter from the chief medical officer for the health care facility employing the licensee that addresses the individual's fitness to the practice of medicine in Iowa, how the anticipated contribution will serve the public interest of Iowans, and the need for renewal of this license.

c. Failure of the licensee to renew a license within one month of the expiration date will cause the license to become inactive. A licensee whose license is inactive is prohibited from practice until a new provisional license is granted according to subrules 10.4(3) and 10.4(4).

10.6(7) *Conversion of a provisional license to a full license.*

a. After three consecutive years of holding a provisional license in good standing, the provisional licensee may apply to have the licensee's license converted to a full license to practice medicine and surgery or osteopathic medicine and surgery, provided the license has not been revoked pursuant to Iowa Code section 148J.2. The provisional licensee may alternatively elect to continue to renew the licensee's provisional license on a yearly basis.

b. The provisional licensee shall make application to the board for conversion of the licensee's provisional license using the application form provided by the board. The application shall include the following:

(1) A completed application;

(2) The renewal fee as specified in 653—paragraph 8.4(3)*"b"*;

(3) Evidence of continuing education and training on chronic pain management, end-of-life care, and identifying and reporting abuse as specified in 653—Chapter 11.

(4) A letter, submitted by the chief medical officer for the health care facility employing the licensee, that addresses the individual's fitness to practice medicine in Iowa, how the anticipated contribution will serve the public interest of Iowans, and the need for renewal of this license.

(5) An updated criminal background check as described in subrule 10.6(3).

(6) A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action,

by a medical or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction.

(7) A statement disclosing and explaining the applicant's involvement in civil litigation related to the practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process.

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding to have the conviction or plea set aside is pending. Copies of the legal documents may be requested if needed during the review process.

(9) The full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

(10) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

These rules are intended to implement Iowa Code chapters 17A, 147, 148, 148J, and 272C.

[Filed 3/27/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9114C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to continuing education

The Board of Medicine hereby rescinds Chapter 11, "Continuing Education and Training Requirements," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

This rulemaking rescinds Chapter 11 and adopts a new chapter with the same title. This chapter sets forth continuing education requirements for physicians, acupuncturists, and genetic counselors. It includes definitions related to continuing education, the number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the chapter, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8696C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
CONTINUING EDUCATION AND TRAINING REQUIREMENTS

653—11.1(272C) Definitions.

"ABMS" means the American Board of Medical Specialties. The board recognizes specialty board certification by ABMS.

"Accredited provider" means an organization approved as a provider of category 1 credit by one of the following board-approved accrediting bodies: Accreditation Council for Continuing Medical Education, Iowa Medical Society, or the Council on Continuing Medical Education of the AOA.

"Active duty" means full-time training or active service in the U.S. armed forces, reserves or national guard.

"Active licensee" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in Iowa who has met all conditions of licensure and maintains a current license to practice in Iowa.

"AMA" means the American Medical Association.

"AOA" means the American Osteopathic Association.

"Approved abuse education training program" means a training program using a curriculum approved by the abuse education review panel of the department of health and human services or a training program offered by a hospital, a professional organization for physicians, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

"Approved program or credit" means any category 1 credit offered by an accredited provider or any other program or credit meeting the standards set forth in these rules.

"Board" means the board of medicine.

"Carryover" means hours of category 1 credit earned in excess of the required hours in a license period that may be applied to the continuing education requirement in the subsequent license period; carryover may not exceed 20 hours of category 1 credit per renewal cycle.

"Category 1 credit" means any formal education program that is sponsored by an accredited provider. Credits designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credits by the American Academy of Family Physicians are accepted as equivalent to category 1 credits.

"Committee" means the licensure committee of the board.

"COMVEX-USA" means the Comprehensive Osteopathic Medical Variable-Purpose Examination for the United States of America.

"Continuing education" means education that is acquired by a licensee in order to maintain or enhance skills and knowledge present at initial licensure or to develop relevant skills and knowledge.

"Hour of continuing education" means a clock hour spent by a licensee in actual attendance at or completion of an approved category 1 credit.

"Inactive license" means any license that is not a current, active license.

"Licensee" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa.

"Opioid" means any FDA-approved product or active pharmaceutical ingredient classified as a controlled substance that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

"Service charge" means the amount charged for making a service available on line and is in addition to the actual fee for a service itself.

"SPEX" means Special Licensure Examination prepared by the Federation of State Medical Boards and administered by a licensing authority in any jurisdiction. The passing score on SPEX is 75.

"Training for identifying and reporting abuse" means training as described in Iowa Code section 232.69; the full requirements for reporting of dependent adult abuse and the training requirements are in Iowa Code section 235B.16.

653—11.2(272C) Continuing education credit and alternatives.

11.2(1) Continuing education credit may be obtained by attending category 1 credits as defined in this chapter.

11.2(2) The board accepts the following as equivalent to 50 hours of category 1 credit: participation in an approved resident training program or board certification or recertification by an ABMS or AOA specialty board within the licensing period.

11.2(3) Each year, the board acknowledges up to ten hours of category 1 credits for physicians who served on the board or Iowa professional health committee, are actively serving alternate members, or performed peer reviews in the previous year. Recipients are notified by the board's executive director via mail in January.

653—11.3(272C) Continuing education and training requirements for renewal or reactivation. A licensee shall meet the requirements in this rule to qualify for renewal of a permanent license, an administrative medicine license, or special license or to qualify for reactivation of a permanent license or an administrative medicine license.

11.3(1) *Continuing education and training requirements.*

a. Continuing education for permanent license or administrative medicine license renewal. Except as provided in these rules, a total of 40 hours of category 1 credit or board-approved equivalent is required for biennial renewal of a permanent license or an administrative medicine license. This may include up to 20 hours of carryover credit.

(1) To facilitate license renewal according to birth month, a licensee's first license may be issued for less than 24 months. The number of hours of category 1 credit required of a licensee whose license has been issued for less than 24 months shall be reduced on a pro-rata basis.

(2) A licensee desiring to obtain credit for carryover hours reports the carryover, not to exceed 20 hours of category 1 credit, on the renewal application.

b. Continuing education for special license renewal. A total of 20 hours of category 1 credit shall be required for annual renewal of a special license. No carryover hours are allowed.

c. Training for identifying and reporting child and dependent adult abuse for permanent or special license renewal. A licensee shall complete the training for identifying and reporting child and dependent adult abuse as part of a category 1 credit or an approved training program. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.3(1)*"a."*

(1) Training to identify child abuse. A licensee who regularly provides primary health care to children in Iowa must complete at least two hours of training provided by the department of health and human services pursuant to Iowa Code section 232.69(3)*"c"* in child abuse identification and reporting every three years. "A licensee who regularly provides primary health care to children" means all emergency physicians, family physicians, general practice physicians, pediatricians, and psychiatrists, and any other physician who regularly provides primary health care to children.

(2) Training to identify dependent adult abuse. A licensee who regularly provides primary health care to adults in Iowa must complete at least two hours of training provided by the department of health and human services pursuant to Iowa Code section 235B.16(5)*"c"* in dependent adult abuse identification and reporting every three years. "A licensee who regularly provides primary health care to adults" means all emergency physicians, family physicians, general practice physicians, internists, obstetricians, gynecologists, and psychiatrists and any other physician who regularly provides primary health care to adults.

d. Training for chronic pain management for permanent or special license renewal. The licensee shall complete the training for chronic pain management as part of a category 1 credit. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.3(1)*"a."*

(1) Licensees who prescribed opioids in the prior license period must complete two hours of category 1 credit on U.S. Centers for Disease Control and Prevention (CDC) guidelines for opioid prescribing every five years. The licensee may opt out of this requirement during license renewal if the licensee did not prescribe opioids in the previous cycle.

(2) A licensee who had a permanent or special license on January 1, 2019, has until January 1, 2024, to complete the chronic pain management training and shall then complete the training once every five years thereafter.

e. Training for end-of-life care for permanent or special license renewal. The licensee shall complete the training for end-of-life care as part of a category 1 credit. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.3(1)*"a."*

(1) A licensee who regularly provides direct patient care to actively dying patients in Iowa must complete at least two hours of category 1 credit for end-of-life care every five years.

(2) A licensee who had a permanent or special license on January 1, 2019, has until January 1, 2024, to complete the end-of-life care training and shall then complete the training once every five years thereafter.

11.3(2) *Exemptions from renewal requirements.*

a. A licensee shall be exempt from the continuing education requirements in subrule 11.3(1) when, upon license renewal, the licensee provides evidence for:

(1) Periods that the licensee served honorably on active duty in the U.S. armed forces, reserves or national guard;

(2) Periods that the licensee practiced in another state or district and did not provide medical care, including telemedicine services, to patients located in Iowa if the other state or district had continuing

education requirements for the profession and the licensee met all requirements of that state or district for practice therein;

(3) Periods that the licensee was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

(4) Other periods of active practice and absence from the state approved by the board.

b. The requirements for training on chronic pain management and end-of-life care for license renewal shall be suspended for a licensee who provides evidence for:

(1) Periods described in subparagraph 11.3(2)*"a"*(1), (2), (3), or (4); or

(2) Periods that the licensee resided outside of Iowa and did not practice in Iowa.

11.3(3) *Extension for completion of or exemption from renewal requirements.* The board may grant an extension of time for or an exemption from completion of the renewal requirements in subrule 11.3(1) in cases of physical disability or illness.

a. A licensee requesting an extension or exemption shall complete and submit a request to the board that sets forth the reasons for the request and has been signed by the licensee and attending physician.

b. The board may grant an extension of time to fulfill the requirements in subrule 11.3(1).

c. The board may grant an exemption from the educational requirements for any period of time not to exceed one calendar year.

d. If the physical disability or illness for which an extension or exemption was granted continues beyond the period of waiver, the licensee must reapply for a continuance of the extension or exemption.

e. The board may, as a condition of any extension or exemption granted, require the applicant to make up a portion of the continuing education requirement by methods it prescribes.

11.3(4) *Reactivation requirement.* An applicant for license reactivation whose license has been inactive for one year or more shall provide proof of successful completion of 40 hours of category 1 credit completed within 24 months prior to submission of the application for reactivation or proof of successful completion of SPEX or COMVEX-USA within one year immediately prior to the submission of the application for reinstatement.

11.3(5) *Cost of continuing education and training for renewal or reinstatement.* Each licensee is responsible for all costs of continuing education and training required in 653—Chapter 11.

11.3(6) *Documentation.* A licensee shall maintain documentation of the continuing education and training, including dates, subjects, duration of programs, and proof of participation.

11.3(7) *Audits.* The board may audit continuing education and training documentation at any time. A licensee shall respond to a board audit and provide all materials requested within 30 days of a request made by board staff.

11.3(8) *Grounds for discipline.* A licensee may be subject to disciplinary action for failure to comply with continuing education and training requirements in 653—Chapter 11.

653—11.4(272C) Failure to fulfill requirements for continuing education and training for identifying and reporting abuse.

11.4(1) Disagreement over whether material submitted fulfills the requirements specified in rule 653—11.3(272C).

a. Staff will work with a licensee or applicant to resolve any discrepancy concerning credit for renewal or reinstatement.

b. When resolution is not possible, staff will refer the matter to the committee.

(1) In the matter of a licensee seeking license renewal, staff will renew the license if all other matters are in order and inform the licensee that the matter is being referred to the committee.

(2) In the matter of an applicant seeking reactivation, staff will reactivate the license if all other matters are in order and inform the applicant that the matter is being referred to the committee.

c. The committee considers the staff's recommendation for denial of credit for continuing education or training for identifying and reporting abuse, chronic pain management, and end-of-life care.

(1) If the committee approves the credit, it will authorize the staff to inform the licensee or applicant that the matter is resolved.

(2) If the committee disapproves the credit, it will refer the matter to the board with a recommendation for resolution.

d. The board will consider the committee's recommendations.

(1) If the board approves the credit, it will authorize the staff to notify the licensee or applicant for reinstatement if all other matters are in order.

(2) If the board denies the credit, it will:

1. Close the case;
2. Send the licensee or applicant an informal, nonpublic letter of warning or education; or
3. File a statement of charges for noncompliance with the board's rules on continuing education or training and for any other violations that may exist.

11.4(2) Informal appearance for failure to complete requirements for continuing education or training.

a. The licensee or applicant may, within ten days after the date that the notification of the denial was sent by certified mail, request an informal appearance before the board.

b. At the informal appearance, the licensee or applicant will have the opportunity to present information, and the board will issue a written decision.

These rules are intended to implement Iowa Code chapters 147 and 272C and sections 232.69 and 235B.16.

[Filed 3/27/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9115C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to standards and principles

The Board of Medicine hereby rescinds Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 124, 124E, 135, 135L, 144E, 146A, 146E, 147, 148, 272C and 280.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 124, 124E, 135, 135L, 144E, 146A, 146E, 147, 148, 272C and 280.

Purpose and Summary

This rulemaking rescinds Chapter 13 and adopts a new chapter with the same title. This rulemaking provides Iowans, licensees, and employers with the standards of practice and medical ethics. This chapter provides definitions relevant to the practice of medicine and guidelines on office practices, including the requirements for recordkeeping, physician behavior, and patient-physician relationships. The Board added provisions for emergency medical services within the physician's scope of practice pursuant to 2024 Iowa Acts, House File 2507.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8701C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
STANDARDS OF PRACTICE AND PRINCIPLES OF MEDICAL ETHICS

653—13.1(148,272C) Standards of practice—packaging, labeling and records of prescription drugs dispensed by a physician.

13.1(1) A physician shall dispense a prescription drug only in a container that meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. Sections 1471-1476 (2001), unless otherwise requested by the patient, and of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 301 et seq. (2001).

13.1(2) A label affixed to a container in which a prescription drug is dispensed by a physician shall include:

a. The name and address of the physician.

b. The name of the patient.

c. The date dispensed.

d. The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician.

e. The name and strength of the prescription drug in the container.

13.1(3) The provisions of subrules 13.1(1) and 13.1(2) shall not apply to packaged drug samples.

13.1(4) Physicians must document all prescription drugs dispensed to patients, including required label information. Noting such information on the patient's chart or record maintained by the physician is sufficient.

653—13.2(124,148,272C) Standards of practice—appropriate pain management.

13.2(1) *Standards.* This rule establishes standards of practice for the management of acute and chronic pain. The board encourages the use of nonopioid pharmacologic therapy and nonpharmacologic therapy.

a. This rule is intended to encourage appropriate pain management, including the use of opioids for the treatment of pain, while stressing the need to establish safeguards to minimize the potential for substance abuse and drug diversion.

b. The goal of pain management is to treat each patient's pain in relation to the patient's overall health. At the end of life, the goals may shift to palliative care.

c. Pain management is an important part of medical practice. Unmanaged or inappropriately treated pain impacts patients' quality of life, reduces patients' ability to be productive members of society, and increases patients' use of health care services.

d. Physicians treating pain with opioids in a manner consistent with appropriate pain management practices should not fear board action. Dosage is not the sole measure of determining whether a physician has complied with appropriate pain management practices. The board recognizes the complexity of treating patients with chronic pain or a substance abuse history. Generally, the board is concerned about a pattern of improper pain management or a single occurrence of willful or gross overtreatment or undertreatment of pain.

e. Inappropriate pain management is a departure from the acceptable standard of practice in Iowa and may be grounds for disciplinary action.

13.2(2) *Definitions.* For the purposes of this rule, the following terms are defined as follows:

"Acute pain" means the normal, predicted physiological response to a noxious chemical, thermal or mechanical stimulus and typically is associated with invasive procedures, trauma and disease. Generally, acute pain is self-limited, lasting no more than a few weeks following the initial stimulus.

"Addiction" means a primary, chronic, neurobiologic disease, with genetic, psychosocial, and environmental factors influencing its development and manifestations. It is characterized by behaviors that include the following: impaired control over drug use, craving, compulsive use, and continued use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and are not the same as addiction.

"Chronic pain" means pain that lasts longer than three months or past the time of normal tissue healing.

"Pain" means an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage. Pain is an individual, multifactorial experience influenced by culture, previous pain events, beliefs, mood and ability to cope.

"Physical dependence" means a state of adaptation that is manifested by drug class-specific signs and symptoms that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, or administration of an antagonist. Physical dependence, by itself, does not equate with addiction.

"Pseudoaddiction" means an iatrogenic syndrome resulting from the misinterpretation of relief-seeking behaviors as though they are drug-seeking behaviors that are commonly seen with addiction. The relief-seeking behaviors resolve upon institution of effective analgesic therapy.

"Substance abuse" means the use of a drug, including alcohol, by the patient in an inappropriate manner that may cause harm to the patient or others, or the use of a drug for an indication other than that

intended by the prescribing clinician. An abuser may or may not be physically dependent on or addicted to the drug.

"Tolerance" means a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce a specific effect, or a reduced effect is observed with a constant dose over time. Tolerance may or may not be evident during opioid treatment and does not equate with addiction.

"Undertreatment of pain" means the failure to properly assess, treat and manage pain or the failure to appropriately document a sound rationale for not treating pain.

13.2(3) *Laws and regulations.* Nothing in this rule relieves a physician from fully complying with applicable federal and state laws and regulations.

13.2(4) *Undertreatment of pain.* The undertreatment of pain is a departure from the acceptable standard of practice in Iowa. Undertreatment may include a failure to recognize symptoms and signs of pain, a failure to treat pain within a reasonable amount of time, a failure to allow interventions, e.g., analgesia, to become effective before invasive steps are taken, a failure to address pain needs in patients with reduced cognitive status, a failure to use opioids for terminal pain due to the physician's concern with addicting the patient, or a failure to use an adequate level of pain management.

13.2(5) *Assessment and treatment of acute and chronic pain.* Appropriate assessment of the etiology of the pain is essential to the appropriate treatment of acute and chronic pain.

a. Prescribing opioids for the treatment of acute and chronic pain should only be accomplished within an established physician-patient relationship and should be based on clearly diagnosed and documented pain. Appropriate management of acute and chronic pain should include an assessment of the mechanism, type and intensity of pain. The patient's medical record should clearly document a medical history, a pain history, a clinical examination, a medical diagnosis and a treatment plan.

b. A physician who prescribes, dispenses or administers opioids to patients for the treatment of chronic pain should become familiar with the U.S. Centers for Disease Control and Prevention (CDC) Guideline for Prescribing Opioids for Chronic Pain published on March 15, 2016.

13.2(6) *Effective management of chronic pain.* To ensure that chronic pain is properly assessed and treated, a physician who prescribes, dispenses or administers opioids to a patient for the treatment of chronic pain shall exercise sound clinical judgment and establish an effective pain management plan in accordance with the following:

a. Patient evaluation. Prior to the patient starting treatment, a patient evaluation must be conducted that includes a physical examination, a comprehensive medical history, pain assessment, and examination of physical and psychological function. This evaluation should also cover diagnostic studies, past interventions, medication and substance abuse history, and any underlying conditions. Depending on the complexity of the case and the physician's expertise, consultation or referral to specialists in pain medicine, addiction medicine, or areas associated with the patient's pain may be necessary. Interdisciplinary evaluation is recommended.

b. Treatment plan. The physician must create a tailored treatment plan addressing the patient's individual needs, outlining treatment objectives such as pain relief or improved functioning, and indicating any planned diagnostic evaluations or treatments. The plan should include other treatment modalities and rehabilitation programs used. Short- and long-term pain relief needs should be considered, along with the patient's ability to request pain relief and the patient's setting. Whenever possible, opioids should be prescribed by one physician and filled at one pharmacy.

c. Informed consent. A discussion of the risks and benefits of opioids with the patient or person representing the patient must be documented.

d. Periodic review. The physician must regularly review the patient's drug treatment course and pain source. Drug therapy should be adjusted to meet individual patient needs, based on progress toward treatment plan objectives. If reviews show treatment plan objectives are not being met or indicate diversion or substance abuse patterns, the physician should reconsider drug therapy and explore other treatment options. Long-term opioid use may lead to tolerance and abnormal pain sensitivity, meaning increasing doses may not improve pain control or function.

e. Consultation/referral. A specialty consultation, including with a physician with expertise in addiction medicine or substance abuse counseling, may be considered if there is evidence of significant

adverse effects, lack of response to the medication, diversion, or a pattern of substance abuse. The board encourages a multidisciplinary approach to chronic pain management.

f. Documentation. The physician shall keep accurate, timely, and complete records that detail compliance with this subrule, including patient evaluation, diagnostic studies, treatment modalities, treatment plan, informed consent, periodic review, consultation, and any other relevant information about the patient's condition and treatment.

g. Pain management agreements. Physicians treating chronic pain with opioids should consider implementing a pain management agreement with each patient outlining medication use rules and consequences for misuse. The decision to use such an agreement should be based on individual patient evaluation, weighing risks and benefits of long-term opioid treatment. If opioid treatment exceeds 90 days for chronic pain, and there is a concern for drug abuse or diversion, a pain management agreement should be used. If a physician opts not to use a pain management agreement, reasons should be documented in the patient's medical records. Pain management agreements are not required for hospice or nursing home patients.

h. Substance abuse history or comorbid psychiatric disorder. A patient's prior history of substance abuse does not necessarily contraindicate appropriate pain management. However, treatment of patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care and communication with the patient, monitoring, documentation, and consultation with or referral to an expert in the management of such patients. The board strongly encourages a multidisciplinary approach for pain management of such patients that incorporates the expertise of other health care professionals.

i. Drug testing. A physician who prescribes opioids to a patient for more than 90 days for the treatment of chronic pain should consider utilizing drug testing to ensure that the patient is receiving appropriate therapeutic levels of prescribed medications or if the physician has reason to believe that the patient is at risk of drug abuse or diversion.

j. Termination of care. The physician should consider termination of patient care if there is evidence of noncompliance with the rules for medication use, drug diversion, or a repeated pattern of substance abuse.

13.2(7) *Pain management for terminal illness.* The provisions of this subrule apply to patients who are at the stage in the progression of cancer or other terminal illness when the goal of pain management is comfort care. When the goal of treatment shifts to comfort care rather than cure of the underlying condition, the board recognizes that the dosage level of opioids to control pain may exceed dosages recommended for chronic pain and may come at the expense of patient function. The determination of such pain management should involve the patient, if possible, and others the patient has designated for assisting in end-of-life care.

13.2(8) *Prescription monitoring program.* The board of pharmacy established a prescription monitoring program pursuant to Iowa Code sections 124.551 through 124.558 to help prescribers and pharmacists track controlled substance prescriptions. Physicians must register for this program when applying for or renewing their controlled substance prescribing registration. Before prescribing opioids, physicians or their agents must use the program to guide treatment decisions and enhance patient care quality. However, utilization is not required for patients in inpatient hospice care or long-term residential facilities. Orders in hospital settings are not considered prescriptions under these rules, as patient safety is managed within these settings.

13.2(9) *Electronic prescriptions.* Beginning January 1, 2020, all prescriptions (controlled and noncontrolled substances) are to be transmitted electronically as electronic prescriptions pursuant to Iowa Code section 124.308. A prescription shall be transmitted to a pharmacy by the physician or the physician's authorized agent in compliance with federal law and regulation for electronic prescriptions of controlled substances.

13.2(10) *Pain management resources.* The board strongly recommends that physicians consult the following resources regarding the proper treatment of chronic pain. This list is provided for the convenience of licensees, and the publications included are not intended to be incorporated in the rule by reference.

a. American Academy of Hospice and Palliative Medicine or AAHPM is the American Medical Association-recognized specialty society of physicians who practice in hospice and palliative medicine in the United States. The mission of the AAHPM is to enhance the treatment of pain at the end of life.

b. American Academy of Pain Medicine or AAPM is the American Medical Association-recognized specialty society of physicians who practice pain medicine in the United States. The mission of the AAPM is to enhance pain medicine practice by promoting a climate conducive to the effective and efficient practice of pain medicine.

c. American Pain Society or APS is the national chapter of the International Association for the Study of Pain, an organization composed of physicians, nurses, psychologists, scientists and other professionals who have an interest in the study and treatment of pain. The mission of the APS is to serve people in pain by advancing research, education, treatment and professional practice.

d. DEA Policy Statement: Dispensing Controlled Substances for the Treatment of Pain. On August 28, 2006, the Drug Enforcement Agency (DEA) issued a policy statement establishing guidelines for practitioners who dispense controlled substances for the treatment of pain. This policy statement may be helpful to practitioners who treat pain with controlled substances.

e. Interagency Guideline on Prescribing Opioids for Pain. Developed by the Washington State Agency Medical Directors' Group in collaboration with an expert advisory panel, actively practicing providers and public stakeholders, the guideline focuses on evidence-based treatment for chronic-pain patients. The guideline was published in 2007 and updated in 2015.

f. Responsible Opioid Prescribing: A Physician's Guide. In 2007, in collaboration with author Scott Fishman, M.D., the Federation of State Medical Boards' (FSMB's) Research and Education Foundation published a book on responsible opioid prescribing based on the FSMB Model Policy for the Use of Controlled Substances for the Treatment of Pain.

g. World Health Organization: Pain Relief Ladder. Cancer pain relief and palliative care. Technical report series 804. Geneva: World Health Organization.

h. CDC Guideline for Prescribing Opioids for Chronic Pain as referenced in paragraph 13.2(4)*"b."*

13.2(11) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of these rules, the rules found in 653—Chapter 23, or any of the following:

a. A physician who prescribes opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent physician in the state of Iowa acting in the same or similar circumstances.

b. A physician who knowingly fails to comply with the confidentiality requirements of Iowa Code section 124.553 or who delegates program information access to another individual except as provided in Iowa Code section 124.553.

c. A physician who knowingly fails to comply with other requirements of Iowa Code chapter 124.

13.2(12) *Unlawful access, disclosure, or use of information.* A person who intentionally or knowingly accesses, uses, or discloses information from the prescription monitoring program in violation of Iowa Code section 124.553, unless otherwise authorized by law, is guilty of a class "D" felony. This subrule shall not preclude a physician who requests and receives information from the prescription monitoring program consistent with the requirements of Iowa Code section 124.553 from otherwise lawfully providing that information to any other person for medical care purposes.

653—13.3(147,148) Standards of practice—chelation therapy. Chelation therapy or disodium ethylene diamine tetra acetic acid (EDTA) may only be used for the treatment of heavy metal poisoning or in the clinical setting when a licensee experienced in clinical investigations conducts a carefully controlled clinical investigation of its effectiveness in treating other diseases or medical conditions under a research protocol that has been approved by an institutional review board of the University of Iowa or Des Moines University—Osteopathic Medical Center.

653—13.4(79GA,HF726) Standards of practice—automated dispensing systems. A physician who dispenses prescription drugs via an automated dispensing system or a dispensing system that employs technology may delegate nonjudgmental dispensing functions to staff assistants in the absence of a

pharmacist or physician provided that the physician utilizes an internal quality control assurance plan that ensures that the medication dispensed is the medication that was prescribed. The physician must be physically present to determine the accuracy and completeness of any medication that is reconstituted prior to dispensing.

13.4(1) An internal quality control assurance plan shall include the following elements:

a. The name of the physician responsible for the plan and testing;

b. Methods that the dispensing system employs to ensure the accuracy of the patient's name and medication, dosage, directions and amount of medication prescribed;

c. Standards that the physician expects to be met to ensure the accuracy of the dispensing system and the training and qualifications of staff members assigned to dispense via the dispensing system;

d. The procedures utilized to ensure that the physician(s) dispensing via the automated system provide(s) patients counseling regarding the prescription drugs being dispensed;

e. Staff training and qualifications for dispensing via the dispensing system;

f. A list of staff members who meet the qualifications and who are assigned to dispense via the dispensing system;

g. A plan for testing the dispensing system and each staff member assigned to dispense via the dispensing system;

h. The results of testing that show compliance with the standards prior to implementation of the dispensing system and prior to approval of each staff member to dispense via the dispensing system;

i. A plan for interval testing of the accuracy of dispensing, at least annually; and

j. A plan for addressing inaccuracies, including discontinuing dispensing until the accuracy level can be reattained.

13.4(2) Those dispensing systems already in place shall show evidence of a plan and testing within two months of August 31, 2001.

13.4(3) The internal quality control assurance plan shall be submitted to the board of medicine upon request.

653—13.5(147,148,272C) Standards of practice—office practices.

13.5(1) *Termination of the physician-patient relationship.* A physician may choose whom to serve. Having undertaken the care of a patient, the physician may not neglect the patient. A physician must provide a patient written notice of the termination of the physician-patient relationship. A physician shall ensure that emergency medical care is available to the patient during the 30-day period following notice of the termination of the physician-patient relationship.

13.5(2) *Patient referrals.* A physician shall not pay or receive compensation for patient referrals.

13.5(3) *Confidentiality.* A physician shall maintain the confidentiality of all patient information obtained in the practice of medicine. Information shall be divulged by the physician when authorized by law or the patient or when required for patient care.

13.5(4) *Sexual conduct.* It is unprofessional and unethical conduct, and is grounds for disciplinary action, for a physician to engage in conduct that violates the following prohibitions:

a. In the course of providing medical care, a physician shall not engage in contact, touching, or comments of a sexual nature with a patient, or with the patient's parent or guardian if the patient is a minor or under a guardianship.

b. A physician shall not engage in any sexual conduct with a patient when that conduct occurs concurrent with the physician-patient relationship, regardless of whether the patient consents to that conduct.

c. A physician shall not engage in any sexual conduct with a former patient unless the physician-patient relationship was completely terminated before the sexual conduct occurred. In considering whether that relationship was completely terminated, the board will consider the duration of the physician-patient relationship, the nature of the medical services provided, the lapse of time since the physician-patient relationship ended, the degree of dependence in the physician-patient relationship, and the extent to which the physician used or exploited the trust, knowledge, emotions, or influence derived from the physician-patient relationship.

d. A psychiatrist, or a physician who provides mental health counseling to a patient, shall never engage in any sexual conduct with a current or former patient, or with that patient's parent or guardian if the patient was a minor or under guardianship, regardless of whether the patient consents to that conduct.

13.5(5) *Disruptive behavior.* A physician shall not engage in disruptive behavior. Disruptive behavior is defined as a pattern of contentious, threatening, or intractable behavior that interferes with, or has the potential to interfere with, patient care or the effective functioning of health care staff.

13.5(6) *Sexual harassment.* A physician shall not engage in sexual harassment. Sexual harassment is defined as verbal or physical conduct of a sexual nature that interferes with another health care worker's performance or creates an intimidating, hostile or offensive work environment.

13.5(7) *Transfer of medical records.* A physician must provide a copy of all medical records generated by the physician in a timely manner to the patient or another physician designated by the patient, upon written request when legally requested to do so by the subject patient or by a legally designated representative of the subject patient, except as otherwise required or permitted by law.

13.5(8) *Retention of medical records.*

a. A physician shall retain all medical records, not appropriately transferred to another physician or entity, for at least seven years from the last date of service for each patient, except as otherwise required by law.

b. A physician must retain all medical records of minor patients, not appropriately transferred to another physician or entity, for a period consistent with that established by Iowa Code section 614.8.

c. Beginning July 1, 2023, a physician must appoint another Iowa-licensed physician, or other representative or entity that is held to the same standards of confidentiality as the physician, to ensure that all requirements of this subrule are met in the event of the physician's death or incapacitation. Upon request by the board, the physician must be able to establish by sufficient proof the appointment of a representative pursuant to this paragraph.

d. Upon a physician's death or retirement, the sale of a medical practice, or a physician's departure from the physician's medical practice:

(1) The physician or the physician's representative must ensure that all medical records are transferred to another physician or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The physician or the physician's representative shall notify all active patients that their records will be transferred to another physician or entity that will retain custody of their records and that, at their written request, the records will be sent to the physician or entity of the patient's choice.

653—13.6(148,272C) Standards of practice—medical directors at medical spas—delegation and supervision of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians. This rule establishes standards of practice for a physician or surgeon or osteopathic physician or surgeon who serves as a medical director at a medical spa. This rule does not apply to the standards of practice for a nonphysician licensed health professional who serves as a medical director at a medical spa pursuant to the rules of the professional's licensing authority.

13.6(1) *Definitions.* As used in this rule:

"Alter" means to change the cellular structure of living tissue.

"Capable of" means any means, method, device or instrument that, if used as intended or otherwise to its greatest strength, has the potential to alter or damage living tissue below the superficial epidermal cells.

"Damage" means to cause a harmful change in the cellular structure of living tissue.

"Delegate" means to entrust or transfer the performance of a medical aesthetic service to qualified licensed or certified nonphysician persons or qualified laser technicians.

"Medical aesthetic service" means the diagnosis, treatment, or correction of human conditions, ailments, diseases, injuries, or infirmities of the skin, hair, nails and mucous membranes by any means, methods, devices, or instruments including the use of a biological or synthetic material, chemical application, mechanical device, or displaced energy form of any kind if it alters or damages or is capable of altering or damaging living tissue below the superficial epidermal cells, with the exception of hair

removal. Medical aesthetic service includes, but is not limited to, the following services: ablative laser therapy; vaporizing laser therapy; nonsuperficial light device therapy; injectables; tissue alteration services; nonsuperficial light-emitting diode therapy; nonsuperficial intense pulse light therapy; nonsuperficial radiofrequency therapy; nonsuperficial ultrasonic therapy; nonsuperficial exfoliation; nonsuperficial microdermabrasion; nonsuperficial dermaplane exfoliation; nonsuperficial lymphatic drainage; collagen induction therapy (microneedling); fat-freezing treatment (cool sculpting); botox injections; collagen injections; and tattoo removal.

"Medical director" means a physician who assumes the role of, or holds oneself out as, medical director at a medical spa. The medical director is responsible for implementing policies and procedures to ensure quality patient care and for the delegation and supervision of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians at a medical spa. The medical director is ultimately responsible for all medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians at a medical spa.

"Medical spa" means any entity, however organized, that is advertised, announced, established, or maintained for the purpose of providing medical aesthetic services. Medical spa shall not include a dermatology practice that is wholly owned and controlled by one or more Iowa-licensed physicians if at least one of the owners is actively practicing at each location.

"Nonsuperficial" means that the therapy alters or damages or is capable of altering or damaging living tissue below the superficial epidermal cells.

"Qualified laser technician" means any person, licensed or unlicensed, who has successfully completed a minimum of 120 hours of training, including a minimum of 40 hours of didactic study and 80 hours of clinical training, in the safe and effective use of lasers in the performance of medical aesthetic services at an accredited laser training program. For the purposes of this rule, a qualified laser technician may only use lasers in the performance of delegated medical aesthetic services under the supervision of a qualified supervising physician at a medical spa. An unlicensed qualified laser technician may not perform any other medical aesthetic services defined in this rule.

"Qualified licensed or certified nonphysician person" means any person who is not licensed to practice medicine and surgery or osteopathic medicine and surgery but who is licensed or certified by another health- or skin care-related licensing board in Iowa and is qualified to perform delegated medical aesthetic services under the supervision of a qualified supervising physician at a medical spa.

"Supervision" means the oversight of qualified licensed or certified nonphysician persons or qualified laser technicians who perform medical aesthetic services delegated by a medical director.

13.6(2) *Delegation by a medical director.* A medical aesthetic service shall only be performed by qualified licensed or certified nonphysician persons or qualified laser technicians if the service has been delegated by a medical director who is responsible for supervision of the services performed at a medical spa in Iowa. Nothing in this rule shall be interpreted to prevent a qualified nonphysician licensed health professional from serving as a medical director at a medical spa or from appropriately delegating medical aesthetic services pursuant to the rules of the professional's licensing authority.

13.6(3) *Medical director.* A medical director at a medical spa shall:

a. Hold an active unrestricted Iowa medical license to supervise each delegated medical aesthetic service;

b. Possess the appropriate education, training, experience and competence to safely supervise each delegated medical aesthetic service;

c. Retain responsibility for the supervision of each medical aesthetic service performed by qualified licensed or certified nonphysician persons or qualified laser technicians;

d. Ensure that advertising activities do not include false, misleading, or deceptive representations; and

e. Be clearly identified as the medical director in all advertising activities, Internet websites and signage related to the medical spa.

13.6(4) *Delegated medical aesthetic service.* When a medical director delegates a medical aesthetic service to qualified licensed or certified nonphysician persons or qualified laser technicians, the service shall be:

a. Within the medical director's scope of practice and medical competence to supervise;

b. Of the type that a reasonable and prudent physician would conclude is within the scope of sound medical judgment to delegate; and

c. A routine and technical service, the performance of which does not require the skill of a licensed physician.

13.6(5) *Supervision.* A medical director who delegates performance of a medical aesthetic service to qualified licensed or certified nonphysician persons or qualified laser technicians is responsible for providing appropriate supervision. The medical director shall:

a. Ensure that all licensed or certified nonphysician persons or qualified laser technicians are qualified and competent to safely perform each delegated medical aesthetic service by personally assessing the person's education, training, experience and ability;

b. Ensure that a qualified licensed or certified nonphysician person does not perform any medical aesthetic services that are beyond the scope of that person's license or certification unless the person is supervised by a qualified supervising physician or other qualified supervising nonphysician licensed health professional;

c. Ensure that all qualified licensed or certified nonphysician persons or qualified laser technicians receive direct, in-person, on-site supervision from the medical director or other qualified licensed physician or other qualified supervising nonphysician licensed health professional at least four hours each week and that the regular supervision is documented;

d. Provide on-site review of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians each week and review at least 10 percent of patient charts for medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians;

e. Be physically located, at all times, within 60 miles of the location where delegated medical aesthetic services are performed;

f. Be available, in person or electronically, at all times, to consult with qualified licensed or certified nonphysician persons or qualified laser technicians who perform delegated medical aesthetic services, particularly in case of injury or an emergency;

g. Assess the legitimacy and safety of all equipment or other technologies being used by qualified licensed or certified nonphysician persons or qualified laser technicians who perform delegated medical aesthetic services;

h. Develop and implement protocols for responding to emergencies or other injuries suffered by persons receiving delegated medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians;

i. Ensure that all qualified licensed or certified nonphysician persons or qualified laser technicians maintain accurate and timely medical records for the delegated medical aesthetic services they perform;

j. Ensure that each patient provides appropriate informed consent for medical aesthetic services performed by the medical director or other qualified licensed physician and all qualified licensed or certified nonphysician persons or qualified laser technicians and that such informed consent is timely documented in the patient's medical record;

k. Ensure that the identity and licensure and certification of the medical director, other qualified licensed physicians, and all qualified licensed or certified nonphysician persons or qualified laser technicians are visibly displayed at each medical spa where they perform medical aesthetic services and provided in writing to each patient receiving medical aesthetic services at a medical spa; and

l. Ensure that the board receives written verification of the education and training of all qualified licensed or certified nonphysician persons or qualified laser technicians who perform delegated medical aesthetic services at a medical spa, within 14 days of a request by the board.

13.6(6) *Continuing medical education.* A medical director shall complete and shall ensure that all other physicians, qualified licensed or certified nonphysician persons, and qualified laser technicians who practice at the medical spa complete a minimum of 20 hours of continuing medical education in the safe and effective performance of medical aesthetic services each year.

13.6(7) *Exceptions.* This rule is not intended to apply to physicians who serve as medical directors of licensed medical facilities, clinics or practices that provide medical aesthetic services as part of or incident to their other medical services.

13.6(8) *Other qualified nonphysician licensed health professionals.* Nothing in this rule shall be interpreted to contradict or supersede the rules established in 481—Chapters 780 and 781 and 655—Chapter 7.

653—13.7(147,148,272C) Standards of practice—interventional chronic pain management. This rule establishes standards of practice for the practice of interventional chronic pain management. The purpose of this rule is to assist physicians who consider interventional techniques to treat patients with chronic pain.

13.7(1) *Definition.* As used in this rule:

"Interventional chronic pain management" means diagnosing and treating pain-related disorders using interventional techniques for subacute, chronic, persistent, and intractable pain. These techniques include percutaneous needle placement for drug injection, nerve ablation, and certain surgeries. Common procedures involve injecting steroids, analgesic, and anesthetics into targeted areas such as the spine, joints, or nerves. This may include lumbar, thoracic, and cervical spine injections; nerve blocks; and processes like vertebroplasty. Fluoroscopy is used to assess chronic pain causes or aid in identifying anatomical landmarks during these techniques. Specific procedures include joint injections, nerve blocks, epidural injections, and nerve destruction.

13.7(2) *Interventional chronic pain management.* The practice of interventional chronic pain management shall include the following:

a. Comprehensive assessment of the patient;
b. Diagnosis of the cause of the patient's pain;
c. Evaluation of alternative treatment options;
d. Selection of appropriate treatment options;
e. Termination of prescribed treatment options when appropriate;
f. Follow-up care; and
g. Collaboration with other health care providers.

13.7(3) *Practice of medicine.* Interventional chronic pain management is the practice of medicine.

653—13.8(147,148,272C) Standards of practice—physicians who prescribe or administer abortion-inducing drugs.

13.8(1) *Definition.* As used in this rule:

"Abortion-inducing drug" means a drug, medicine, mixture, or preparation, when it is prescribed or administered with the intent to terminate the pregnancy of a woman known to be pregnant.

13.8(2) *Review of patient record.* A physician shall not induce an abortion by providing an abortion-inducing drug unless the physician has first reviewed the lab results, ultrasound images, and medical history provided by the patient to determine, and document in the woman's medical record, the gestational age and intrauterine location of the pregnancy. A physician may utilize telemedicine pursuant to rule 653—13.9(147,148,272C).

13.8(3) *Follow-up appointment required.* If an abortion is induced by an abortion-inducing drug, the physician or designee shall use all reasonable efforts to ensure a follow-up appointment is scheduled with the patient at the same facility within 12 to 18 days after the patient's use of an abortion-inducing drug to confirm the termination of the pregnancy and evaluate the woman's medical condition.

13.8(4) *Parental notification regarding pregnant minors.* A physician shall not induce an abortion by providing an abortion-inducing drug to a pregnant minor prior to compliance with the requirements of Iowa Code chapter 135L and rules 641—89.12(135L) and 641—89.21(135L).

653—13.9(147,148,272C) Standards of practice—telemedicine. This rule establishes standards of practice for the practice of medicine using telemedicine.

13.9(1) *Definitions.* As used in this rule:

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

"Board" means the Iowa board of medicine.

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

"Licensee" means a medical physician or osteopathic physician licensed by the board.

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

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

13.9(2) *Practice guidelines.* A licensee who uses telemedicine shall utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.

13.9(3) *Iowa medical license required.* A physician who uses telemedicine in the diagnosis and treatment of a patient located in Iowa shall hold an active Iowa medical license consistent with state and federal laws. Nothing in this rule shall be construed to supersede the exceptions to licensure contained in 653—subrule 9.2(2).

13.9(4) *Standards of care and professional ethics.* A licensee who uses telemedicine is held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the board.

13.9(5) *Scope of practice.* A licensee who uses telemedicine shall ensure that the services provided are consistent with the licensee's scope of practice, including the licensee's education, training, experience, ability, licensure, and certification.

13.9(6) *Identification of patient and physician.* A licensee who uses telemedicine shall verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.

13.9(7) *Physician-patient relationship.*

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

(1) The person with a health-related matter seeks assistance from a licensee;

(2) The licensee agrees to undertake diagnosis and treatment of the person; and

(3) The person agrees to be treated by the licensee whether or not there has been an in-person encounter between the physician and the person.

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

(1) In-person encounter. Through an in-person medical interview and physical examination where the standard of care would require an in-person encounter;

(2) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient's care; or

(3) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

13.9(8) *Medical history and physical examination.* Generally, a licensee shall perform an in-person medical interview and physical examination for each patient. However, the medical interview and physical examination may not be in-person if the technology utilized in a telemedicine encounter is sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in-person. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine shall interview the patient to collect the relevant medical history and perform a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An Internet questionnaire that is a static set of questions provided to the patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview, does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.

13.9(9) *Nonphysician health care providers.* If a licensee who uses telemedicine relies upon or delegates the provision of telemedicine services to a nonphysician health care provider, the licensee shall:

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

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

13.9(10) *Informed consent.* A licensee who uses telemedicine shall ensure that the patient provides appropriate informed consent for the medical services provided, including consent for the use of telemedicine to diagnose and treat the patient, and that such informed consent is timely documented in the patient's medical record.

13.9(11) *Coordination of care.* A licensee who uses telemedicine shall, when medically appropriate, identify the medical home or treating physician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee shall provide a copy of the medical record to the patient's medical home or treating physician(s).

13.9(12) *Follow-up care.* A licensee who uses telemedicine shall have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

13.9(13) *Emergency services.* A licensee who uses telemedicine shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

13.9(14) *Medical records.* A licensee who uses telemedicine shall ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee shall note in the patient's record when telemedicine is used to provide diagnosis and treatment. The licensee shall ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee shall ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

13.9(15) *Privacy and security.* A licensee who uses telemedicine shall ensure that all telemedicine encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of

October 16, 2024, to ensure that all patient communications and records are secure and remain confidential.

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

(1) Privacy;

(2) Health care personnel who will process messages;

(3) Hours of operation;

(4) Types of transactions that will be permitted electronically;

(5) Required patient information to be included in the communication, including patient name, identification number and type of transaction;

(6) Archiving and retrieval; and

(7) Quality oversight mechanisms.

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

13.9(16) *Technology and equipment.* The board recognizes that three broad categories of telemedicine technologies currently exist, including asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. The technology and equipment utilized for telemedicine shall comply with the following requirements:

a. Comply with relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities;

b. Be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and

c. Be compliant with the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of October 16, 2024.

13.9(17) *Disclosure and functionality of telemedicine services.* A licensee who uses telemedicine shall ensure that the following information is clearly disclosed to the patient:

a. Types of services provided;

b. Contact information for the licensee;

c. Identity, licensure, certification, credentials, and qualifications of all health care providers who are providing the telemedicine services;

d. Limitations in the drugs and services that can be provided via telemedicine;

e. Fees for services, cost-sharing responsibilities, and how payment is to be made, if these differ from an in-person encounter;

f. Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);

g. Appropriate uses and limitations of the technologies, including in emergency situations;

h. Uses of and response times for emails, electronic messages and other communications transmitted via telemedicine technologies;

i. To whom patient health information may be disclosed and for what purpose;

j. Rights of patients with respect to patient health information; and

k. Information collected and passive tracking mechanisms utilized.

13.9(18) *Patient access and feedback.* A licensee who uses telemedicine shall ensure that the patient has easy access to a mechanism for the following purposes:

a. To access, supplement and amend patient-provided personal health information;

b. To provide feedback regarding the quality of the telemedicine services provided; and

c. To register complaints. The mechanism shall include information regarding the filing of complaints with the board.

13.9(19) *Financial interests.* Advertising or promotion of goods or products from which the licensee(s) receives direct remuneration, benefit or incentives (other than the fees for the medical services) is prohibited to the extent that such activities are prohibited by state or federal law.

Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee(s) should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, licensees should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited. Licensees shall not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

13.9(20) *Circumstances where the standard of care may not require a licensee to personally interview or examine a patient.* Under the following circumstances, whether or not such circumstances involve the use of telemedicine, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:

a. Situations in which the licensee prescribes medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient;

b. For institutional settings, including writing initial admission orders for a newly hospitalized patient;

c. Call situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient;

d. Cross-coverage situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient;

e. Situations in which the patient has been examined in person by an advanced registered nurse practitioner or a physician assistant or other licensed practitioner with whom the licensee has a supervisory or collaborative relationship;

f. Emergency situations in which the life or health of the patient is in imminent danger;

g. Emergency situations that constitute an immediate threat to the public health including but not limited to empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;

h. Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention; and

i. For licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities and hospice settings.

13.9(21) *Prescribing based solely on an Internet request, Internet questionnaire or a telephonic evaluation—prohibited.* Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e., a static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview) is prohibited. Absent a valid physician-patient relationship, a licensee's prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in subrule 13.9(20).

653—13.10(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.

13.10(1) Definition. For purposes of this rule:

"Authorized facility" means a facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school.

13.10(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.

13.10(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, is not 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.

653—13.11(144E,147,148,272C) Standards of practice—experimental treatments for patients with a terminal illness.

13.11(1) *Exemption from discipline.* To the extent consistent with state law, the board will not revoke, fail to renew, suspend, or take any action against a physician's license based solely on the physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product, or device.

13.11(2) *Eligible patient.* A physician shall ensure that a patient meets all of the following conditions prior to the use of an investigational drug, biological product, or device pursuant to this rule:

a. The patient has a terminal illness, attested to by the patient's treating physician.

b. The patient has considered and rejected or has tried and failed to respond to all other treatment options approved by the U.S. Food and Drug Administration (FDA).

c. The patient has received a recommendation from the patient's physician for an investigational drug, biological product, or device.

d. The patient has given written informed consent for the use of the investigational drug, biological product, or device.

e. The patient has documentation from the patient's physician that the patient meets the requirements of this rule.

13.11(3) *Investigational drug, biological product, or device.* A physician may recommend access to or treatment with an investigational drug, biological product, or device that has successfully completed phase 1 of an FDA-approved clinical trial but has not yet been approved for general use by the FDA and remains under investigation in an FDA-approved clinical trial.

13.11(4) *Terminal illness.* A physician shall ensure that a patient has a terminal illness prior to the use of an investigational drug, biological product, or device pursuant to this rule. A terminal illness is a progressive disease or medical or surgical condition that entails significant functional impairment and that is not considered by a treating physician to be reversible even with administration of treatments approved by the FDA and that, without life-sustaining procedures, will result in death.

13.11(5) *Written informed consent.* A physician shall obtain written informed consent prior to the use of an investigational drug, biological product, or device pursuant to this rule. Written informed consent is a written document that is signed by a patient, a parent of a minor patient, or a legal guardian or other legal representative of the patient and attested to by the patient's treating physician and a witness and that includes all of the following:

a. An explanation of the products and treatments approved by the FDA for the disease or condition from which the patient suffers.

b. An attestation that the patient concurs with the patient's treating physician in believing that all products and treatments approved by the FDA are unlikely to prolong the patient's life.

c. Clear identification of the specific proposed investigational drug, biological product, or device that the patient is seeking to use.

d. A description of the best and worst potential outcomes of using the investigational drug, biological product, or device and a realistic description of the most likely outcome. The description to include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by use of the proposed investigational drug, biological product, or device. The description is based on the treating physician's knowledge of the proposed investigational drug, biological product, or device in conjunction with an awareness of the patient's condition.

e. A statement that the patient's health plan or third-party administrator and provider are not obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product, or device, unless the patient's health plan or third-party administrator and provider are specifically required to do so by law or contract.

f. A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment with the investigational drug, biological product, or device and that hospice care may be reinstated if treatment ends and the patient meets hospice eligibility requirements.

g. A statement that the patient understands that the patient is liable for all expenses consequent to the use of the investigational drug, biological product, or device and that this liability extends to the patient's estate unless a contract between the patient and the manufacturer of the investigational drug, biological product, or device states otherwise.

13.11(6) *Assisting suicide.* This rule is not to be construed to allow a patient's treating physician to assist the patient in committing or attempting to commit suicide as prohibited in Iowa Code section 707A.2.

13.11(7) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of this rule or 653—Chapter 23. Grounds for discipline include but are not limited to the following:

a. The physician recommends access to or treatment with an investigational drug, biological product, or device to an individual who is not an eligible patient pursuant to this rule.

b. The physician fails to obtain appropriate written informed consent prior to recommending access to or treatment with an investigational drug, biological product, or device pursuant to this rule.

c. The physician assists the patient in committing or attempting to commit suicide as prohibited in Iowa Code section 707A.2.

653—13.12(147,148,272C) Standards of practice—tick-borne disease diagnosis and treatment.

13.12(1) *Exemption from discipline.* A person licensed by the board under Iowa Code chapter 148 shall not be subject to discipline under this chapter or the board's enabling statute based solely on the physician's recommendation or provision of a treatment method for Lyme disease or other tick-borne disease if the recommendation or provision of such treatment meets all the following criteria:

a. The treatment is provided after an examination is performed and informed consent is received from the patient.

b. The physician identifies a medical reason for recommending or providing the treatment.

c. The treatment is provided after the physician informs the patient about other recognized treatment options and describes to the patient the physician's education, experience, and credentials regarding the treatment of Lyme disease or other tick-borne disease.

d. The physician uses the physician's own medical judgment based on a thorough review of all available clinical information and Lyme disease or other tick-borne disease literature to determine the best course of treatment for the individual patient.

e. The treatment will not, in the opinion of the physician, result in the direct and proximate death of or serious bodily injury to the patient.

13.12(2) *Lyme disease treatment.* Most cases of Lyme disease can be treated successfully with a few weeks of antibiotics. Over the past several years, the International Lyme and Associated Diseases Society (ILADS) has supported longer courses of antibiotics for some patients, versus the prescribed treatment durations identified by the Infectious Diseases Society of America (IDSA) and referenced by the CDC. While IDSA has expressed concern about overtreatment, ILADS points out that treatment decisions should be based on a risk-benefit analysis. Both groups have published evidence-based guidelines.

13.12(3) *Tick-borne diseases.* According to the CDC, tick-borne diseases include:

a. Anaplasmosis is transmitted to humans by tick bites primarily from the blacklegged tick (*Ixodes scapularis*) in the northeastern and upper midwestern regions of the United States (U.S.) and the western blacklegged tick (*Ixodes pacificus*) along the Pacific coast.

b. Babesiosis is caused by microscopic parasites that infect red blood cells. Most human cases of babesiosis in the U.S. are caused by *Babesia microti*. *Babesia microti* is transmitted by the blacklegged tick (*Ixodes scapularis*) and is found primarily in the northeastern and upper midwestern regions of the U.S.

c. Borrelia mayonii infection has recently been described as a cause of illness in the upper midwestern region of the U.S. This infection has been found in blacklegged ticks (*Ixodes scapularis*) in

Minnesota and Wisconsin. *Borrelia mayonii* is a new species and is the only species besides *B. burgdorferi* known to cause Lyme disease in North America.

d. *Borrelia miyamotoi* infection has recently been described as a cause of illness in the U.S. This infection is transmitted by the blacklegged tick (*Ixodes scapularis*) and has a geographic range similar to that of Lyme disease.

e. *Bourbon virus* infection has been identified in a limited number of patients in the midwestern and southern regions of the U.S. At this time, it is not known if the virus might be found in other areas of the U.S.

f. *Colorado tick fever* is caused by a virus transmitted by the Rocky Mountain wood tick (*Dermacentor andersoni*). Colorado tick fever occurs in the Rocky Mountain states at elevations of 4,000 to 10,500 feet.

g. *Ehrlichiosis* is transmitted to humans by the lone star tick (*Amblyomma americanum*), found primarily in the south central and eastern regions of the U.S.

h. *Heartland virus* cases have been identified in the midwestern and southern regions of the U.S. Studies suggest that lone star ticks (*Amblyomma americanum*) can transmit the virus. It is unknown if the virus may be found in other areas of the U.S.

i. *Lyme disease* is transmitted by the blacklegged tick (*Ixodes scapularis*) in the northeastern and upper midwestern regions of the U.S. and by the western blacklegged tick (*Ixodes pacificus*) along the Pacific coast.

j. *Powassan disease* is transmitted by the blacklegged tick (*Ixodes scapularis*) and the groundhog tick (*Ixodes cookei*). Cases have been reported primarily from northeastern states and the Great Lakes region.

k. *Rickettsia parkeri rickettsiosis* is transmitted to humans by the Gulf Coast tick (*Amblyomma maculatum*).

l. *Rocky Mountain spotted fever* is transmitted by the American dog tick (*Dermacentor variabilis*), Rocky Mountain wood tick (*Dermacentor andersoni*), and the brown dog tick (*Rhipicephalus sanguineus*) in the U.S. The brown dog tick and other tick species are associated with Rocky Mountain spotted fever in Central America and South America.

m. *Southern tick-associated rash illness* is transmitted via bites from the lone star tick (*Amblyomma americanum*) found in the southeastern and eastern regions of the U.S.

n. *Tick-borne relapsing fever* is transmitted to humans through the bite of infected soft ticks. Tick-borne relapsing fever has been reported in 15 states: Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming and is associated with sleeping in rustic cabins and vacation homes.

o. *Tularemia* is transmitted to humans by the dog tick (*Dermacentor variabilis*), the wood tick (*Dermacentor andersoni*), and the lone star tick (*Amblyomma americanum*). Tularemia occurs throughout the U.S.

p. *364D rickettsiosis* (*Rickettsia phillipi*) is transmitted to humans by the Pacific Coast tick (*Dermacentor occidentalis*). This is a new disease that has been found in California.

13.12(4) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of these rules or the rules found in 653—Chapter 23. Grounds for discipline include but are not limited to the following:

a. The physician fails to perform and document an appropriate examination or fails to obtain and document appropriate informed consent from the patient.

b. The physician fails to identify and document a medical reason for recommending or providing the treatment.

c. The physician fails to inform the patient about other recognized treatment options or fails to describe to the patient the physician's education, experience, and credentials regarding the treatment of Lyme disease or other tick-borne diseases.

d. The physician fails to use the physician's own medical judgment based on a thorough review of all available clinical information and Lyme disease or other tick-borne disease literature to determine the best course of treatment for the individual patient.

e. The treatment provided, in the opinion of the physician, will likely result in the direct and proximate death of or serious bodily injury to the patient.

653—13.13(124E,147,148,272C) Standards of practice—medical cannabidiol.

13.13(1) *Definitions.* For purposes of this rule:

"Bordering state" means the same as defined in Iowa Code section 331.910.

"Debilitating medical condition" means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
- Severe or chronic pain.
- Nausea or severe vomiting.
- Cachexia or severe wasting.

2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.
4. AIDS or HIV as defined in Iowa Code section 141A.1.
5. Crohn's disease.
6. Amyotrophic lateral sclerosis.
7. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
- Severe or chronic pain.
- Nausea or severe vomiting.
- Cachexia or severe wasting.

8. Parkinson's disease.
9. Chronic pain.
10. Ulcerative colitis.
11. Severe, intractable autism with self-injurious or aggressive behaviors.
12. Corticobasal degeneration.
13. Post-traumatic stress disorder.

"Department" means the Iowa department of public health.

"Form and quantity" means the types and amounts of medical cannabidiol allowed to be dispensed to a patient or primary caregiver as approved by the department subject to recommendation by the medical cannabidiol board and approval by the board of medicine.

"Medical cannabidiol" means any pharmaceutical grade cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and adopted by the department pursuant to rule.

"Medical cannabidiol board" means the board established pursuant to Iowa Code section 124E.5.

"Primary caregiver" means a person who is a resident of this state or a bordering state, including but not limited to a parent or legal guardian, at least 18 years of age, who has been designated by a patient's health care practitioner as a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol pursuant to the provisions of this chapter.

"Untreatable pain" means any pain whose cause cannot be removed and, according to generally accepted medical practice, the full range of pain management modalities appropriate for the patient has been used without adequate result or with intolerable side effects.

"Written certification" means a document signed by a physician licensed pursuant to Iowa Code chapter 148 with whom the patient has established a patient-physician relationship and who is the patient's primary care provider that states that the patient has a debilitating medical condition and identifies that condition and provides any other relevant information.

13.13(2) *Written certification.* A physician who is a patient's primary care provider may provide the patient a written certification of diagnosis if, after examining and treating the patient, the physician determines, in the physician's medical judgment, that the patient suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E.

a. The physician shall provide explanatory information as provided by the department to the patient about the therapeutic use of medical cannabidiol and the possible risks, benefits, and side effects of the proposed treatment.

b. Subsequently, the physician shall do the following:

(1) Determine, on an annual basis, if the patient continues to suffer from a debilitating medical condition and, if so, may issue the patient a new written certification of that diagnosis.

(2) Otherwise comply with all requirements established by the department pursuant to rule.

c. A physician may provide, but has no duty to provide, a written certification pursuant to this rule.

13.13(3) *Adding or removing debilitating medical conditions and amending form and quantity of medical cannabidiol.* Recommendations made by the medical cannabidiol board pursuant to Iowa Code section 124E.5 relating to the addition or removal of allowable debilitating medical conditions for which the medical use of cannabidiol would be medically beneficial or to the amendment of the form and quantity of allowable medical uses of cannabidiol shall be made to the board of medicine for consideration. The medical cannabidiol board shall submit a written recommendation, a copy of the petition and all other information received during consideration of the petition. The board of medicine shall consider the information received from the medical cannabidiol board and may seek information from other sources if it is deemed relevant by the board of medicine. The decision regarding a recommendation by the medical cannabidiol board is at the sole discretion of the board of medicine. The board of medicine shall make its decision within 180 days of receipt of the recommendation from the medical cannabidiol board. If the recommendation is approved by the board of medicine, it shall be adopted by rule.

13.13(4) *Financial interests.* A physician shall not share office space with, accept referrals from, or have any financial relationship with a medical cannabidiol manufacturer or dispensary.

13.13(5) *Criminal prosecution.* A physician, including any authorized agent or employee thereof, shall not be subject to prosecution for the unlawful certification, possession, or administration of marijuana under the laws of this state for activities arising directly out of or directly related to the certification or use of medical cannabidiol in the treatment of a patient diagnosed with a debilitating medical condition as authorized by Iowa Code chapter 124E.

13.13(6) *Civil or disciplinary penalties.* A physician, including any authorized agent or employee thereof, shall not be subject to any civil or disciplinary penalties by the board of medicine or any business, occupational, or professional licensing board or entity, solely for activities conducted relating to a patient's possession or use of medical cannabidiol as authorized by Iowa Code chapter 124E. Nothing in this rule prevents the board of medicine from taking action in response to violations of any other sections of law or rule.

13.13(7) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of these rules or the rules found in 653—Chapter 23. Grounds for discipline include but are not limited to the following:

a. The physician provides an individual a written certification without establishing a patient-physician relationship, including examining and treating the individual, or without being the individual's primary care provider.

b. The physician provides a patient a written certification without determining, in the physician's medical judgment, that the patient suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E.

c. The physician provides a patient a written certification without providing explanatory information as provided by the department to the patient about the therapeutic use of medical cannabidiol and the possible risks, benefits, and side effects of the proposed treatment.

d. The physician provides an individual a new written certification without determining, on an annual basis, that the patient continues to suffer from a debilitating medical condition.

e. The physician shares office space with, accepts referrals from, or has a financial relationship with a medical cannabidiol manufacturer or dispensary.

653—13.14(146A) Abortion prerequisites.

13.14(1) *Written certification.* At least 24 hours prior to performing an abortion, a physician shall obtain written certification from the pregnant woman of each prerequisite as required in Iowa Code sections 146A.1(1)*"a"* through 146A.1(1)*"d"*(1). The written certification shall list each required prerequisite separately and shall include a line for date and signature of the pregnant woman. The physician shall maintain a copy of the certification as part of the pregnant woman's medical records.

13.14(2) *Exceptions.* This rule shall not apply to abortions performed in a medical emergency, as provided in Iowa Code section 146A.1(2).

13.14(3) *Discipline.* Failure to comply with this rule or the requirements of Iowa Code section 146A.1 may constitute grounds for discipline.

653—13.15(135L,146A,146E,147,148,272C) Standards of practice for physicians who perform or induce abortions—definitions—detection of fetal heartbeat—fetal heartbeat exceptions—discipline.

13.15(1) *Standards of practice.* This rule sets forth the standards of practice for physicians who perform or induce abortions. More information is contained in Iowa Code section 146E.2(5).

13.15(2) *Definitions.* As used in this rule or in Iowa Code chapter 146E:

"Private health agency" means any establishment, facility, organization, or other entity that is not owned by a federal, state, or local government that either is a health care provider or employs or provides the services of a health care provider. Establishments, facilities, organizations, or other entities that are health care providers include the following:

1. A hospital as defined in Iowa Code section 135B.1;
2. A health care facility as defined in Iowa Code section 135C.1;
3. A health facility as defined in Iowa Code section 135P.1; or
4. A similar entity that either is a health care provider or employs or provides the services of a health care provider.

"Public health agency" means any establishment; facility; organization; administrative division; or entity that is owned by a federal, state, or local government that either is a health care provider or employs or provides the services of a health care provider. Establishments, facilities, organizations, administrative divisions, or other entities that are health care providers include the following:

1. A hospital as defined in Iowa Code section 135B.1;
2. A health care facility as defined in Iowa Code section 135C.1;
3. A health facility as defined in Iowa Code section 135P.1; or
4. A similar entity that either is a health care provider or employs or provides the services of a health care provider.

"Standard medical practice" means the degree of skill, care, and diligence that a physician of the same medical specialty would employ in like circumstances. As applied to the method used to determine the presence of a fetal heartbeat for purposes of Iowa Code chapter 146E and this rule, "standard medical practice" includes employing the appropriate means of detection depending on the estimated gestational age of the unborn child and the condition of the woman and her pregnancy.

"The pregnancy is the result of a rape" means a circumstance in which the pregnancy is the result of conduct that would constitute an offense under Iowa Code section 709.2, 709.3, 709.4, or 709.4A when perpetrated against a female, regardless of where the conduct occurred.

"The pregnancy is the result of incest" means a circumstance in which a sex act occurs between closely related persons that involves a vaginal penetration that causes a pregnancy. The closely related persons must be related, either legitimately or illegitimately, as an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew. For purposes of this rule, a closely related person includes a stepparent, stepchild, or stepsibling, including siblings through adoption.

"Unborn child" means an individual organism of the species *Homo sapiens* from fertilization to live birth—that is, at all stages of development, including embryo and fetus.

"Woman" means a female individual regardless of her age.

13.15(3) *Detection of fetal heartbeat.* A physician who intends to perform or induce an abortion must determine via ultrasound whether the woman is carrying an unborn child with a detectable fetal heartbeat.

a. Obligation. The obligation under this rule requires a bona fide effort to detect a fetal heartbeat in the unborn child. This effort must be made in good faith and according to standard medical practice and reasonable medical judgment.

b. Method. The physician shall perform a transabdominal pelvic ultrasound on the woman to determine whether the unborn child has a detectable fetal heartbeat. This shall be performed in a manner consistent with standard medical practice, with real-time ultrasound equipment with a transducer of appropriate frequency. The equipment must be properly maintained and in proper functioning order.

13.15(4) *Fetal heartbeat exceptions.* The following applies to a physician who intends to perform or induce an abortion under a fetal heartbeat exception as defined in Iowa Code chapter 146E and this rule:

a. Incest or rape. For purposes of this rule, a pregnancy resulting from incest or rape may be reported within the appropriate time frame to a licensed physician whose services are retained for an abortion procedure.

(1) To determine whether the pregnancy is the result of incest, a physician who intends to perform or induce an abortion must use the following information:

1. Whether the sex act occurred between the woman and a closely related person, meaning, either legitimately or illegitimately, an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew, including a stepparent, stepchild, or stepsibling to include an adopted sibling.
2. The date the act occurred.
3. If initial reporting was to someone other than the physician who intends to perform or induce an abortion, the date the act was reported to a law enforcement agency, public health agency, private health agency, or family physician.

The physician who intends to perform or induce an abortion shall use this information to determine whether the fetal heartbeat exception for incest applies. This information does not prescribe the manner in which the physician is to obtain this information. This information and its source shall be documented in the woman's medical records.

The physician who intends to perform or induce an abortion may rely on the information received upon a good-faith assessment that the information is true. The physician who intends to perform or induce an abortion may require the person providing the information to sign a certification form attesting that the information is true.

(2) To determine whether the pregnancy is the result of a rape, a physician who intends to perform or induce an abortion must use the following information:

1. The date the sex act that caused the pregnancy occurred.
2. The age of the woman seeking an abortion at the time of that sex act.
3. Whether the sex act constituted a rape.
4. Whether the rape was perpetrated against the woman seeking an abortion.
5. If initial reporting was to someone other than the physician who intends to perform or induce an abortion, the date the rape was reported to a law enforcement agency, public health agency, private health agency, or family physician.

The physician who intends to perform or induce an abortion shall use this information to determine whether the fetal heartbeat exception for rape applies. This rule does not prescribe the manner in which the physician is to obtain this information. This information and its source shall be documented in the woman's medical records.

The physician who intends to perform or induce an abortion may rely on the information received upon a good-faith assessment that the information is true. The physician who intends to perform or induce an abortion may require the person providing the information to sign a certification form attesting that the information is true.

b. Fetal abnormality. A certification from an attending physician that a fetus has a fetal abnormality that in the attending physician's reasonable medical judgment is incompatible with life must contain the following information:

(1) The diagnosis of the abnormality;

(2) The basis for the diagnosis, including the tests and procedures performed, the results of those tests and procedures, and why those results support the diagnosis; and

(3) A description of why the abnormality is incompatible with life.

The diagnosis and the attending physician's conclusion must be reached in good faith following a bona fide effort, consistent with standard medical practice and reasonable medical judgment, to determine the health of the fetus. The certification must be signed by the attending physician. A physician who intends to perform or induce an abortion may rely in good faith on a certification from an attending physician if the physician who intends to perform or induce an abortion has a copy of the certification. The certification must be included in the woman's medical records by the physician who intends to perform or induce an abortion.

13.15(5) *Discipline.* Failure to comply with this rule or the requirements of Iowa Code chapter 146E may constitute grounds for discipline.

653—13.16(147,148) Principles of medical ethics. The Code of Medical Ethics (2002-2003) prepared and approved by the American Medical Association and the Code of Ethics (2002-2003) prepared and approved by the American Osteopathic Association is utilized by the board as guiding principles in the practice of medicine and surgery and osteopathic medicine and surgery in this state.

13.16(1) *Conflict of interest.* A physician should not provide medical services under terms or conditions that tend to interfere with or impair the free and complete exercise of the physician's medical judgment and skill or tend to cause a deterioration of the quality of medical care.

13.16(2) *Fees.* Any fee charged by a physician shall be reasonable.

653—13.17(147A) Emergency medical care provider. A physician with a license in good standing may be staffed on an authorized emergency medical services (EMS) program provided the physician can document equivalency through education and additional skills training essential in the delivery of out-of-hospital emergency care. The equivalency shall be accepted when documentation has been reviewed and approved at the local level by the medical director of the authorized EMS service program and the department of health and human services bureau of emergency medical and trauma services in accordance with the form adopted by the department of health and human services.

These rules are intended to implement Iowa Code chapters 124, 124E, 144E, 146E, 148 and 272C and sections 147.55, 148.6, 147.107, 272C.3 and 272C.4.

[Filed 3/27/25, effective 5/21/25]
[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9116C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to licensure of acupuncturists

The Board of Medicine hereby rescinds Chapter 17, "Licensure of Acupuncturists," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 147, 148, 148E and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148, 148E and 272C.

Purpose and Summary

This rulemaking rescinds Chapter 17 and adopts a new chapter with the same title. This rulemaking sets minimum standards for entry into the profession for acupuncturists. Iowa residents, licensees, and employers benefit from the chapter since it articulates the processes by which individuals apply for licensure as an acupuncturists in the state of Iowa, including initial licensure, renewal, and reactivation. These requirements ensure public safety by specifying that all individuals entering the profession have minimum competency.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8702C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 17 and adopt the following **new** chapter in lieu thereof:

CHAPTER 17
LICENSURE OF ACUPUNCTURISTS

653—17.1(148E) Scope of chapter. The rules in this chapter only apply to individuals licensed under Iowa Code chapter 148E. In accordance with Iowa Code section 148E.3, the rules in this chapter do not apply to the following:

1. A person otherwise licensed by the state to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry who is exclusively engaged in the practice of the person's profession.
2. A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board.

653—17.2(148E) Definitions. The definitions stated in Iowa Code section 148E.1 apply to this chapter, in addition to those listed below.

"Accreditation Commission for Acupuncture and Oriental Medicine" or *"ACAOM"* means the United States-based accreditation commission that certifies acupuncture and oriental medicine training programs and colleges.

"Acupuncture needle" means a solid-core instrument including but not limited to acupuncture needles, dermal needles, intradermal needles, press tacks, plum blossom needles, prismatic needles, and disposable lancets.

"Acupuncture point" means a specific anatomical location on the human body that serves as the treatment site for the use of acupuncture.

"Applicant" means a person not otherwise authorized to practice acupuncture under Iowa Code section 148E.3 who applies to the board for a license.

"Ashi acupuncture point" means an acupuncture point that is located according to tenderness upon palpation. An ashi acupuncture point is also known as a trigger point.

"Committee" means the licensure committee of the board with oversight responsibility for administration of the licensure of acupuncturists.

"Department" means the department of inspections, appeals, and licensing.

"Disclosure sheet" means the written information licensed acupuncturists must provide to patients on initial contact.

"Disposable needles" means presterilized needles that are discarded after initial use pursuant to Iowa Code section 148E.5.

"License" means a license issued by the board pursuant to Iowa Code section 148E.2.

"Licensee" means a person holding a license to practice acupuncture issued by the board pursuant to Iowa Code chapter 148E.

"National Certification Commission for Acupuncture and Oriental Medicine" or *"NCCAOM"* means the United States-based commission that validates entry-level competency in the practice of acupuncture and oriental medicine through professional certification.

653—17.3(147,148E) Eligibility for licensure.

17.3(1) *Eligibility requirements.* To be licensed to practice acupuncture by the board, a person shall meet all of the following requirements:

a. Fulfill all the application requirements as specified in rule 653—17.4(147,148E).

b. Hold current active status as a diplomate in NCCAOM or, after June 1, 2004, hold current active status as a diplomate in acupuncture or oriental medicine from NCCAOM.

c. Demonstrate sufficient knowledge of the English language to understand and be understood by patients and board and committee members.

(1) An applicant who passed the NCCAOM written and practical examination components in English may be presumed to have sufficient proficiency in English.

(2) An applicant who passed NCCAOM written or practical examination components in a language other than English shall pass the Test of Spoken English (TSE) or the Test of English as a Foreign Language (TOEFL) examinations administered by the Educational Testing Service.

d. Successfully complete a three-year postsecondary training program or acupuncture college program that is accredited by, in candidacy for accreditation by, or that meets the standards of the Accreditation Commission for Acupuncture and Oriental Medicine.

e. Successfully complete a course in clean needle technique approved by the NCCAOM.

f. The applicant's license is not denied by the board due to the commission of a disqualifying offense, as provided in 653—subrule 9.3(3).

17.3(2) *Waiver prohibited.* Provisions of this rule are not subject to waiver pursuant to 653—Chapter 3 or any other provision of law.

653—17.4(147,148E) Application requirements.

17.4(1) *Application for licensure.* To apply for a license to practice acupuncture, an applicant shall:

a. Submit the completed application form provided by the board, including required credentials and documents, a completed fingerprint packet and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;

b. Pay the nonrefundable initial application fee identified in 653—subrule 8.2(1); and

c. Pay the fee identified in 653—subrule 8.2(5) for the evaluation of the fingerprint packet and the national criminal history background checks by the division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

17.4(2) *Contents of the application form.* Each applicant shall submit the following information on the application form provided by the board:

a. The applicant's full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board;

b. A chronology accounting for all time periods from the date the applicant entered an acupuncture and oriental medicine training program or college to the date of the application;

c. The other jurisdictions in the United States or other nations or territories in which the applicant is authorized to practice acupuncture, including license, certificate of registration or certification numbers, and date of issuance;

d. Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories. Copies of the legal documents may be requested if needed during the review process;

e. A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, acupuncture or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction;

f. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

g. The NCCAOM score report verification form submitted directly to the board by the NCCAOM;

h. An NCCAOM certificate that demonstrates that the applicant holds current active status as a diplomate in acupuncture or oriental medicine from the NCCAOM;

i. Proof of successful completion of a course in clean needle technique approved by the NCCAOM;

j. A description of the applicant's clinical acupuncture training, work experience and, where applicable, supporting documentation;

k. A copy of the applicant's acupuncture degree issued by an educational institution. If a copy of the acupuncture degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained an acupuncture degree from a specific educational institution;

l. A complete translation of any diploma not written in English. An official transcript, written in English and received directly from the educational institution, showing graduation from an acupuncture training program or an educational institution is a suitable alternative;

m. A sworn statement from an official of the educational institution certifying the date the applicant received the acupuncture degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. If a sworn statement from an official of the educational institution cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained an acupuncture degree from a specific educational institution;

n. An official transcript sent directly from an acupuncture training program or an educational institution attended by the applicant and, if requested by the board, an English translation of the official transcript;

o. Proof of the applicant's proficiency in the English language, when the applicant has not passed the English version of the NCCAOM written and practical examinations;

p. Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board; and

q. A completed fingerprint packet to facilitate a national criminal history background check. The fee for evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

17.4(3) *Application cycle.* If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the board's initial request for further information, the application is inactive.

a. To reactivate the application, an applicant shall submit a nonrefundable reactivation of application fee identified in 653—subrule 8.2(2) and shall update application materials if requested by the board. The period for requesting reactivation is limited to 30 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.

b. Once the application reactivation period is expired, applicants must reapply and submit a new, nonrefundable initial application fee and a new application, including required documents and credentials.

17.4(4) *Applicant responsibilities.* An applicant for licensure to practice acupuncture bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information specified in subrule 17.4(2);

b. Providing accurate, up-to-date, and truthful information on the application form, including but not limited to that specified under subrule 17.4(2) related to prior professional experience, education, training, examination scores, diplomate status, licensure or registration, and disciplinary history; and

c. Submitting English translations of documents in foreign languages bearing the affidavit of the translator certifying that the translation is a true and complete translation of the foreign language original. The applicant shall bear the expense of the translation.

17.4(5) *Licensure application review process.* The process below is utilized to review each application. Priority is given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

a. An application for initial licensure is considered open from the date the application form is received in the board office with the nonrefundable initial application fee.

b. After reviewing each application, staff will notify the applicant about how to resolve any problems identified by the reviewer. An applicant shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant the license. The staff may grant the license without having received a report on the applicant from the FBI.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, the director of licensure and the director of legal affairs will determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff will administratively grant the license.

(2) If any concern exists, the application will be referred to the committee.

e. Staff will refer to the committee for review matters that include but are not limited to: falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, or professional disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to issue the license administratively.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee will recommend that the board:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:

1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

2. Successfully pass a competency evaluation approved by the board;

3. Successfully pass an examination approved by the board; or

4. Successfully complete a reentry to practice program or monitoring program approved by the board;

(4) Issue a license;

(5) Issue a license under certain terms and conditions or with certain restrictions;

(6) Request that the applicant withdraw the licensure application; or

(7) Deny a license.

h. The board will consider applications and recommendations from the committee and will:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:

1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

2. Successfully pass a competency evaluation approved by the board;

3. Successfully pass an examination approved by the board; or

4. Successfully complete a reentry to practice program or monitoring program approved by the board;

(4) Issue a license;

(5) Issue a license under certain terms and conditions or with certain restrictions;

(6) Request that the applicant withdraw the licensure application; or

(7) Deny a license. The board may deny a license for any grounds on which the board may discipline a license.

17.4(6) *Grounds for denial of licensure.* The board, on the recommendation of the committee, may deny an application for licensure for any of the following reasons:

a. Failure to meet the requirements for licensure specified in rule 653—17.3(147,148E) as authorized by Iowa Code section 148E.2 or of this chapter.

b. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55 and 148E.8 or in 481—Chapter 8.

17.4(7) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board will issue a preliminary notice of denial that will be sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and cites the factual and legal basis for denying the application, notifies the applicant of the appeal process, and specifies the date upon which the denial will become final if it is not appealed.

17.4(8) *Appeal procedure.* An applicant who has received a preliminary notice of denial may appeal the denial and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board will consider the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing and may provide additional written information or documents in support of licensure.

17.4(9) *Hearing.* If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing will be a contested case open to the public and conducted in accordance with 481—Chapter 506.

17.4(10) *Finality.* If an applicant does not appeal a preliminary notice of denial in accordance with subrule 17.4(8), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

17.4(11) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of denial in accordance with subrule 17.4(8) but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice will state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of denial becomes final. A final denial of an application for licensure under this rule is a public record.

17.4(12) *Waiver prohibited.* Provisions of this rule are not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

653—17.5(147,148E,272C) Biennial renewal of license required. Pursuant to Iowa Code section 148E.2, a license expires on October 31 of even-numbered years and can be renewed for the fee identified in 653—paragraph 8.2(2)*"c."* The applicant for renewal shall provide an NCCAOM certificate that demonstrates that the applicant holds current active status as a diplomate in acupuncture or oriental medicine from the NCCAOM.

17.5(1) *Expiration date.* Certificates of licensure to practice acupuncture expire on October 31 in even years.

17.5(2) *Prorated fees.* The first renewal fee for a license will be prorated on a monthly basis according to the date of issue.

17.5(3) *Renewal requirements and penalties for late renewal.* The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of responsibility for renewing that license.

a. Upon receipt of the completed renewal application, staff will administratively issue a license that expires on October 31 of even-numbered years. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration.

b. Every renewal shall be displayed in connection with the original certificate of licensure.

c. If the licensee fails to submit the renewal application and renewal fee prior to the expiration date on the current license, a penalty stated in 657—paragraph 8.2(2)*"g"* will be assessed for renewal in the grace period, a period up until January 1.

17.5(4) *Inactive license.* Failure of a licensee to renew by January 1 will result in inactivation of the license, and the license will be invalid.

a. Licensees are prohibited from engaging in the practice of acupuncture with an inactive or lapsed license.

b. Having an acupuncturist license in lapsed status does not preclude the board from taking disciplinary actions authorized in Iowa Code section 147.55 or 148E.8.

653—17.6(147,272C) Reactivation of an inactive license.

17.6(1) *Reactivation requirements.* Licensees who allow their licenses to go inactive by failing to renew may apply for reactivation of a license. Pursuant to Iowa Code section 147.11, applicants for reactivation shall:

a. Submit completed application for reactivation of a license to practice acupuncture. The application shall include the following information:

(1) The applicant's full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

(2) Every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

(3) Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories. Copies of the legal documents may be requested if needed during the review process.

(4) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, acupuncture or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction.

(5) Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

(6) A chronology accounting for all time periods from the date of initial licensure.

(7) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

b. Submit a completed fingerprint packet to facilitate a national criminal history background check. The fee identified in 653—subrule 8.2(5) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

c. Pay the reactivation fee identified in rule 653—8.2(147,148,272C) plus the fee identified in 653—subrule 8.2(5) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

d. Provide an NCCAOM certificate which demonstrates that the applicant holds current active status as a diplomate in acupuncture or oriental medicine from the NCCAOM.

e. Meet any new requirements instituted since the license lapsed.

17.6(2) *Reactivation restrictions.* Pursuant to Iowa Code section 272C.3(2)*"d,"* the committee may require an applicant who has not engaged in active practice in the past three years in any jurisdiction of the United States to meet any or all of the following requirements prior to reactivation of a license:

a. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

b. Successfully pass a competency evaluation approved by the board;

c. Successfully pass an examination approved by the board; or

d. Successfully complete a reentry to practice program or monitoring program approved by the board.

653—17.7(272C) Continuing education requirements. Licensees shall demonstrate that they hold current active status as a diplomate from the NCCAOM. The NCCAOM requires 60 points of

professional development activity every four years. Active NCCAOM certification satisfies the continuing education requirements established in Iowa Code section 272C.2.

653—17.8(147,148E,272C) General provisions.

17.8(1) *Diagnostic and treatment modalities.* Diagnostic and treatment modalities used by licensees under this chapter may include one or more of the following acupunctural services:

a. The stimulation or piercing of the skin with an acupuncture needle for any of the following purposes:

(1) To evoke a therapeutic physiological response, either locally or distally to the area of insertion or stimulation.

(2) To relieve pain or treat the neuromusculoskeletal system.

(3) To stimulate ashi acupuncture points to relieve pain and dysfunction.

(4) To promote, maintain, and restore health and to prevent disease.

(5) To stimulate the body according to auricular, hand, nose, face, foot or scalp acupuncture therapy.

(6) To use acupuncture needles with or without the use of herbs, electric current, or application of heat.

b. The use of oriental medical diagnosis and treatment, including:

(1) Moxibustion, cupping, thermal methods, magnets, gua sha scraping techniques, acupatches, herbal poultices, hot and cold packs, electromagnetic wave therapy, light and color therapy, sound therapy, or therapy lasers.

(2) Massage, acupressure, reflexology, shiatsu and tui na massage, or manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin.

(3) Herbal medicine and dietary supplements, including those of plant, mineral, animal, and nutraceutical origin.

c. Any other adjunctive service or procedure that is clinically appropriate based on the licensee's training as approved by NCCAOM or ACAOM.

17.8(2) *Use and disposal of needles.* A licensee shall use only presterilized, disposable needles and shall provide for the disposal of used needles in accordance with the requirements of the department.

17.8(3) *Standard of care.* A licensee shall be held to the same standard of care as persons licensed to practice medicine and surgery or osteopathic medicine and surgery. Pursuant to Iowa Code section 272C.3, any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care in the practice of acupuncture constitutes malpractice and is grounds for the revocation or suspension of a license to practice acupuncture in this state.

17.8(4) *Title.* An acupuncturist licensed under this title may use the words "licensed acupuncturist" or "L.Ac." to connote professional standing after the licensee's name in accordance with Iowa Code section 147.74(18).

17.8(5) *Change of contact information.* Licensees shall notify the board of changes in home address, address of the place of practice, home or practice telephone number, or personal email address regularly used by the applicant or licensee for correspondence with the board within one month of the change.

17.8(6) *Delegation of responsibilities.* A licensee shall perform all aspects of acupuncture treatment that involve penetration of the skin of a patient. The licensee may delegate other aspects of treatment to staff and patients who are properly trained by the licensee. It is permissible for appropriately trained staff and patients to remove acupuncture needles from the patient's body. The licensee is responsible for establishing and maintaining written training standards for staff.

17.8(7) *Change of full legal name.* A licensee shall notify the board of any change in the licensee's full legal name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

17.8(8) *Deceased.* A licensee's file will be closed and labeled "deceased" when the board receives a copy of the licensee's death certificate or other reliable information of the licensee's death.

These rules are intended to implement Iowa Code chapter 148E and sections 17A.10 through 17A.20, 147.55, 272C.3 through 272C.6, 272C.8 and 272C.9.

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[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9117C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to prescribing psychologists

The Board of Medicine hereby rescinds Chapter 19, "Prescribing Psychologists," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 124, 147, 148, 154B and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 124, 147, 148, 154B and 272C.

Purpose and Summary

This rulemaking details the supervision required of a psychologist who prescribes medications to patients. The chapter lays out the requirements that must be met related to the supervising physician, the training and education required, and requirements of the psychologist. This chapter helps ensure that the public receives competent and safe care from the practitioner.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8693C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19
PRESCRIBING PSYCHOLOGISTS

653—19.1(148,154B) Joint rules adopted. The board of medicine adopts and incorporates the following rules as its own: 481—883.1(148,154B), 481—883.3(148,154B), 481—883.4(148,154B), 481—883.6(148,154B) through 481—883.8(148,154B), and 481—883.11(148,154B) through 481—883.13(148,154B).

653—19.2(17A,124,147,148,154B,272C) Standards of practice—supervision of a conditional prescribing psychologist. A supervising physician shall be a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician's normal course of practice and who supervises a conditional prescribing psychologist. A supervising physician shall be board-certified in family medicine, internal medicine, neurology, pediatrics, or psychiatry. A supervising physician shall fully comply with the following standards of practice:

19.2(1) *Supervision.* During supervised practice, a supervising physician oversees a conditional prescribing psychologist to ensure patient safety and optimal outcomes. This includes ensuring proper clinical examinations, necessary testing, and appropriate psychopharmacology services for the patient's condition. Supervision can occur in person or electronically according to these rules.

19.2(2) *Primary supervising physician.* A supervising physician shall determine whether the supervising physician has been designated as a conditional prescribing psychologist's primary supervising physician and fulfills the responsibilities of the primary supervising physician in accordance with these rules. A conditional prescribing psychologist may have more than one supervising physician.

19.2(3) *Maximum number of conditional prescribing psychologists.* A supervising physician cannot supervise more than two conditional prescribing psychologists at one time.

19.2(4) *Minimum period of supervision.* The primary supervising physician shall ensure that a conditional prescribing psychologist completes a minimum of two years of supervised practice prescribing psychotropic medications to patients with mental disorders in accordance with these rules in order for the conditional prescribing psychologist to be eligible to apply for a prescription certificate.

19.2(5) *Minimum number of patients.* The primary supervising physician shall ensure that a conditional prescribing psychologist has seen a minimum of 300 patients who had a diagnosed mental disorder for whom pharmacological intervention was considered as a treatment option, even if a decision was made not to prescribe a psychotropic medication to the patient. The primary supervising physician

shall ensure that a conditional prescribing psychologist has treated a minimum of 100 patients with psychotropic medication throughout the supervised practice period.

19.2(6) *Initial assessment.* Prior to supervising a conditional prescribing psychologist, each supervising physician shall assess the conditional prescribing psychologist's relevant education, training, experience, and competence.

19.2(7) *Scope of practice.* Each supervising physician shall ensure that all psychopharmacology services provided by a conditional prescribing psychologist are within the competence and scope of practice of the supervising physician and the conditional prescribing psychologist.

19.2(8) *Prescriptive authority.* Each supervising physician shall ensure that a conditional prescribing psychologist only prescribes psychotropic medications for the treatment of mental disorders.

19.2(9) *Prescriptions.* A supervising physician shall ensure that each prescription issued by a conditional prescribing psychologist identifies the prescriber as a "psychologist certified to prescribe" and includes the Iowa license number of the conditional prescribing psychologist and the name of the supervising physician.

19.2(10) *Active DEA and CSA registration.* A supervising physician shall ensure that a conditional prescribing psychologist has an active DEA registration and CSA registration at all times during the period of supervision.

19.2(11) *Patient populations.* A supervising physician shall ensure that a conditional prescribing psychologist only provides psychopharmacology services to patient populations within the conditional prescribing psychologist's education, training, experience, and competence. A supervising physician may establish limitations on the types of populations to whom a conditional prescribing psychologist may provide psychopharmacology services based on the conditional prescribing psychologist's education, training, experience, and competence.

19.2(12) *Psychotropic medications.* A supervising physician shall ensure that a conditional prescribing psychologist only prescribes psychotropic medications that are within the conditional prescribing psychologist's education, training, experience, and competence. A supervising physician may establish limitations on the types of psychotropic medications that a conditional prescribing psychologist may prescribe based on the conditional prescribing psychologist's education, training, experience, and competence.

19.2(13) *Specialization.* A supervising physician shall ensure that a conditional prescribing psychologist has completed the following training during the supervised practice period to be eligible to prescribe psychotropic medications to the respective population as a prescribing psychologist:

a. Children. To prescribe to patients who are less than 17 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

(1) A pediatric practice,

(2) A child and adolescent practice, or

(3) A general practice provided the conditional prescribing psychologist treats a minimum of 50 patients who are less than 17 years of age.

b. Elderly patients. To prescribe to patients who are over 65 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

(1) A geriatric practice, or

(2) A general practice with patients across the lifespan including patients who are over 65 years of age.

c. Serious medical conditions. To prescribe to patients with serious medical conditions, including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities, a supervising physician shall ensure that a conditional prescribing psychologist has completed at least one year prescribing psychotropic medications to patients with serious medical conditions if the conditional prescribing psychologist intends to treat patients with serious medical conditions after the supervised practice period.

19.2(14) *Informed consent.* A supervising physician shall ensure that a conditional prescribing psychologist obtains appropriate informed consent before the conditional prescribing psychologist provides psychopharmacology services to a patient.

19.2(15) *Release of information.* A supervising physician shall ensure that a conditional prescribing psychologist obtains a release of information authorizing the conditional prescribing psychologist to share information with the supervising physician before the conditional prescribing psychologist provides psychopharmacology services to a patient.

19.2(16) *Primary care physician.* A supervising physician shall ensure that each patient has a designated primary care physician before a conditional prescribing psychologist provides psychopharmacology services to a patient. A supervising physician shall ensure that a conditional prescribing psychologist maintains a cooperative relationship with the primary care physician who oversees a patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition, and significant changes in the patient's medical or psychological condition are discussed. A supervising physician shall ensure that a conditional prescribing psychologist engages in appropriate consultation with a patient's designated primary care physician while the conditional prescribing psychologist is providing psychopharmacology services to a patient.

19.2(17) *Chart reviews.* A supervising physician shall personally review a representative sample of the conditional prescribing psychologist's patient charts.

19.2(18) *Performance evaluations.* A supervising physician shall regularly evaluate the clinical judgment, skills and performance of a conditional prescribing psychologist to safely provide psychopharmacology services to patients and provide appropriate feedback to the conditional prescribing psychologist.

19.2(19) *Supervision plan.* Before supervising a conditional prescribing psychologist, a supervising physician must ensure there is an approved written supervision plan. This plan should outline the supervisory relationship, including review parameters, and consider both parties' education, training, and experience and the psychopharmacology services involved. A template is available from the boards of medicine and psychology. Both the supervising physician and the psychologist must keep a copy of the plan and provide it to the boards if requested. The supervision plan shall include the following:

a. Conditional prescribing psychologist's information. The name, license number, address, telephone number, and email address of the conditional prescribing psychologist.

b. Supervising physician's information. The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the supervising physician.

c. Designation of the primary supervising physician. Designation of the conditional prescribing psychologist's primary supervising physician.

d. Period of supervision. The beginning date of the supervision plan and estimated date of completion.

e. Locations and settings. A description of the locations and settings where and with whom supervision will occur.

f. Scope of practice. A description of the scope of practice of the supervising physician and the conditional prescribing psychologist.

g. Methods of communication. A description of how the supervising physician and conditional psychologist may communicate for appropriate supervision.

h. Initial assessment. A description of the steps the supervising physician has taken to assess a conditional prescribing psychologist's relevant education, training, experience, and competence prior to supervising the conditional prescribing psychologist.

i. Limitations on psychotropic medications. A description of any limitations on the types of psychotropic medications the conditional prescribing psychologist may prescribe consistent with the supervising physician's and prescribing psychologist's relevant education, training, experience, and competence.

j. Limitations on patient populations. A description of any limitations on the types of populations the conditional prescribing psychologist may treat with psychotropic medications consistent with the supervising physician's and prescribing psychologist's relevant education, training, experience, and competence.

k. Expectations and responsibilities. A description of the expectations and responsibilities of the supervisory relationship.

l. Specialization. A description of the specialized training to be completed by the conditional prescribing psychologist in order to provide psychopharmacology services to children (less than 17 years of age), elderly persons (over 65 years of age), or patients with serious medical conditions, including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities in accordance with rule 481—883.4(148,154B).

m. Chart reviews. A description of the steps the supervising physician has taken to personally review a representative sample of the conditional prescribing psychologist's patient charts.

n. Consultation between the supervising physician and the primary care physician. A requirement that the supervising physician consult with the patient's primary care physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

o. Performance evaluations. A description of the steps the supervising physician has taken to regularly evaluate the clinical judgment, skills and performance of a conditional prescribing psychologist to safely provide psychopharmacology services to patients and provide appropriate feedback to the conditional prescribing psychologist.

p. Termination of the supervision plan. A description of how the supervision plan may be terminated and the process for notifying affected patients.

q. Signatures. Signatures of the conditional prescribing psychologist and all supervising physicians.

r. Amendment to the supervision plan. A requirement that a conditional prescribing psychologist shall inform the board of psychology of any amendments to the supervision plan, including the addition of any supervising physicians, within 30 days of the change and that any amendment to a supervisory plan be subject to approval of the board of psychology.

s. Request for extension. If the primary supervising physician determines that a conditional prescribing psychologist is unable to successfully complete the supervised practice prior to the expiration of the conditional prescription certificate, the conditional prescribing psychologist may request an extension of the conditional prescription certificate provided that the conditional prescribing psychologist and the primary supervising physician can demonstrate that the conditional prescribing psychologist is likely to successfully complete the supervised practice within the extended time requested.

19.2(20) *Certification of completion.* At the conclusion of the supervised practice period, the primary supervising physician shall certify the following:

a. Supervision. That each supervising physician has provided supervision to the conditional prescribing psychologist in accordance with these rules.

b. Minimum period of supervised practice. That the conditional prescribing psychologist has successfully completed a minimum of two years of supervised practice.

c. Minimum number of patients. That the conditional prescribing psychologist has seen a minimum of 300 patients who had a diagnosed mental disorder with whom pharmacological intervention was considered as a treatment option, even if a decision was made not to prescribe a psychotropic medication to the patient, and that the conditional prescribing psychologist has treated a minimum of 100 patients with psychotropic medication throughout the supervised practice period.

d. Specialization. That a conditional prescribing psychologist who intends to provide psychopharmacology services to children (less than 17 years of age), elderly persons (over 65 years of age), or patients with serious medical conditions, including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities, has successfully completed a minimum of one year of supervised practice with the respective populations during the supervised practice period.

e. Demonstrated competence. That a conditional prescribing psychologist has successfully completed the supervised practice period and demonstrated competence in psychopharmacology by

demonstrating competency in the milestones sufficient to obtain a prescription certificate in accordance with 481—subrule 883.3(2).

653—19.3(17A,124,147,148,154B,272C) Standards of practice—collaboration with a prescribing psychologist. A collaborating physician shall be a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician's normal course of practice, and who serves as a resource for a prescribing psychologist pursuant to a collaborative practice agreement. A collaborating physician shall be board-certified in family medicine, internal medicine, neurology, pediatrics, or psychiatry. A collaborating physician shall fully comply with the following standards of practice:

19.3(1) *Collaboration.* A collaborating physician shall provide appropriate collaboration with a prescribing psychologist to achieve patient safety and optimal clinical outcomes. A collaborating physician shall ensure that appropriate clinical examinations and necessary testing are performed and that all psychopharmacology services provided are appropriate for the patient's condition. Collaboration may be in person or via electronic communications in accordance with these rules. A prescribing psychologist may have more than one collaborating physician.

19.3(2) *Maximum number of prescribing psychologists.* A physician shall not serve as a collaborating physician for more than two prescribing psychologists at one time.

19.3(3) *Initial assessment.* Prior to serving as a collaborating physician, a physician shall assess a prescribing psychologist's relevant education, training, experience, and competence.

19.3(4) *Scope of practice.* A collaborating physician shall ensure that all psychopharmacology services provided by a prescribing psychologist are within the competence and scope of practice of the collaborating physician and the prescribing psychologist.

19.3(5) *Prescriptive authority.* A collaborating physician shall ensure that a prescribing psychologist only prescribes psychotropic medications for the treatment of mental disorders.

19.3(6) *Delegation.* A collaborating physician shall ensure that a prescribing psychologist does not delegate prescriptive authority to any other person.

19.3(7) *Narcotics.* A collaborating physician shall ensure that a prescribing psychologist does not prescribe narcotics.

19.3(8) *Active DEA and CSA registration.* A collaborating physician shall ensure that a prescribing psychologist has an active DEA registration and CSA registration at all times during the period of collaboration.

19.3(9) *Patient populations.* A collaborating physician shall ensure that a prescribing psychologist only provides psychopharmacology services to patient populations within the prescribing psychologist's education, training, experience, and competence. A collaborating physician may establish limitations on the types of populations to whom a prescribing psychologist may provide psychopharmacology services based on the prescribing psychologist's education, training, experience, and competence.

19.3(10) *Psychotropic medications.* A collaborating physician shall ensure that a prescribing psychologist only prescribes psychotropic medications that are within the prescribing psychologist's education, training, experience, and competence. A collaborating physician may establish limitations on the types of psychotropic medications that a prescribing psychologist may prescribe based on the prescribing psychologist's education, training, experience, and competence.

19.3(11) *Specialization.* A collaborating physician shall ensure that a prescribing psychologist has completed at least one year of the required two years of supervised practice with the respective population in accordance with rule 481—883.4(148,154B) before the prescribing psychologist provides psychopharmacology services to children (less than 17 years of age), elderly persons (over 65 years of age), or patients with serious medical conditions, including but not limited to, heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities.

19.3(12) *Informed consent.* A collaborating physician shall ensure that a prescribing psychologist obtains appropriate informed consent before a prescribing psychologist provides psychopharmacology services to a patient.

19.3(13) *Release of information.* A collaborating physician shall ensure that a prescribing psychologist obtains a release of information authorizing the prescribing psychologist to share information with the collaborating physician before the prescribing psychologist provides psychopharmacology services to a patient.

19.3(14) *Primary care physician.* A collaborating physician shall ensure that each patient has a designated primary care physician before a prescribing psychologist provides psychopharmacology services to a patient. A collaborating physician shall ensure that a prescribing psychologist maintains a cooperative relationship with the primary care physician who oversees a patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition, and significant changes in the patient's medical or psychological condition are discussed. A collaborating physician shall ensure that a prescribing psychologist engages in appropriate consultation with a patient's designated primary care physician while the prescribing psychologist is providing psychopharmacology services to a patient.

19.3(15) *Chart reviews.* A collaborating physician shall personally review a representative sample of the prescribing psychologist's patient charts.

19.3(16) *Performance evaluations.* A collaborating physician shall regularly evaluate the clinical judgment, skills and performance of a prescribing psychologist to safely provide psychopharmacology services to patients and provide appropriate feedback to the prescribing psychologist.

19.3(17) *Collaborative practice agreement.* Prior to serving as a collaborating physician for a prescribing psychologist, the collaborating physician shall ensure that the prescribing psychologist has a written collaborative practice agreement in place. A template may be obtained from the boards of medicine and psychology. The collaborative practice agreement shall define the nature and extent of the collaborative relationship and outline specific parameters for review of the collaborative relationship. The collaborative practice agreement shall take into account the collaborating physician's and prescribing psychologist's relevant education, training, experience, and competence and the nature and scope of the psychopharmacology services to be provided. The collaborating physician shall review the terms of the collaborative practice agreement with the prescribing psychologist at least once each year. The collaborating physician and prescribing psychologist shall each maintain a copy of the collaborative practice agreement and provide a copy of the agreement to the boards of medicine and psychology upon request. The collaborative practice agreement shall include the following:

a. Prescribing psychologist's information. The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the prescribing psychologist.

b. Collaborating physician's information. The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the collaborating physician.

c. Period of collaboration. The time period covered by the collaborative practice agreement.

d. Locations and settings. A description of the locations and settings where and with whom collaborative practice will occur.

e. Scope of practice. A description of the scope of practice of the collaborating physician and the prescribing psychologist.

f. Methods of communication. A description of how the collaborating physician and prescribing psychologist may communicate for appropriate collaboration.

g. Initial assessment. A description of the steps the collaborating physician has taken to assess a prescribing psychologist's relevant education, training, experience, and competence prior to collaborating with a prescribing psychologist.

h. Limitations on psychotropic medications. A description of any limitations on the types of psychotropic medications the prescribing psychologist may prescribe consistent with the collaborating physician's and prescribing psychologist's relevant education, training, experience, and competence.

i. Limitations on patient populations. A description of any limitations on the types of populations the prescribing psychologist may treat with psychotropic medications consistent with the collaborating physician's and prescribing psychologist's relevant education, training, experience, and competence.

j. Expectations and responsibilities. A description of the expectations and responsibilities of the collaborative relationship.

k. Specialization. A description of the specialized training the prescribing psychologist has completed in order to provide psychopharmacology services to children (less than 17 years of age), elderly persons (over 65 years of age), or patients with serious medical conditions, including but not limited to, heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities in accordance with rule 481—883.4(148,154B).

l. Chart reviews. A description of the steps the collaborating physician has taken to personally review a representative sample of the prescribing psychologist's patient charts.

m. Consultation between the collaborating physician and the primary care provider. A requirement that the collaborating physician consult with the patient's primary care physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

n. Performance evaluations. A description of the steps the collaborating physician has taken to regularly evaluate the clinical judgment, skills and performance of the prescribing psychologist to safely provide psychopharmacology services to patients and provide appropriate feedback to the prescribing psychologist.

o. Termination of the collaborative practice agreement. A provision describing how the collaborative practice agreement may be terminated and the process for notifying affected patients.

p. Signatures. Signatures of the collaborating physician and the prescribing psychologist.

653—19.4(17A,124,147,148,272C) Grounds for discipline. A physician who fails to comply with these rules may be subject to disciplinary action by the board of medicine.

These rules are intended to implement Iowa Code chapters 148 and 154B.

[Filed 3/27/25, effective 5/21/25]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9118C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to licensure of genetic counselors

The Board of Medicine hereby rescinds Chapter 20, "Licensure of Genetic Counselors," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 147, 148H and 272C.

State or Federal Law Implemented

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

Purpose and Summary

This rulemaking rescinds Chapter 20 and adopts a new chapter with the same title. This proposed rulemaking sets minimum standards for genetic counselors for entry into the medical profession. Iowa residents, licensees, and employers benefit from the rulemaking because it articulates the processes by which individuals apply for licensure as a genetic counselor in the state of Iowa, as directed in statute. This includes the processes for initial licensure, renewal, and reactivation. These requirements ensure public safety by requiring individuals entering the profession to have minimum competency.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8703C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20
LICENSURE OF GENETIC COUNSELORS

653—20.1(148H) Scope of chapter. This chapter does not apply to any of the following:

1. A physician or surgeon or an osteopathic physician or surgeon licensed under Iowa Code chapter 148, a registered nurse or an advanced registered nurse practitioner licensed under Iowa Code chapter 152, a physician assistant licensed under Iowa Code chapter 148C, or other persons licensed under Iowa Code chapter 147 when acting within the scope of the person's profession and doing work of a nature consistent with the person's education and training.
2. A person who is certified by the American Board of Medical Genetics and Genomics as a doctor of philosophy and is not a genetic counselor licensed pursuant to Iowa Code chapter 148H.
3. A person employed as a genetic counselor by the federal government or an agency thereof if the person provides genetic counseling services solely under the direction and control of the entity by which the person is employed.
4. A genetic counseling intern.

653—20.2(148H) Definitions. The definitions stated in Iowa Code chapter 148H, in addition to those listed below, apply to this chapter.

"American Board of Genetic Counseling" or *"ABGC"* means the United States-based commission, or its equivalent or successor organization, that validates entry-level competency in the practice of genetic counseling through professional certification.

"American Board of Medical Genetics and Genomics" or *"ABMGG"* means the United States-based commission, or its equivalent or successor organization, that validates entry-level competency in the practice of genetic counseling through professional certification.

653—20.3(148H) Titles used. A genetic counselor licensed under Iowa Code chapter 148H may use the words "genetic counselor" or "licensed genetic counselor" or the corresponding abbreviation "LGC" after the person's name. Persons who possess a provisional license shall add the designation "provisional licensed genetic counselor."

653—20.4(148H) Qualifications for licensure.

20.4(1) Each applicant for licensure under Iowa Code chapter 148H shall:

a. Submit an application form and supporting documentation.

b. Hold active certification as a genetic counselor by the American Board of Genetic Counseling, as a genetic counselor by the American Board of Medical Genetics and Genomics, or as a medical geneticist by the American Board of Medical Genetics and Genomics, or the successor to any of the aforementioned organizations.

20.4(2) A licensee shall maintain active certification as a genetic counselor by the American Board of Genetic Counseling, as a genetic counselor by the American Board of Medical Genetics and Genomics, or as a medical geneticist by the American Board of Medical Genetics and Genomics, or the successor to any of the aforementioned organizations.

653—20.5(148H) Qualifications for provisional licensure. The board may issue a provisional license to an applicant who meets all of the requirements for licensure except for the certification component and who has been granted active candidate status by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics.

20.5(1) The applicant shall submit a provisional license application form, proof of active candidate status, and supporting documentation prescribed by the board.

20.5(2) A provisional license expires and becomes inactive upon the earliest of the following:

a. Issuance of a license as a genetic counselor by the board.

b. Loss of active candidate status.

(1) A person holding a provisional license that is inactive due to loss of active candidate status may submit an application for reactivation of the provisional license upon demonstrating that active candidate status has been reestablished.

(2) An application for extension of a provisional license shall be signed by a qualified supervisor.

c. The date printed on the provisional license.

20.5(3) A person with a provisional license shall work at all times under the supervision of a qualified supervisor.

653—20.6(147,148H) Application requirements.

20.6(1) *Application for licensure.* To apply for a license to practice genetic counseling, an applicant shall:

a. Submit the completed application, including required credentials and documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;

b. Pay the nonrefundable initial application fee identified in 653—subrule 8.13(1) and pay the fee identified in 653—subrule 8.13(6) for the evaluation of the fingerprint packet and the national criminal history background checks by the division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

20.6(2) *Contents of the application form.* Each applicant shall submit the following information on the application form provided by the board:

a. The applicant's full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board;

b. A chronology accounting for all time periods from the date the applicant entered a genetic counseling training program or educational institution to the date of the application;

c. The other jurisdictions in the United States or other nations or territories in which the applicant is authorized to practice genetic counseling, including license, certificate of registration or certification number and date of issuance;

d. Full disclosure of the applicant's involvement in civil litigation related to the practice of genetic counseling in any jurisdiction of the United States or other nations or territories. Copies of the legal documents may be requested if needed during the review process;

e. A statement disclosing and explaining any informal or nonpublic actions, such as letters of warning, letters of education, any confidential retraining, or any kind of confidential action taken toward a genetic counselor's certification or license that is not public discipline; warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, genetic counseling or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction;

f. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

g. A letter sent directly from the ABGC or ABMGG to the board verifying the applicant holds active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or a letter sent directly from ABGC or ABMGG to the board verifying the applicant has been granted active candidate status for provisional licensure;

h. A completed fingerprint packet to facilitate a national criminal history background check. The fee for evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

20.6(3) *Application cycle.* If the applicant does not submit all materials within 90 days of the board's initial request for further information, the application is inactive.

a. To reactivate the application, an applicant shall submit a nonrefundable reactivation of application fee identified in 653—subrule 8.13(2) and shall update application materials if requested by the board. The period for requesting reactivation is limited to 30 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.

b. Once the application reactivation period is expired, an applicant must reapply and submit a new, nonrefundable initial application fee and a new application, including required documents and credentials.

20.6(4) *Applicant responsibilities.* An applicant for licensure to practice genetic counseling bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, national certifying organizations, health facilities, and educational institutions providing the information specified in subrule 20.6(2);

b. Providing accurate, up-to-date, and truthful information on the application form including but not limited to that specified under subrule 20.6(2) related to prior professional experience, education, training, active certification, licensure, and disciplinary history.

20.6(5) *Licensure application review process.* Licensure applications will be reviewed pursuant to the process outlined in rule 653—9.7(147,148).

20.6(6) *Grounds for denial of licensure.* The board, on the recommendation of the committee, and after consultation with an Iowa-licensed genetic counselor, may deny an application for licensure for any of the following reasons:

a. Failure to meet the requirements for licensure specified in this chapter pursuant to Iowa Code section 148H.3.

b. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55 and 148H.7 or in rule 653—20.20(147,148H,272C).

20.6(7) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board issues a preliminary notice of denial that is sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and cites the factual and legal basis for denying the application, notifies the applicant of the appeal process, and specifies the date upon which the denial will become final if it is not appealed.

20.6(8) *Appeal procedure.* An applicant who has received a preliminary notice of denial may appeal the denial and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board considers the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing and may provide additional written information or documents in support of licensure.

20.6(9) *Hearing.* If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing will be a contested case open to the public and conducted in accordance with 481—Chapter 506.

20.6(10) *Finality.* If an applicant does not appeal a preliminary notice of denial in accordance with subrule 20.6(8), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

20.6(11) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of denial in accordance with subrule 20.6(8) but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice will state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of denial becomes final. A final denial of an application for licensure under this rule is a public record.

20.6(12) *Waiver prohibited.* Provisions of this rule are not subject to waiver pursuant to 653—Chapter 3 or any other provision of law.

653—20.7(147,148H) Display of license and notification required to change the board's data system.

20.7(1) *Display of license.* Licensed genetic counselors shall display the license issued by the board in a conspicuous place in their primary place of business.

20.7(2) *Change of contact information.* Licensees shall notify the board within one month of a change in home address, address of the place of practice, home or practice telephone number, or personal email address regularly used by the applicant or licensee for correspondence with the board.

20.7(3) *Change of full legal name.* A licensee shall notify the board of any change in the licensee's full legal name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

20.7(4) *Deceased.* A licensee's file will be closed and labeled "deceased" when the board receives a copy of the licensee's death certificate or other reliable information of the licensee's death.

653—20.8(147,148H,272C) Biennial renewal of license required. Pursuant to Iowa Code section 148H.3, a license expires on October 31 of odd-numbered years and can be renewed for the fee identified in 653—paragraph 8.14(2)*"c."*

20.8(1) *Application.* The applicant for renewal shall provide:

a. A renewal application.

b. A letter sent directly from the ABGC or ABMGG to the board verifying that the applicant holds active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or a letter sent directly from ABGC or ABMGG to the board verifying the applicant has been granted active candidate status for provisional licensure.

c. Satisfactory evidence to the board that in the period since the license was issued or last renewed, the applicant has completed 30 hours of National Society of Genetic Counselors or ABMGG continuing education units as approved by the board.

20.8(2) *Expiration date.* Certificates of licensure to practice genetic counseling expire on October 31 in odd years.

20.8(3) *Prorated fees.* The first renewal fee for a license will be prorated on a monthly basis according to the date of issue.

20.8(4) *Renewal requirements and penalties for late renewal.* The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of responsibility for renewing that license.

a. Upon receipt of the completed renewal application, staff will administratively issue a license that expires on October 31 of odd-numbered years. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration.

b. Every renewal shall be displayed in connection with the original certificate of licensure.

c. If the licensee fails to submit the renewal application and renewal fee prior to the expiration date on the current license, a penalty fee identified in 653—subrule 8.13(4) will be assessed for renewal in the grace period, a period up until January 1.

20.8(5) *Inactive license.* Failure of a licensee to renew by January 1 will result in inactivation of the license, and the license will become invalid.

a. Licensees are prohibited from engaging in the practice of genetic counseling with an inactive or lapsed license.

b. Having a genetic counselor license in inactive or lapsed status does not preclude the board from taking disciplinary actions authorized in Iowa Code section 147.55 or 148H.7.

653—20.9(147,272C) Reactivation of an inactive license.

20.9(1) *Reactivation requirements.* Licensees who allow their licenses to go inactive by failing to renew may apply for reactivation of a license. Pursuant to Iowa Code section 147.11, applicants for reactivation shall:

a. Submit a completed application for reactivation of a license to practice genetic counseling. The application shall include the following information:

(1) The applicant's full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

(2) Every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

(3) Full disclosure of the applicant's involvement in civil litigation related to the practice of genetic counseling in any jurisdiction of the United States or other nations or territories. Copies of the legal documents may be requested if needed during the review process.

(4) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, genetic counseling or professional regulatory authority; an educational institution; a training or research program; or a health facility in any jurisdiction.

(5) Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

(6) A chronology accounting for all time periods from the date of initial licensure.

(7) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

b. Submit a completed fingerprint packet to facilitate a national criminal history background check. The fee identified in 653—subrule 8.13(6) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

c. Pay the reactivation fee identified in 653—subrule 8.13(7) plus the fee identified in 653—subrule 8.13(6) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

d. A letter sent directly from the ABGC or ABMGG to the board verifying the applicant holds active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or a letter sent directly from the ABGC or ABMGG to the board verifying the applicant has been granted active candidate status for provisional licensure.

e. Meet any new requirements instituted since the license lapsed.

20.9(2) *Reactivation for an applicant who has been out of practice for three years.* If an applicant for reactivation has not engaged in the field of genetic counseling or precision medicine in the past three years in any jurisdiction of the United States, the board may, after consultation with an Iowa-licensed genetic counselor, require an applicant to:

a. Successfully complete board-approved continuing education or remediation.

b. Successfully complete a board-approved employment-based monitoring program developed by the genetic counselor's employer, an Iowa-licensed genetic counselor and the board.

c. Successfully complete any other pathway as agreed upon by the board.

653—20.10(272C) Code of ethics. The NSGC Code of Ethics prepared and approved by the National Society of Genetic Counselors shall be utilized by the board as guiding principles in the practice of genetic counseling in this state.

653—20.11(148H,272C) Surrender of license to the board.

20.11(1) A genetic counselor whose ABGC certification has lapsed or whose certification has been revoked by the ABGC shall surrender the genetic counselor's license to the board.

20.11(2) A provisional licensee who loses active candidate status with the ABGC must immediately cease the practice of genetic counseling until the provisional licensee obtains an extension of the provisional license or obtains a new provisional license.

These rules are intended to implement Iowa Code chapters 147, 148, 148H, and 272C.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9119C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to mandatory reporting

The Board of Medicine hereby rescinds Chapter 22, "Mandatory Reporting," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 147, 148 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148 and 272C.

Purpose and Summary

This rulemaking rescinds Chapter 22 and adopts a new chapter with the same title. This rulemaking provides guidance for reporting certain instances that are required by statute. Physicians are required to report judgments, settlements, out-of-state discipline, wrongful acts or omissions by another licensee, child abuse, and hospital discipline to the Board within a specified period of time.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8698C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 22 and adopt the following **new** chapter in lieu thereof:

CHAPTER 22
MANDATORY REPORTING

653—22.1(272C) Mandatory reporting—judgments or settlements. Each licensee, including inactive licensees, will report to the board and provide a copy of every adverse judgment and settlement of a claim against the licensee in a malpractice action within 30 days from the date of said judgment or

settlement. Failure to report judgments or settlements within the 30-day period is a basis for disciplinary action.

653—22.2(272C) Mandatory reporting—wrongful acts or omissions.

22.2(1) *Definitions.* For the purposes of this rule, the following definitions apply:

"Knowledge" means any information or evidence of reportable conduct acquired by personal observation, from a reliable or authoritative source, or under circumstances causing the licensee to believe that wrongful acts or omissions may have occurred.

"Reportable conduct" means wrongful acts or omissions that are grounds for license revocation or suspension under these rules or that otherwise constitute negligence, careless acts or omissions that demonstrate a licensee's inability to practice medicine competently, safely, or within the bounds of medical ethics, pursuant to Iowa Code sections 272C.3(2) and 272C.4(6) and 653—Chapter 23.

22.2(2) *Reporting requirement.* A report shall be filed with the board, within 30 days from the date the licensee acquires knowledge, when a licensee has knowledge that another person licensed by the board may have engaged in reportable conduct. Failure to report is a basis for disciplinary action.

a. The report must contain the name and address of the licensee who may have engaged in the reportable conduct; the date, time, place, and circumstances in which the conduct occurred; and a statement explaining how knowledge of the reportable conduct was acquired.

b. The board makes the final determination of whether or not wrongful acts or omissions have occurred.

c. A physician is not required to report confidential communication obtained from a physician in the course of and as a result of a physician-patient relationship or when a state or federal statute prohibits such disclosure.

d. A licensee will not be civilly liable for filing a report with the board so long as such report is not made with malice.

653—22.3(272C) Mandatory reporting—disciplinary action in another jurisdiction. Each licensee, including inactive licensees, will report to the board, within 30 days of the action, every license revocation, suspension or other disciplinary action taken against the licensee by a professional licensing authority of another state; an agency of the United States government; or any country, territory or other jurisdiction. Failure to report in accordance with this rule is a basis for disciplinary action.

653—22.4(272C) Mandatory reporting—child abuse and dependent adult abuse. Each licensee will report child abuse and dependent adult abuse as required by state and federal law. Knowingly and willfully failing to report child abuse and dependent adult abuse is a basis for disciplinary action.

653—22.5(272C) Mandatory reporting—hospital disciplinary action. Each licensee, including inactive licensees, will file with the board a copy of the disciplinary action or voluntary action and a written report describing any disciplinary action taken by a hospital for reasons relating to the physician's professional competence or conduct that results in a limitation, restriction, suspension, revocation, relinquishment or nonrenewal of the licensee's hospital privileges or any voluntary limitation, restriction, suspension, revocation, relinquishment or nonrenewal of the licensee's hospital privileges to avoid an investigation or other hospital disciplinary action. A licensee is not required to report a limitation, restriction, suspension, revocation, relinquishment or nonrenewal of the licensee's privileges of fewer than ten days. A licensee is not required to report a voluntary, nondisciplinary limitation or relinquishment of hospital privileges made at the election of the licensee to narrow or change the nature of the licensee's medical practice for reasons not related to competency or conduct. The written report must be filed with the board within 30 days of the date of the action. Failure to file the written report and a copy of the action is a basis for disciplinary action. Reports shall be maintained by the board in accordance with Iowa Code section 272C.6(4).

These rules are intended to implement Iowa Code chapters 17A, 147, 148, and 272C.

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ARC 9120C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to grounds for discipline

The Board of Medicine hereby rescinds Chapter 23, "Grounds for Discipline," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

This rulemaking rescinds Chapter 23 and adopts a new chapter with the same title. This rulemaking provides protection to Iowans by publicly defining required professional standards for physicians. This is important to both the public and the licensee because it creates a shared understanding of what is and is not appropriate for licensees in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8705C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23
GROUNDS FOR DISCIPLINE

653—23.1(272C) Grounds for discipline. The board has the authority to impose discipline for any violation of Iowa Code chapter 147, 148, 148E, 148H, 252J, 272C or 272D or the rules promulgated thereunder. The grounds for discipline apply to physicians, acupuncturists and genetic counselors. The board may impose any of the disciplinary sanctions set forth in 481—Chapter 506, including civil penalties in an amount not to exceed $10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

23.1(1) Violating any of the grounds for the revocation or suspension of a license as listed in Iowa Code section 147.55, 148.6, 148E.8, 148H.7, 272C.10, or 272C.15.

23.1(2) Professional incompetency. Professional incompetency includes but is not limited to any of the following:

a. Willful or repeated gross malpractice;

b. Willful or gross negligence;

c. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the licensee's practice;

d. A substantial deviation by the licensee from the standards of learning or skill ordinarily possessed and applied by other physicians, acupuncturists or genetic counselors in the state of Iowa acting in the same or similar circumstances;

e. A failure by a physician, acupuncturist or genetic counselor to exercise in a substantial respect that degree of care that is ordinarily exercised by the average physician, acupuncturist or genetic counselor in the state of Iowa acting in the same or similar circumstances;

f. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice in the state of Iowa;

g. Failure to meet the acceptable and prevailing standard of care when delegating or supervising services provided by another physician, health care practitioner or individual who is collaborating with or acting as an agent, associate, or employee of the physician, acupuncturist or genetic counselor responsible for the patient's care, whether or not injury results.

23.1(3) Practice harmful or detrimental to the public. Practice harmful or detrimental to the public includes but is not limited to:

a. Failure to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent physician, acupuncturist or genetic counselor acting in the same or similar circumstances.

b. Practicing without reasonable skill and safety as a result of a mental or physical impairment, chemical abuse or chemical dependency.

c. For acupuncturists only: prescribing, dispensing or administering any controlled substance or prescription medication for human use or performing any treatment or healing procedure not authorized in Iowa Code chapter 148E or 653—Chapter 17.

23.1(4) Unprofessional conduct. Engaging in unethical or unprofessional conduct includes but is not limited to the committing by a licensee of an act contrary to honesty, justice or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed within this state or elsewhere; or a violation of the standards and principles of medical ethics or rule 653—13.7(147,148,272C), 653—13.20(147,148), 653—17.10(147,148E,272C) or 653—20.4(148H) as interpreted by the board.

23.1(5) Sexual misconduct. Engaging in sexual misconduct includes but is not limited to engaging in conduct set out at 653—subrule 13.7(4) or 13.7(6) as interpreted by the board.

23.1(6) Substance abuse. Substance abuse includes but is not limited to excessive use of alcohol, drugs, narcotics, chemicals or other substances in a manner that may impair a licensee's ability to practice the profession with reasonable skill and safety.

23.1(7) Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose includes but is not limited to:

a. Self-prescribing or self-dispensing controlled substances.

b. Prescribing or dispensing controlled substances to members of the licensee's immediate family.

(1) Prescribing or dispensing controlled substances to members of the licensee's immediate family is allowable for an acute condition or on an emergency basis when the licensee conducts an examination, establishes a medical record, and maintains proper documentation.

(2) Immediate family includes the physician's spouse or domestic partner and either of the physician's, spouse's, or domestic partner's parents, stepparents or grandparents; the physician's natural or adopted children or stepchildren and any child's spouse, domestic partner or children; the siblings of the physician or the physician's spouse or domestic partner and the sibling's spouse or domestic partner; or anyone else living with the physician.

23.1(8) Physical or mental impairment. Physical or mental impairment includes but is not limited to any physical, neurological or mental condition that may impair a licensee's ability to practice the profession with reasonable skill and safety. Being adjudged mentally incompetent by a court of competent jurisdiction automatically suspends a license for the duration of the license unless the board orders otherwise.

23.1(9) Felony criminal conviction. Being convicted of a felony in the courts of this state, another state, the United States, or any country, territory or other jurisdiction, as defined in Iowa Code section 148.6(2)*"b."* A copy of the record of conviction or plea of guilty or nolo contendere is conclusive evidence of the felony conviction.

23.1(10) Violation of the laws or rules governing the practice of medicine, acupuncture or genetic counseling of this state; another state; the United States; or any country, territory or other jurisdiction. Violation of the laws or rules governing the practice of medicine, acupuncture or genetic counseling includes but is not limited to willful or repeated violation of the provisions of these rules or the provisions of Iowa Code chapter 147, 148, 148E, 148H or 272C or other state or federal laws or rules governing the practice of medicine.

23.1(11) Violation of a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violation of the terms and provisions of a consent agreement or settlement agreement entered into between a licensee and the board.

23.1(12) Violation of an initial agreement or health contract entered into with the Iowa professional health programs (IPHP).

23.1(13) Failure to comply with an evaluation order. Failure to comply with an order of the board requiring a licensee to submit to evaluation under Iowa Code section 148.6(2)*"h"* or 272C.9(1).

23.1(14) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes but is not limited to an intentional perversion of the truth, either orally or in writing, by a physician in the practice of medicine and surgery or osteopathic medicine and surgery, by an acupuncturist, or by a genetic counselor.

23.1(15) Fraud in procuring a license. Fraud in procuring a license includes but is not limited to an intentional perversion of the truth in making application for a license to practice acupuncture, medicine

and surgery, osteopathic medicine and surgery, or genetic counseling in this state and includes false representations of material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board any false or forged document submitted with an application for a license in this state.

23.1(16) Fraud in representations as to skill or ability. Fraud in representations as to skill or ability includes but is not limited to a licensee's having made misleading, deceptive or untrue representations as to the acupuncturist's, physician's or genetic counselor's competency to perform professional services for which the licensee is not qualified to perform by education, training or experience.

23.1(17) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes but is not limited to an action by a licensee in making known to the public information or intention that is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements that may consist of but are not limited to:

a. Inflated or unjustified claims that lead to expectations of favorable results;

b. Self-laudatory claims that imply that the licensee is skilled in a field or specialty of practice for which the licensee is not qualified;

c. Representations that are likely to cause the average person to misunderstand; or

d. Extravagant claims or claims of extraordinary skills not recognized by the profession.

23.1(18) Obtaining any fee by fraud or misrepresentation.

23.1(19) Acceptance of remuneration for referral of a patient to other health professionals in violation of the law or medical ethics.

23.1(20) Knowingly submitting a false report of continuing education or failure to submit the required reports of continuing education.

23.1(21) Knowingly aiding, assisting, procuring, or advising a person in the unlawful practice of acupuncture, medicine and surgery, or osteopathic medicine and surgery.

23.1(22) Failure to report disciplinary action. Failure to report a license revocation, suspension or other disciplinary action taken against the licensee by a professional licensing authority of another state; an agency of the United States government; or any country, territory or other jurisdiction within 30 days of the final action by such licensing authority. A stay by an appellate court does not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report will be expunged from the records of the board.

23.1(23) Failure to report voluntary agreements. Failure to report any voluntary agreement to restrict the practice of acupuncture, medicine and surgery, osteopathic medicine and surgery, or genetic counseling entered into with this state; another state; the United States; an agency of the federal government; or any country, territory or other jurisdiction.

23.1(24) Failure to notify the board within 30 days after occurrence of any settlement or adverse judgment of a malpractice claim or action.

23.1(25) Failure to file the reports required by rule 653—22.2(272C) within 30 days concerning wrongful acts or omissions committed by another licensee.

23.1(26) Failure to comply with a valid subpoena issued by the board pursuant to Iowa Code sections 17A.13 and 272C.6, 653—subrule 24.2(6), and 481—Chapter 506.

23.1(27) Failure to submit to a board-ordered mental, physical, clinical competency, or substance abuse evaluation or drug or alcohol screening.

23.1(28) The inappropriate use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a disability, to make a written signature or mark, however, may substitute in lieu of a signature a rubber stamp that is adopted by the disabled person for all purposes requiring a signature and that is affixed by the disabled person or affixed by another person upon the request of the disabled person and in the presence of the disabled person.

23.1(29) Maintaining any presigned prescription that is intended to be completed and issued at a later time.

23.1(30) Failure to comply with the recommendations issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services for preventing

transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, or with the protocols established pursuant to Iowa Code chapter 139A.

23.1(31) Failure by a physician with HIV or HBV who practices in a hospital setting, and who performs exposure-prone procedures, to report the physician's HIV or HBV status to an expert review panel established by a hospital under Iowa Code section 139A.22(1) or to an expert review panel established by the department of health and human services under Iowa Code section 139A.22(3).

23.1(32) Failure by a physician with HIV or HBV who practices outside a hospital setting, and who performs exposure-prone procedures, to report the physician's HIV or HBV status to an expert review panel established by the department of health and human services under Iowa Code section 139A.22(3).

23.1(33) Failure by a physician subject to the reporting requirements of subrules 23.1(31) and 23.1(32) to comply with the recommendations of an expert review panel established by the department of health and human services pursuant to Iowa Code section 139A.22(3), with hospital protocols established pursuant to Iowa Code section 139A.22(1), or with health care facility procedures established pursuant to Iowa Code section 139A.22(2).

23.1(34) Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 252J. Disciplinary proceedings initiated under this rule shall follow the procedures set forth in Iowa Code chapter 252J and 653—Chapter 15.

23.1(35) Fraud in the practice. Fraud in the practice includes but is not limited to any misleading, deceptive, untrue or fraudulent representation in the practice of acupuncture, medicine or surgery, or genetic counseling, made orally or in writing, that is contrary to the licensee's legal or equitable duty, trust, or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare, and potentially injurious to another. Proof of actual injury need not be established.

23.1(36) Improper management of medical records. Improper management of medical records includes but is not limited to failure to maintain timely, accurate, and complete medical records.

23.1(37) Failure to transfer medical records to another physician in a timely fashion when legally requested to do so by the subject patient or by a legally designated representative of the subject patient.

23.1(38) Failure to respond to or comply with a board investigation initiated pursuant to Iowa Code section 272C.3 and rule 653—24.2(17A,147,148,272C).

23.1(39) Failure to comply with the direct billing requirements for anatomic pathology services established in Iowa Code section 147.106.

23.1(40) Failure to submit an additional completed fingerprint card and applicable fee, within 30 days of a request made by board staff, when a previous fingerprint submission has been determined to be unacceptable.

23.1(41) Failure to respond to the board or submit continuing education materials during a board audit, within 30 days of a request made by board staff or within the extension of time if one had been granted.

23.1(42) Failure to respond to the board or submit requested mandatory training for identifying and reporting abuse materials during a board audit, within 30 days of a request made by board staff or within the extension of time if one had been granted.

23.1(43) Nonpayment of state debt as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 272D and 653—Chapter 12.

23.1(44) Voluntary agreements. The board may take disciplinary action against a physician if that physician has entered into a voluntary agreement to restrict the practice of medicine in another state, district, territory, or country.

a. The board will use the following criteria to determine if a physician has entered into a voluntary agreement within the meaning of Iowa Code section 148.12 and this rule.

(1) The voluntary agreement was signed during or at the conclusion of a disciplinary investigation, or to prevent a matter from proceeding to a disciplinary investigation.

(2) The agreement includes any or all of the following:

1. Education or testing that is beyond the jurisdiction's usual requirement for a license or license renewal.

2. An assignment beyond what is required for license renewal or regular practice (e.g., adoption of a protocol, use of a chaperone, completion of specified continuing education, or completion of a writing assignment).

3. A prohibition or limitation on practice privileges (e.g., a restriction on prescribing or administering controlled substances).

4. Compliance with an educational plan.

5. A requirement that surveys or reviews of patients or patient records be conducted.

6. A practice monitoring requirement.

7. A special notification requirement for a change of address.

8. Payment that is not routinely required of all physicians in that jurisdiction, such as a civil penalty, fine, or reimbursement of any expenses.

9. Any other activity or requirements imposed by the board that are beyond the usual licensure requirements for obtaining, renewing, or reinstating a license in that jurisdiction.

b. A certified copy of the voluntary agreement shall be considered prima facie evidence.

23.1(45) Performing or attempting to perform any surgical or invasive procedure on the wrong patient or at the wrong anatomical site or performing the wrong surgical procedure on a patient.

23.1(46) Violation of the standards of practice for medical directors who delegate and supervise medical aesthetic services performed by nonphysician persons at a medical spa as set out in rule 653—13.8(148,272C).

23.1(47) Failure to provide the board, within 14 days of a request by the board as set out in 653—paragraph 13.8(5)*"l,"* written verification of the education and training of all nonphysician persons who perform medical aesthetic services at a medical spa.

23.1(48) Failure to file with the board a written report and a copy of the hospital disciplinary action within 30 days of any hospital disciplinary action or the licensee's voluntary action to avoid a hospital investigation or hospital disciplinary action as required by rule 653—22.5(272C).

23.1(49) Unethical conduct of acupuncturist. The Code of Ethics (2016) prepared and approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) is utilized by the board as guiding principles in the practice of acupuncture in this state. Unethical conduct in the practice of acupuncture includes but is not limited to:

a. Failing to provide patients with the information required in Iowa Code section 148E.6 or providing false information to patients;

b. Disclosing confidential information about a patient without proper authorization; or

c. Abrogating the boundaries of acceptable conduct in the practice of acupuncture established by the profession that the board deems appropriate for ensuring that acupuncturists provide Iowans with safe and healthful care.

This rule is intended to implement Iowa Code chapters 17A, 147, 148, 148E, 148H, 272C and 272D.

[Filed 3/27/25, effective 5/21/25]
[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9121C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to complaints and investigations

The Board of Medicine hereby rescinds Chapter 24, "Complaints and Investigations," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 147, 148 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148 and 272C.

Purpose and Summary

This rulemaking rescinds Chapter 24 and adopts a new chapter with the same title. This rulemaking is intended to provide guidance on complaint and investigation procedures. The rulemaking ensures that licensees are aware of the investigative process and understand their rights and responsibilities related to the complaint and investigative process. The rulemaking sets forth information such as the process for submitting a complaint, procedure to issue investigatory subpoenas, initiation of the peer review process, and appearances by the licensee before the Board.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8697C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. Nonsubstantive changes from the Notice have been made. A change was made to subrule 24.2(4) to be in line with Board processes.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 24 and adopt the following **new** chapter in lieu thereof:

CHAPTER 24
COMPLAINTS AND INVESTIGATIONS

653—24.1(17A,147,148,272C) Complaints.

24.1(1) *Form and content of the complaint.* A complaint will be made in the form deemed acceptable by the board. The complaint will contain the following information:

a. The full name, address and telephone number of the complainant, except in instances in which the identity of the complainant is unknown.

b. The full name, address and telephone number, if known, of the licensee.

c. A clear and accurate statement of the facts that apprises the board of the allegations against the licensee.

24.1(2) *Place and time of filing of the complaint.* A written complaint may be delivered in person, by mail or electronically to the board office. The office address is Iowa Board of Medicine, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

24.1(3) *Immunity.* A person is not civilly liable as a result of filing a report or complaint with the board or peer review committee, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information that constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of the board. However, such immunity from civil liability is not applicable if such act is done with malice.

653—24.2(17A,147,148,272C) Processing complaints and investigations.

24.2(1) *Complaint and investigative files.* Board staff shall open a complaint file upon receiving a complaint or other appropriate information or upon a motion of the board. A complaint file becomes an investigative file once an investigation is ordered.

a. If the board does not have legal jurisdiction over a matter or the complaint does not allege a violation of rule or law, staff may close the complaint file administratively without investigation or review by the board. All other complaints will be sent to the complaint review committee.

b. A complaint file will be labeled as such and is not a public record. A complaint file will become part of the licensee's history with the board.

c. Any time an investigation is ordered, a complaint file will be relabeled as an investigative file. An investigative file is not a public record. The investigative file will become part of the licensee's history with the board and may be shared with another licensing authority upon request.

24.2(2) *Complaint review committee.*

a. The complaint review committee includes the medical advisor, executive director, general counsel for the board, and chief investigator.

b. The complaint review committee reviews each complaint the board has received and takes one of the following four actions:

(1) Close a complaint file administratively for any of these reasons:

1. The board does not have legal jurisdiction over the matter;

2. The case involves a matter that the board is already addressing; or

3. The case is appropriate for referral to the board's Iowa physician health program, and investigation is not warranted.

(2) Recommend to the board's screening committee that the board close the complaint file without investigation.

(3) Request a letter of explanation from the physician, medical records, or both.

(4) Request a full investigation.

c. The complaint review committee uses the following to guide its decision making:

(1) Serious public safety issues include but are not limited to the following:

1. A clear violation of the laws and rules governing the practice of medicine, genetic counseling, or acupuncture, as applicable;

2. Significant investigative history that raises serious concerns about the licensee's ability to practice in a competent and safe manner;

3. Significant investigative history that raises serious concerns that the licensee has engaged in a pattern of unprofessional conduct or disruptive behavior that interferes with, or has the potential to interfere with, patient care or the effective functioning of health care staff;

4. Serious quality of care cases that include severe patient harm, a pattern of inappropriate treatment, or serious medical errors;

5. Serious criminal conduct;

6. Substance abuse or other impairment that significantly impacts the licensee's ability to practice the licensee's respective practice in a competent and safe manner;

7. Sexual misconduct;

8. Severe unprofessional conduct or disruptive behavior;

9. Disciplinary action by another regulatory authority; or

10. Unlicensed practice of medicine, genetic counseling, or acupuncture.

(2) Less serious public safety issues include but are not limited to the following:

1. Less serious quality of care cases that do not involve serious patient harm and are isolated occurrences rather than a part of a pattern of inappropriate treatment or serious medical errors;

2. A single incident involving a billing dispute;

3. A single incident involving rude behavior or personality conflicts;

4. A single incident of communication problems; or

5. Poor recordkeeping practices that are not repeated or ongoing in nature and do not significantly affect patient care.

d. The board may at any time reopen for review and reconsideration any complaint or investigative file that has been closed administratively.

e. The complaint review committee will indicate high-priority cases when they are assigned for investigation. The committee may provide recommendations to investigators regarding the nature of investigation to be completed. The medical advisor will provide medical advice to the investigators as part of the investigative process.

24.2(3) *Screening committee.* The screening committee will review the recommendations of the complaint review committee and take one of the following actions:

a. Recommend to the board that the complaint file be closed without investigation.

b. Request a letter of explanation from the physician, medical records, or both.

c. Review the materials acquired pursuant to paragraph 24.2(3)*"b"* and recommend to the board that the investigative file be closed, with or without issuing an informal letter.

d. Request an investigation for board review.

24.2(4) *Board action.*

a. The board will review the screening committee's recommendations and take one of the following actions:

(1) Close the complaint file without investigation. The board will notify the complainant.

(2) Close the investigative file that has been partially or fully investigated, with or without issuing an informal letter. The board will notify the complainant and the licensee of the decision.

(3) Request further investigation.

b. The board may reconsider and reopen a closed complaint or investigative file at a later date should it be deemed appropriate.

24.2(5) *Investigations.*

a. Complainants. At the time an investigation is opened, the complainant will be sent a letter with the name of the investigator assigned to the case and the investigator's contact information and a statement encouraging the complainant to submit any further information that would assist the investigator with the case.

(1) The complainant may request a meeting with the investigator prior to the completion of the investigation.

(2) The complainant will be informed of the confidentiality of the investigative information as provided in subrule 24.2(8).

(3) The complainant may contact the chief investigator with questions or concerns about the investigation.

b. Investigative subpoenas.

(1) Issuance of an investigative subpoena. The executive director or a designee may, upon the written request of a board investigator or upon the executive director's own initiative, subpoena books, papers, records, and other real evidence necessary for a board investigation.

(2) Request for subpoena. A written request for a subpoena will contain the following:

1. The name and address of the person to whom the subpoena will be directed;
2. A specific description of the books, papers, records or other real evidence requested;
3. An explanation of why the evidence sought to be subpoenaed is necessary for the board to determine whether it should institute a contested case proceeding; and
4. In the case of a subpoena request for mental health records, confirmation that the conditions described in subparagraph 24.2(5)*"b"*(4) have been satisfied.

(3) Contents of subpoena. Each subpoena will contain the following:

1. The name and address of the person to whom the subpoena is directed;
2. A description of the books, papers, records or other real evidence requested;
3. The date, time and location for production or inspection and copying;
4. The time within which a motion to quash or modify the subpoena must be filed;
5. The signature, address and telephone number of the executive director or designee;
6. The date of issuance; and
7. A return of service attached to the subpoena.

(4) Subpoena for mental health records. A subpoena for mental health records shall meet the requirements of subparagraph 24.2(5)*"b"*(3). The board shall document the following prior to the issuance of a subpoena for mental health records:

1. The nature of the complaint reasonably justifies the issuance of a subpoena;
2. Adequate safeguards have been established to prevent unauthorized disclosure;
3. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
4. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

(5) Motion to quash or modify subpoena.

1. Any person who is adversely affected by compliance with the subpoena and desires to challenge the subpoena must file with the board a motion to quash or modify the subpoena within 14 days of service, or before if the time specified is less than 14 days. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.
2. Hearing on motion. Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct a hearing and issue a decision. Oral argument may be scheduled at the discretion of the administrative law judge or the board. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.
3. Appeal of decision on motion. A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving on the board's executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.
4. Final agency action. If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either the person is notified that the investigation has been concluded with no formal action or there is a final decision in the contested case.

c. Licensee response. Before a contested case begins, the investigator will attempt to reach the licensee at the licensee's listed address to allow the licensee to respond to the allegations. If the licensee cannot be found there, reasonable efforts to locate the licensee will be made. If the licensee cannot be located, the investigation will proceed without the licensee's response, and the findings will be sent to the board. Contact and response from the licensee can be in writing or through a personal interview.

d. Investigative report. Upon completion of an investigation, the investigator will prepare a report for the board's consideration. The report will set forth the information obtained in the course of the investigation and the response, if any, of the licensee.

e. Board review. The board will review the investigative record, discuss the case, and take one of the following actions:

(1) Close the investigative file without action. The board will notify the complainant and the licensee of the decision. The board may reconsider and reopen a closed complaint or investigative file at a later date should it be deemed appropriate.

(2) Request further investigation, including peer review.

(3) Meet with the licensee. The board or the licensee may request that the licensee appear before the board to discuss a pending investigation. The board has discretion on whether to grant a licensee's request for an appearance. By electing to participate in the appearance, the licensee waives any objection to a board member's both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds that:

1. Board members have personally investigated the case, and
2. Board members have combined investigative and adjudicative functions.

If the executive director or director of legal affairs participates in the appearance, the licensee further waives any objection to having the executive director or director of legal affairs assist the board in the contested case proceeding.

(4) Issue an informal letter of warning or education. If the board concludes that there is not probable cause to file disciplinary charges, the board may issue the licensee an informal letter of warning or education. A letter of warning or education is an informal communication between the board and the licensee and is not formal disciplinary action or a public document.

(5) File a statement of charges. If the board determines that there is probable cause for taking formal disciplinary action against a licensee, the board shall file a statement of charges, thereby commencing a contested case proceeding.

Prior to the initiation of formal disciplinary charges in a case involving the supervision of a physician assistant, the board shall forward a copy of the investigative report to the board of physician assistants for its advice and recommendation. The board of physician assistants shall respond within six weeks or sooner if requested by the board of medicine. The board of medicine shall consider the advice and recommendation of the board of physician assistants.

(6) Request a combined statement of charges and settlement agreement. At the board's discretion, the board and the licensee may enter into a combined statement of charges and settlement agreement to resolve a contested case proceeding.

24.2(6) *Licensee-patient privileged communications.* The privilege of confidential communication between the recipient and the provider of health care services do not extend to afford confidentiality to medical records maintained by or on behalf of the subject of an investigation by the board, or records maintained by any public or private agency or organization, which relate to a matter under investigation by the board. No provision of Iowa Code section 622.10, except as it relates to an attorney of the licensee, or the stenographer or confidential clerk of the licensee's attorney, shall be interpreted to restrict access by the board or its staff or agents to information sought in an investigation being conducted by the board.

24.2(7) *Investigation of malpractice lawsuits, judgments and settlements.* The board will review reports received from insurance carriers and licensees involving malpractice lawsuits, adverse judgments, and settlements. The board may choose to investigate such reports in the same manner as is prescribed in these rules for the review and investigation of other complaints to determine whether there is probable cause under applicable statutes or administrative rules for licensee discipline.

24.2(8) *Confidentiality of investigative information.* All investigative information gathered by the board or its employees or agents, including peer reviewers, is confidential and privileged. The information cannot be obtained through discovery, subpoena, or other legal means except by the licensee and the board. This information is not admissible in any judicial or administrative proceeding, except in cases involving licensee discipline. However, the board's statement of charges, settlement agreements, or decisions in disciplinary proceedings are public records.

653—24.3(272C) Peer review. The board may assign any case to peer review for evaluation of the professional services rendered by the licensee and report to the board.

24.3(1) *Registration of peer reviewers.* The board may register peer reviewers by maintaining a list of peer reviewers in the board office. The board will enter into a contract with peer reviewers to provide peer review services.

24.3(2) *Case referral for peer review.* The board or board staff will determine which peer reviewer(s) will review a case and what investigative information is referred to a peer reviewer.

24.3(3) *Board assistance to peer reviewers.* The board may provide investigatory and related services to assist the peer reviewer(s).

24.3(4) *Confidentiality.* Peer reviewers shall observe the confidentiality requirements imposed by Iowa Code section 272C.6(4).

24.3(5) *Liability, defense and indemnity.* Peer reviewers are not liable for acts, omissions or decisions made in connection with service on the peer review committee. However, such immunity from civil liability does not apply if such act is done with malice. Peer reviewers are to be provided a defense by the state for civil lawsuits related to board peer review and will be indemnified for all such judgments or settlements as provided by applicable law and administrative rules.

24.3(6) *Written peer review report.* Peer reviewers will review the information provided by the board and provide a written report to the board.

a. The written report will contain a statement of facts, an opinion of the peer reviewers whether the licensee violated the standard of care, and the rationale supporting the opinion.

b. The written report shall be signed by all peer reviewers concurring in the report.

c. If the peer reviewers find that they are unable to review the case, the investigative information shall be returned to the board.

653—24.4(272C) Order for physical, mental, or clinical competency evaluation. All licensees will undergo a physical, mental, or clinical evaluation as directed by the board. This evaluation may be ordered if there is probable cause of a mental, physical, or behavioral condition, including professional misconduct, disruptive behavior, or substance abuse. The evaluation may include various assessments for disruptive behavior or neuropsychological, psychiatric, sexual misconduct, or substance abuse evaluations. Clinical competency evaluations can be ordered if there is probable cause of professional incompetence. All evaluation orders and related information are confidential according to Iowa Code section 272C.6(4). The licensee will bear the cost, and orders will be delivered via personal service or certified mail, return receipt requested.

24.4(1) *Content of order.* A board order shall include the following items:

a. Probable cause. A showing by the board that there is probable cause to order the licensee to complete an evaluation.

b. Nature of evaluation or screening. A description of the type of evaluation or screening that the licensee needs to complete.

c. Evaluation facility. The name and address of the examiner or evaluation or treatment or screening facility that the board has identified to perform the evaluation.

d. Scheduling the evaluation. The amount of time in which the licensee must schedule the required evaluation.

e. Completion of the evaluation. The amount of time in which the licensee must complete the evaluation.

f. Board release. A requirement that the licensee sign all necessary releases for the board to communicate with the evaluator or the evaluation or treatment program and to obtain any reports generated by the program.

24.4(2) *Alternatives.* Following issuance of the evaluation order, the licensee may request additional time to schedule or complete the evaluation or to request the board to approve an alternative evaluator or treatment facility. The board will determine whether to grant such a request.

24.4(3) *Objection to order.* A licensee who is the subject of a board evaluation order and who objects to the order may file a request for hearing. The request shall be filed within 14 days of issuance of the evaluation order. A licensee who fails to timely file a request for hearing to object to an evaluation order waives any future objection to the evaluation order in the event formal disciplinary charges are filed for failure to comply with the evaluation order or on any other grounds. The request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing will be considered a contested case proceeding and will be governed by the provisions of 653—Chapter 25.

24.4(4) *Closed hearing.* Any hearing on an objection to the board order will be closed pursuant to Iowa Code section 272C.6(1).

24.4(5) *Order and reports confidential.* An evaluation order and any subsequent evaluation reports issued in the course of a board investigation are confidential investigative information pursuant to Iowa Code section 272C.6(4). However, all investigative information related to an evaluation order will be provided to the licensee in the event the licensee files an objection under subrule 24.4(3), in order to allow the licensee an opportunity to prepare for hearing.

24.4(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections will be waived as to the admissibility of the licensee's testimony or evaluation reports on the grounds that they constitute privileged communication. The medical testimony or examination reports will not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

24.4(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, clinical competency or substance abuse evaluation or alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 17A, 147, 148, and 272C.

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[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9122C

MEDICINE BOARD[653]

Adopted and Filed

Rulemaking related to reinstatement

The Board of Medicine hereby rescinds Chapter 26, "Reinstatement After Disciplinary Action," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 147, 148 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148 and 272C.

Purpose and Summary

This rulemaking rescinds Chapter 26 and adopts a new chapter with the same title. This rulemaking provides guidance and the process for reinstatement for licensees who have received disciplinary action from the Board. When a licensee has prior disciplinary action from the Board, there are often additional requirements that must be met before a license will be reinstated. These additional requirements help ensure the physicians are competent and safe to practice.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8694C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 653—Chapter 26 and adopt the following **new** chapter in lieu thereof:

CHAPTER 26
REINSTATEMENT AFTER DISCIPLINARY ACTION

653—26.1(17A) Reinstatement. Any person whose license has not been permanently suspended or revoked by the board may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension.

26.1(1) If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for

reinstatement may not be made until one year has elapsed from the date of the board order or the date of voluntary surrender.

26.1(2) All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of the respondent's license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement are subject to the same rules of procedure as other cases before the board.

26.1(3) An application for reinstatement shall allege facts that, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts is on the respondent.

26.1(4) At the board's discretion, the board and the licensee may agree to enter into a reinstatement order by agreement, in lieu of a formal reinstatement hearing before the board.

26.1(5) A reinstatement order must be based upon the affirmative vote of a quorum of the board. The reinstatement order is public information pursuant to 481—Chapter 506.

26.1(6) A physician seeking reinstatement under this rule whose license became inactive during the period of suspension or revocation is also required to complete the reactivation process set forth in rule 653—9.13(147,148) or 653—9.14(147,148).

This rule is intended to implement Iowa Code chapters 17A, 147, 148, and 272C.

[Filed 3/27/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9123C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to emergency medical services, providers, initial certification, renewal and reactivation, authority, and complaints and investigations

The Department of Health and Human Services hereby rescinds Chapter 131, "Emergency Medical Services—Providers—Initial Certification—Renewal and Reactivation—Authority—Complaints and Investigations," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 147A.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147A, 147D and 272C.

Purpose and Summary

This rulemaking is a result of Executive Order 10. This chapter establishes the regulations and requirements for emergency medical provider initial certification for individuals who have been trained to provide emergency and nonemergency medical care at the emergency medical responder (EMR), emergency medical technician (EMT), advanced emergency medical technicians (AEMT), paramedic or other certification level recognized by the Department; describes the authority, permission to practice and scope of practice for certified emergency medical care providers in the state of Iowa; and establishes the regulations and requirements for renewal, extension and reactivation of an emergency medical care provider certification in the state of Iowa.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8545C**. A public hearing was held on the following date(s):

- January 15, 2025
- January 21, 2025

No one attended the public hearings. No public comments were received.

Changes from the Notice have been made. Language related to appeals has been standardized to reflect current practice.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 28, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on June 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 131 and adopt the following **new** chapter in lieu thereof:

CHAPTER 131
EMERGENCY MEDICAL SERVICES—PROVIDERS—INITIAL CERTIFICATION—RENEWAL AND REACTIVATION—AUTHORITY—COMPLAINTS AND INVESTIGATIONS

641—131.1(147A,147D,272C) Definitions. For the purpose of these rules, the following definitions apply:

"Advanced emergency medical technician" or *"AEMT"* means an individual who has successfully completed a course of study based on the U.S. Department of Transportation's National Emergency Medical Services Education Standards (December 2021), has passed the Department or NREMT testing requirements for the AEMT, and is currently certified by the department as an AEMT.

"CAPCE" means the Commission on Accreditation for Prehospital Continuing Education, the accrediting body charged with the review and accreditation of EMS continuing education.

"CEH" means continuing education hour, which is based upon a minimum of 50 minutes of training per hour.

"Certification" or *"certificate"* means a document issued by the department authorizing a person to practice as an emergency medical care provider in Iowa.

"Certification period" means the length of time an emergency medical care provider certificate is valid. The certification period is two years from initial issuance or from renewal unless otherwise specified on the certificate or unless sooner suspended or revoked.

"Certification status" means the status of an individual EMS certificate holder.

1. "Active" means the holder of the certification has the authority to function as an emergency medical care provider at the level certified in accordance with subrule 131.4(1).
2. "Probation," which is an active certification, means the holder of the certification has the authority to function as an emergency medical care provider at the level certified in accordance with subrule 131.4(1) and under the conditions of probation.
3. "Denied" means the certificate is inactive and the holder of the certification has no authority to function as an emergency medical care provider.
4. "Inactive" means the certificate is inactive and the holder of the certification has no authority to function as an emergency medical care provider.
5. "Revoked" means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.
6. "Surrendered" means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.
7. "Suspended" means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

"Certified" means being officially recognized as meeting department-approved testing and training standards and being issued a certificate by the department in accordance with Iowa Code chapters 272C and 147A to practice as an emergency medical care provider in the state of Iowa.

"Compact" means the emergency medical services personnel licensure interstate compact according to Iowa Code chapter 147D.

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Core continuing education" means education obtained during a certification period to renew certification. Core continuing education will have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

"Critical care paramedic" or *"CCP"* means a currently certified paramedic who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

"Disqualifying offense" means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a certified profession, or (2) the circumstances under which an offense was committed are circumstances customary to a certified profession.

"Emergency medical care" means any medical procedure authorized by Iowa Code chapter 147A and these rules.

"Emergency medical care provider" means the same as defined in Iowa Code section 147A.1.

"Emergency medical care student" means an individual registered with the department and enrolled in an EMS training program with an active EMS student registration.

"Emergency medical responder" or *"EMR"* means an individual who has successfully completed a course of study based on the U.S. Department of Transportation's National Emergency Medical Services

Education Standards (December 2021), has passed the department or NREMT testing requirements for the EMR, and is currently certified by the department as an EMR.

"Emergency medical services" or *"EMS"* means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

"Emergency medical technician" or *"EMT"* means an individual who has successfully completed a course of study based on the U.S. Department of Transportation's National Emergency Medical Services Education Standards (December 2021), has passed the department or NREMT testing requirements for the EMT, and is currently certified by the department as an EMT.

"Emergency medical technician-defibrillation" or *"EMT-D"* means an individual who has successfully completed an approved program and is currently certified by the department as an EMT-D.

"EMS clinical guidelines" or *"minimum EMS clinical guidelines"* means a minimum clinical standard approved by the department upon which a service program's medical director will base service program protocols.

"EMS instructor" or *"EMS-I"* means an individual who has successfully completed an EMS instructor curriculum approved by the department and is currently endorsed by the department as an EMS-I.

"Endorsement" or *"endorsed"* means an approval granted by the department authorizing an individual to serve as an EMS-I or CCP.

"Fees" means those fees received pursuant to Iowa Code chapters 147A and 147D.

"First responder" or *"FR"* means an individual who has successfully completed an approved program and is currently certified by the department as an FR.

"First responder-defibrillation" or *"FR-D"* means an individual who has successfully completed an approved program and is currently certified by the department as an FR-D.

"NREMT" means the National Registry of Emergency Medical Technicians. The NREMT provides a valid, uniform process to assess the knowledge and skills required for competent practice by EMS professionals.

"Paramedic" or *"PM"* means an individual who has successfully completed a course of study based on the U.S. Department of Transportation's National Emergency Medical Services Education Standards (December 2021), has passed the department or NREMT testing requirements for the paramedic, and is currently certified by the department as a paramedic.

"Patient" means an individual who is sick, injured, or otherwise incapacitated and has been evaluated or provided treatment by an emergency medical care provider.

"Patient abandonment" means a termination of the provider/patient relationship at a time when a continuous level of care is needed. Patient abandonment does not occur when a scene is unsecured, deteriorates or becomes too dangerous for the emergency medical care provider to safely function. Patient abandonment does not occur when patient care is transferred to another emergency medical care provider following assessment or triage.

"Physician" means an individual licensed under Iowa Code chapter 148.

"Physician assistant" or *"PA"* means an individual licensed pursuant to Iowa Code chapter 148C.

"Protocols" means written directions and orders approved by a service program's medical director utilizing the EMS clinical guidelines.

"Registered nurse" or *"RN"* means an individual licensed pursuant to Iowa Code chapter 152.

"Service program" or *"service"* means any transport service or nontransport service, inclusive of associated satellites and service program affiliates, that has received full or conditional authorization from the department.

641—131.2(147A,272C) Initial certification.

131.2(1) An individual who has successfully completed the training program requirements at the EMR, EMT, AEMT or paramedic level and has a valid certification with NREMT shall submit the following to the department for initial Iowa emergency medical care provider certification:

a. A completed EMS certification application.

b. An NREMT active certification number.

c. Payment of the initial application fee.

d. Two completed fingerprint cards for background checks.

e. Payment of the background check fee.

131.2(2) The individual seeking an Iowa emergency medical provider care certification shall submit all application materials within two years from the Iowa training program course completion date.

131.2(3) If the individual is unable to complete the requirements within two years due to medical reasons or military obligation, an extension may be granted upon submission of a signed statement from an appropriate medical or military authority and approval by the department.

131.2(4) Fees may be waived in accordance with provisions in Iowa Code chapter 272C.

131.2(5) Use of criminal convictions in eligibility determinations and initial licensing decisions.

a. License application. Unless an applicant for licensure petitions the department for an eligibility determination pursuant to paragraph 131.2(7)*"b,"* the applicant's convictions will be reviewed when the department receives a completed license application.

(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

(3) An applicant must submit as a part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the department.

(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

(6) Any application fees paid will not be refunded if the license is denied.

b. Eligibility determination. An individual who has not yet submitted a completed license application may petition the department for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the department for an eligibility determination prior to applying for licensure. To petition the department for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

(1) A completed petition for eligibility determination form;

(2) The complete criminal record for each of the petitioner's convictions;

(3) A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the department should find the petitioner rehabilitated;

(4) All evidence of rehabilitation that the petitioner wishes to be considered by the department; and

(5) Payment of a nonrefundable fee of $25.

c. Appeal. A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in accordance with 441—Chapter 7.

d. Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

641—131.3(147A) Background check results. All criminal history records are confidential and will only be used in accordance with this policy to determine eligibility. All background check records will be stored in a secure location. Background check records will not be redisseminated by the department.

641—131.4(147A) Authority.

131.4(1) *Authority of emergency medical care provider.* An emergency medical care provider who holds an active Iowa certification issued by the department or has permission to practice in Iowa pursuant to Iowa Code chapter 147D may:

a. As a member of a responding authorized service program, render emergency medical care and perform emergency medical care without contacting medical direction if written protocols have been approved by the service program medical director.

b. Function in any hospital or any other entity in which health care is ordinarily provided only when:

(1) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided when under the direct supervision of a physician as a member of an authorized service program, or in an individual capacity, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider's certification and under direct supervision of a physician, physician assistant, or registered nurse. An emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the emergency medical care provider may perform, without direct supervision, emergency medical care procedures for which certified, if the life of the patient is in immediate danger and such care is required to preserve the patient's life;

(2) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided when under the direct supervision of a physician, as a member of an authorized service program, or in an individual capacity, to perform nonlifesaving procedures for which certified and designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse and where the procedure may be immediately abandoned without risk to the patient.

131.4(2) *Scope of practice.*

a. Emergency medical care providers shall perform only those skills and procedures that are authorized within the scope of practice for which an emergency medical care provider is certified.

b. The Iowa Emergency Medical Care Provider Scope of Practice (September 2019) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the scope of practice adopted by reference and these rules, the rules prevail.

c. The Iowa Emergency Medical Care Provider Scope of Practice (September 2019) is available on the department's website.

d. The department may grant a waiver for changes to the scope of practice that have not yet been adopted by reference in these rules pursuant to 441—Chapter 6.

641—131.5(147A) Renewal standards, reactivation procedures, fees, and continuing education.

131.5(1) *Renewal of certification.*

a. An emergency medical care provider shall submit an application for renewal of an active Iowa EMS certification within 90 days prior to the certification expiration date.

b. The renewal application and process are completed online via an individual Iowa EMS provider account. The electronic portal to access individual accounts may be accessed through the department's website.

c. Renewal notifications will be sent to Iowa emergency medical care providers who have an active certification set to expire in 90 days. The notification will be sent by email to the address on file in the emergency medical care provider's electronic profile.

d. It is the emergency medical care provider's responsibility to ensure the electronic profile information, including the email address, is updated and correct within 30 days of any change.

e. A renewal certificate is valid for two years from the current expiration date unless sooner surrendered, suspended or revoked.

f. A lower-level certificate may be renewed if the individual voluntarily chooses to move from a higher level to a lower level by completing all applicable continuing education requirements for the

lower level during the certification period and submitting a change of status request, available from the department upon request.

g. A certification status becomes inactive if the certificate has not been renewed by the certification expiration date unless the emergency medical care provider is granted an extension as described in subrule 131.5(3).

h. An emergency medical care provider may request an inactive status. The request must be made by submitting a change of status request, available from the department upon request. A request for inactive status, when accepted in connection with a disciplinary investigation or proceeding, has the same effect as an order of revocation.

131.5(2) *Late renewal of certification.*

a. An emergency medical care provider who has completed the required continuing education during the certification period but fails to submit the EMS renewal of certification application and applicable fees prior to the certification expiration date is eligible for late renewal of the inactive certification.

b. The emergency medical care provider shall complete the EMS renewal of certification application, submit a late fee in addition to the applicable renewal fee and submit an audit report form provided by the department. The fee and audit report form shall be submitted before the last day of the month following the certification expiration date. If the late renewal submission is not completed by the last day of the month following the certification expiration date, the certification remains inactive.

c. An emergency medical care provider who has not completed the required continuing education during the certification period is not eligible for late renewal. The certification is inactive.

131.5(3) *Extension of certification.*

a. An emergency medical care provider who is unable to attain all continuing education requirements within the certification period may request a 45-day extension. To complete the extension process, the provider shall:

(1) Submit a request for extension application, available from the department upon request, at least 7 days prior to the certification expiration date, but no more than 90 days prior to the certification expiration date, and payment of the extension fee.

(2) Complete the continuing education requirements.

(3) Complete and submit the EMS affirmative renewal of certification application, with all applicable renewal fees, to the department prior to the extended expiration date.

(4) Submit an audit report form provided by the department.

b. If an emergency medical care provider fails to submit any of the items required in subparagraphs 131.5(3)*"a"*(2) and (3) by the 45th day of the extended certification period, the certification will be inactive.

c. The emergency medical care provider may not use continuing education completed during the extension period in the subsequent renewal period.

131.5(4) *Reactivation of an inactive certification.*

a. Certification inactive up to 24 months. An emergency medical care provider may apply to reactivate an inactive certification up to 24 months after the certification became inactive.

(1) An individual will submit to the department an EMS certification reactivation application, which is available from the department upon request.

(2) If the department approves the application, the individual must submit an audit report form with 36 core continuing education hours prorated per lapsed year by core topic area and the reactivation fee.

(3) Upon receipt and approval of the items required in subparagraphs 131.5(4)*"a"*(1) and (2), the department may issue a new certification.

(4) An emergency medical care provider who fails to complete the reactivation process within 12 months from the date of application approval must reapply for reactivation of the inactive certification.

b. Certification inactive from 25 months to 48 months. An emergency medical care provider may apply to reactivate an inactive certification that has been inactive for 25 months but no more than 48 months.

(1) An individual will submit to the department an EMS certification reactivation application, which is available from the department upon request.

(2) If the department approves the application, the individual must submit documentation of successful completion of an approved EMS refresher course that includes successful completion of department or NREMT testing requirements. In addition, the individual must:

1. Complete fingerprint requirements.
2. Submit reactivation and background check fees.
3. Upon receipt and approval of the items required in subparagraphs 131.5(4)*"b"*(1) and (2), the department may issue a new certification.
4. An emergency medical care provider who fails to complete the reactivation process within 12 months from the date of application approval must reapply for reactivation of the inactive certification.

c. Certification inactive for more than 48 months. An emergency medical care provider may not apply to reactivate a certification that has been inactive for more than 48 months.

131.5(5) *Reactivation of revoked or suspended certification.*

a. Any person whose certification to practice has been revoked or suspended may apply to the department for reactivation in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the certification is permanently revoked.

b. If the order of revocation or suspension did not establish terms and conditions upon which reactivation might occur or if the certification was voluntarily surrendered, an initial application for reactivation may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

c. All proceedings for reactivation shall be initiated by the person whose certification has been revoked or suspended in accordance with subrule 131.5(4). An application for reactivation shall allege facts that, if established, will be sufficient to enable the department to determine that the basis for the revocation or suspension of the person's certification no longer exists and that it will be in the public interest for the certification to be reinstated. The burden of proof to establish such facts is on the person whose certification has been suspended or revoked.

d. An order denying or granting reactivation shall be based upon a decision that incorporates findings of facts and conclusions of law.

131.5(6) *Fees.* The nonrefundable fees are as follows:

a. Application for initial Iowa certification at all certification levels: $30.
b. Reactivation of a certification to practice: $30.
c. Renewal of a certification to practice as a first responder, EMR: no fee.
d. Renewal of a certification to practice as an EMT: no fee.
e. Renewal of a certification to practice as an AEMT: $10.
f. Renewal of a certification to practice as a paramedic: $25.
g. Late renewal of a certification to practice: $30.
h. Returned payment due to insufficient funds: $15.
i. Extension of certification: $50.

131.5(7) *Continuing education renewal.*

a. The table below illustrates the minimum number of core continuing education hours (CEHs) by topic area for each level of emergency medical care provider to renew an Iowa EMS certification.

Core Topics	EMR/FR	EMT/EMT-D	AEMT	PM
Airway, Respirations, Ventilations	1	1	2	3
Cardiology	2	6	7	9
Trauma	1	2	3	3
Medical	3	6	8	9
Operations	1	5	5	6
Totals	**8**	**20**	**25**	**30**

b. All core continuing education hours used to renew an Iowa EMS certification must have a sponsor number by an authorized Iowa training program, the department, the board of nursing, the board of medicine, or CAPCE before the emergency medical care provider attends the offering.

c. An emergency medical care provider who is registered with the NREMT may renew the provider's Iowa EMS certification by meeting the NREMT's requirements. The emergency medical care provider must submit the Iowa affirmative renewal of certification application and all appropriate fees.

d. An emergency medical care provider is deemed to have complied with the continuing education requirements during periods in which the provider serves honorably on active duty in the military services or for periods in which the provider is a government employee working as an emergency medical care provider and assigned to duty outside the United States. The emergency medical care provider must submit the Iowa affirmative renewal of certification application, all appropriate fees and documentation of assignment.

e. The emergency medical care provider must maintain a file containing documentation of CEHs accrued during each certification period for four years from the end of each certification period.

f. A group of emergency medical care providers will be audited for each certification period. Emergency medical care providers to be audited will be chosen in a random manner or at the discretion of the department. Falsifying reports or failure to comply with the audit request may result in formal disciplinary action. Those audited must submit a department-provided audit report form within 45 days of the request. If audited, the emergency medical care provider must provide the following information:

(1) Date of program.
(2) Program sponsor number.
(3) Title of program.
(4) Number of approved hours.

131.5(8) *Continuing education approval.* The following standards apply for approval of continuing education:

a. CEHs will have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

b. Human health-related college courses may be approved in advance by the department at one quarter credit equal to 10 CEHs, one semester credit equal to 15 CEHs.

131.5(9) *Out-of-state continuing education.* Out-of-state continuing education courses will be accepted for CEHs if all criteria in subrule 131.5(7) are met and if the courses have been approved for emergency medical care personnel in the state in which the courses were held. A copy of course completion certificates (or other verifying documentation) shall, upon request, be submitted to the department.

641—131.6(147A,272C) Discipline—denial, citation and warning, probation, suspension, or revocation of certificates or renewal.

131.6(1) This rule is not subject to waiver pursuant to 441—Chapter 6 or any other provision of law.

131.6(2) Prohibited grounds for discipline. The department will not suspend or revoke the certification of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

131.6(3) Methods of discipline.

a. The department has the authority to impose the following disciplinary sanctions against an emergency medical care provider:

(1) Issue a citation and warning.
(2) Impose a civil penalty not to exceed $1,000.
(3) Require reexamination.
(4) Require additional education or training.
(5) Impose a period of probation under specific conditions.

(6) Prohibit permanently, until further order of the department, or for a specific period, a provider's ability to engage in specific procedures, methods, acts or activities incident to the practice of the profession.

(7) Suspend a certificate until further order of the department or for a specific period.

(8) Deny an application for certification.

(9) Revoke a certification.

(10) Impose such other sanctions as allowed by law and as may be appropriate.

b. A request for inactive status in connection with a disciplinary investigation or proceeding has the same effect as an order of revocation.

c. A citation and warning, denial, probation, restriction, suspension, revocation, or civil penalty imposed upon an individual certificate holder by the department will be considered applicable to all certificates and endorsements issued to that individual by the department.

d. An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days.

131.6(4) The department may deny an application for issuance or renewal of an emergency medical care provider certificate, including endorsement, or may impose any of the disciplinary sanctions provided in subrule 131.6(3) when it finds that the individual or certificate holder has committed any of the following acts or offenses:

a. Negligence in performing emergency medical care.

b. Failure to follow the directions of supervising physicians or their designees.

c. Rendering treatment not authorized under Iowa Code chapter 147A.

d. Patient abandonment.

e. Fraud in procuring certification or renewal, including but not limited to:

(1) An intentional perversion of the truth in making application for a certification to practice in this state;

(2) False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a certification in this state; or

(3) Attempting to file or filing with the department or training program any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a certification in this state.

f. Professional incompetency. Professional incompetency includes but is not limited to:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

(2) A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other emergency medical care providers in the state of Iowa acting in the same or similar circumstances.

(3) A failure to exercise the degree of care that is ordinarily exercised by the average emergency medical care provider acting in the same or similar circumstances.

(4) Failure to conform to the minimal standard of acceptable and prevailing practice of certified emergency medical care providers in this state.

(5) A substantial lack of knowledge or ability to discharge professional obligations within the minimum clinical standards approved by the department.

g. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts that may constitute unethical conduct include but are not limited to:

(1) Verbally or physically abusing a patient, coworker or any other individual encountered while a certified emergency medical care provider.

(2) Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, coworker or any other individual encountered while certified as an emergency medical care provider in the state of Iowa.

(3) Betrayal of a professional confidence.

(4) Engaging in a professional conflict of interest.

(5) Falsification of medical records, official documents or other writings or records.

h. Engaging in any conduct that subverts or attempts to subvert a department investigation.

i. Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.

j. Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

k. Failure to report another emergency medical care provider to the department for any violations listed in these rules pursuant to Iowa Code chapter 147A.

l. Knowingly aiding, assisting or advising a person to unlawfully practice EMS.

m. Representing oneself as an emergency medical care provider when one's certification has been suspended or revoked or when one's certification is lapsed or has been placed on inactive status.

n. Permitting the use of a certification by a noncertified person for any purpose.

o. Mental or physical inability reasonably related to and adversely affecting the emergency medical care provider's ability to practice in a safe and competent manner as determined by an evaluation from a licensed evaluator of the provider's mental or physical status.

p. Being adjudged mentally incompetent by a court of competent jurisdiction.

q. Sexual harassment of a patient, student, coworker or any other individual encountered while certified as an emergency medical care provider in the state of Iowa. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature communicated in person, in writing, via a third person or through electronic communication.

r. Habitual intoxication or addiction to drugs.

(1) The inability of an emergency medical care provider to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

(2) The excessive use of drugs that may impair an emergency medical care provider's ability to practice with reasonable skill or safety.

(3) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

s. Fraud in representation as to skill, ability or certification.

t. Willful or repeated violations of Iowa Code chapter 147A or these rules.

u. Conviction of a disqualifying offense. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction.

v. Having certification to practice emergency medical care suspended or revoked or having other disciplinary action taken by a licensing or certifying authority of this state or another state, territory or country. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.

w. Falsifying certification renewal reports or failure to comply with the renewal audit request.

x. Acceptance of any fee by fraud or misrepresentation.

y. Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

z. Violating privacy and confidentiality. An emergency medical care provider shall not disclose or be compelled to disclose patient information unless disclosure is required or authorized by law.

aa. Discrimination. An emergency medical care provider shall not practice, condone, or facilitate discrimination against a patient, student, or any other individual encountered while acting as certified as an emergency medical care provider in the state of Iowa on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

ab. Practicing emergency medical services or using a designation of certification or otherwise holding oneself out as practicing emergency medical services at a certain level of certification when the emergency medical care provider is not certified at such level.

ac. Failure to respond within 30 days of receipt, unless otherwise specified, to communication from the department that was sent by registered or certified mail.

641—131.7(147A) Certification denial. An individual who has been denied certification by the department may appeal the denial and request a hearing on the issues related to the licensure denial pursuant to 441—Chapter 7.

641—131.8(147A) Emergency adjudicative proceedings. To the extent necessary to prevent or avoid immediate danger to the public health, safety or welfare and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend a certificate in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order.

131.8(1) Before issuing an emergency adjudicative order, the department will consider factors, including but not limited to the following:

a. Whether there has been a sufficient factual investigation to ensure that the department is proceeding on the basis of reliable information;

b. Whether the specific circumstances that pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the individual required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the department is necessary to avoid the immediate danger.

131.8(2) Issuance of order.

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order will be immediately delivered to the individual who is required to comply with the order. Delivery will be made by one or more of the following procedures:

(1) Personal delivery.

(2) Certified mail, return receipt requested, to the last address on file with the department.

(3) Fax. Fax may be used as the sole method of delivery if the individual required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the department will select the procedure for providing written notice that best ensures prompt, reliable delivery.

d. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department will make reasonable immediate efforts to contact by telephone the individual who is required to comply with the order.

e. After the issuance of an emergency adjudicative order, the department will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

f. Issuance of a written emergency adjudicative order will include notification of the date on which department proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further department proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the individual who is required to comply with the order is the party requesting the continuance.

641—131.9(147A) Complaints, investigations and appeals.

131.9(1) This rule is not subject to waiver pursuant to 441—Chapter 6 or any other provision of law.

131.9(2) All complaints regarding emergency medical care personnel, training programs or continuing education providers, or those purporting to be or operating as the same shall be reported to the department in writing.

131.9(3) An emergency medical care provider who has knowledge of an emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall report such information to the department.

131.9(4) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

131.9(5) A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.

131.9(6) Notice of denial, issuance of a citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of 441—Chapter 16 and may be appealed pursuant to 441—Chapter 7.

131.9(7) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

These rules are intended to implement Iowa Code chapters 147A and 147D and section 272C.4.

[Filed 3/28/25, effective 6/1/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9124C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to emergency medical services—service program authorization

The Department of Health and Human Services hereby rescinds Chapter 132, "Emergency Medical Services—Service Program Authorization," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 147A.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147A, 147D, and 272C and section 321.231; 2024 Iowa Acts, House File 2507; and 49 CFR 396.

Purpose and Summary

This rulemaking is a result of Executive Order 10. It also implements, in part, 2024 Iowa Acts, House File 2507, which allows physicians to staff authorized emergency medical services (EMS) programs. This chapter provides clarity and creates a process for EMS program authorization. As part of the Red Tape Rule Review, the Department deleted restrictive terms, eliminated redundant language, made minor wording changes, deleted language that was better suited for internal procedure documents, and renumbered throughout.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 8, 2025, as **ARC 8721C**. A public hearing was held on the following date(s):

- January 28, 2025
- January 29, 2025

No one attended the public hearings.

The Department received feedback from a field coordinator familiar with air transport service programs who suggested several changes. First, it was suggested to change language to clarify that service program medical directors develop protocols, not guidelines. Second, it was suggested to enumerate the staffing requirements for the two types of air ambulances. Finally, it was suggested to clarify which requirements apply to ground transport and nontransport service programs, which requirements apply to air transport service programs, and which requirements apply to both ground transport and nontransport and air transport service programs.

Changes from the Notice have been made to update two definitions and subsequent references to eliminate certain designations that are obsolete. The Department also updated language regarding appeals to reflect actual practice and eliminate redundant information.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 28, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 132 and adopt the following **new** chapter in lieu thereof:

CHAPTER 132
EMERGENCY MEDICAL SERVICES—SERVICE PROGRAM AUTHORIZATION

641—132.1(147A) Definitions. For the purpose of these rules, the following definitions apply:

"Advanced emergency medical technician level service" or *"AEMT level service"* means a service program that provides emergency medical care that does not exceed the scope of practice of a certified AEMT provider as outlined in 641—subrule 131.5(2).

"Advanced registered nurse practitioner" or *"ARNP"* means a nurse licensed pursuant to 655—7.1(152) with current licensure as a registered nurse in Iowa who is registered in Iowa to practice in an advanced role.

"Ambulance" means any privately or publicly owned ground, fixed-wing or rotor-wing vehicle equipped with life-support systems and specifically designed to transport the sick or injured who require emergency medical care.

"Applicant" means an owner of a transport or nontransport program or service program that is applying to the department for authorization as a service program or renewal of current authorization as a service program.

"Biomedical hazardous waste" means waste product that may be contaminated with a biological material that is an infectious disease transmission risk.

"Communication system" means but is not limited to a telecommunication system, radio communication system, or mobile data communication system.

"Conditional service level authorization" means an enhanced service program authorization under which a service program may provide an advanced level of service from that routinely provided under the service program's full authorization level, on an intermittent basis with department and medical director approval.

"Continuous quality improvement" or *"CQI"* means a program that is an ongoing process to monitor standards at all EMS operational levels.

"Credentialing" means a clinical determination that is the responsibility of a physician medical director. It is the employer or affiliating organization's responsibility to act on the clinical credentialing status of EMS personnel in making employment or deployment decisions.

"Critical care transport" or *"CCT"* means a paramedic level service program that has received an endorsement from the department to provide specialty care patient transportation and that is staffed by one or more paramedics with a critical care paramedic endorsement from the department or that is staffed by other health care professionals in an appropriate specialty area.

"Deficiency" means noncompliance with Iowa Code chapter 147A or these administrative rules.

"Emergency medical care" means any medical procedure authorized by Iowa Code chapter 147A and 641—Chapter 131.

"Emergency medical care provider" means the same as defined in Iowa Code section 147A.1.

"Emergency medical responder level service" or *"EMR level service"* means a nontransport service program that provides emergency medical care that does not exceed the scope of practice of a certified EMR provider as outlined in 641—subrule 131.5(2).

"Emergency medical services" or *"EMS"* means the same as defined in Iowa Code section 147A.1.

"Emergency medical technician" or *"EMT"* means the same as defined in 641—Chapter 131.

"Emergency medical technician level service" or *"EMT level service"* means a service program that provides emergency medical care that does not exceed the scope of practice of a certified EMT provider as outlined in 641—subrule 131.5(2).

"Emergency medical transportation" means transportation of a patient by an ambulance.

"Emergency vehicle driver" or *"driver"* means a currently licensed driver rostered with the service program or other emergency response personnel with emergency vehicle driving training.

"EMS clinical guidelines" or *"minimum EMS clinical guidelines"* means a minimum clinical standard approved by the department upon which a service program's medical director will base service program protocols.

"Endorsement" means an approval granted by the department authorizing a paramedic level service program to provide critical care transport (CCT).

"FAA" means Federal Aviation Administration.

"Fixed-wing ambulance" means any privately or publicly owned fixed-wing aircraft specifically designed, modified, constructed, equipped, staffed and used regularly to transport the sick, injured or

otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation while being transported.

"First response vehicle" means any privately or publicly owned vehicle that is not an ambulance and that is used solely for the transportation of personnel and equipment to and from the scene of an emergency.

"Full authorization" means a service program authorization under which a service is authorized to provide and routinely provides a specific level of emergency medical care for initial 911 or emergency calls 24 hours per day, seven days per week.

"Hospital" means any hospital licensed under the provisions of Iowa Code chapter 135B.

"Medical direction" means direction, advice, or orders provided by a medical director, supervising physician, PA, or ARNP to emergency medical care personnel.

"Medical director" means a physician designated by the service program and responsible for providing medical direction and overall supervision of the medical aspects of the service program.

"Nontransport service" means any privately or publicly owned service program that does not provide patient transportation and provides emergency medical care at the scene of an emergency.

"Paramedic" or *"PM"* means the same as defined in 641—Chapter 131.

"Paramedic level service" or *"PM level service"* means a service program that provides emergency medical care that does not exceed the scope of practice of a certified paramedic provider as outlined in 641—subrule 131.4(2).

"Patient" means any individual who is sick, injured, or otherwise incapacitated.

"Patient care report" or *"PCR"* means a report that documents the assessment and management of the patient by the emergency care provider.

"Physician" means an individual licensed under Iowa Code chapter 148.

"Physician assistant" or *"PA"* means an individual licensed pursuant to Iowa Code chapter 148C.

"Primary response ambulance" means any ambulance utilized by a service program and dispatched as the initial ambulance response to a 911 or emergency call.

"Protocols" means written directions and orders approved by a service program's medical director utilizing the EMS clinical guidelines.

"Registered nurse" or *"RN"* means an individual licensed pursuant to Iowa Code chapter 152.

"Rotorcraft ambulance" means any privately or publicly owned rotorcraft specifically designed, modified, constructed, equipped, staffed and used regularly to transport the sick, injured or otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation while being transported.

"Service director" means an individual designated by the service program who is responsible for the operation and administration of a service program.

"Service program" or *"service"* means any ground or air medical transport service or nontransport service, inclusive of associated satellites, that has received full or conditional authorization from the department.

"Service program affiliate" or *"affiliate"* means an independently owned service program affiliated with one or more service programs or a separate management entity.

"Service program affiliate agreement" or *"affiliate agreement"* means a written agreement executed between one or more service programs or one or more management entities and filed with the department that clearly defines the responsibilities of each service program to ensure compliance with these rules.

"Service program base of operation" means the physical location from which a service program responds and at which the service program houses emergency medical care personnel and equipment.

"Service program ownership" means the legal owner of the service program responsible for providing emergency medical care and compliance with Iowa Code chapter 147A and these rules.

"Service program satellite" or *"satellite"* means one or more additional service program locations owned by the same service program.

"Student" means any individual enrolled in a training program and participating in the didactic, clinical, or field experience portions.

"Tiered response" means a rendezvous between service programs to allow the transfer, continuation, or enhancement of patient care.

"Transport agreement" means a written agreement executed between two or more service programs and filed with the department that ensures response and transportation for initial 911 or emergency calls. A transport agreement may be a component of an affiliate agreement.

"Transport service" means any privately or publicly owned service program that utilizes ambulances in order to provide patient transportation.

641—132.2(147A) Service program—authorization and renewal procedures and inspections.

132.2(1) *Requirements for initial service program authorization.*

a. An entity that desires to provide emergency medical care services in the out-of-hospital setting in this state shall apply to the department for service program full authorization.

b. Information for initial authorization can be found on the department's website or upon request.

c. Transport service—full authorization. An entity seeking authorization as a transport service program shall apply for full authorization at a minimum of the EMT level or the level of care that will be provided by the service program or through a transport agreement for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

(1) EMT.
(2) AEMT.
(3) Paramedic.

d. Transport service—conditional service level authorization. An entity seeking authorization as a transport service that is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

(1) AEMT.
(2) Paramedic.

e. Nontransport service—full authorization. An entity seeking authorization as a nontransport service program shall apply for full authorization at a minimum of the EMR level or at the level of care that will be provided for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

(1) EMR.
(2) EMT.
(3) AEMT.
(4) Paramedic.

The nontransport service program shall have an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls.

f. Nontransport service—conditional service level authorization. An entity seeking authorization as a nontransport service program that has an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls and is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

(1) EMT.
(2) AEMT.
(3) Paramedic.

g. Conditional service level authorization requirements.

(1) A service program that has been granted conditional service level authorization shall only advertise or otherwise hold itself out to the public as an authorized service program at the level of full authorization.

(2) A service program authorized to operate at a conditional service level shall operate at such level only when an emergency medical care provider certified at the advanced certification level is listed on the service roster, physically present and directly responsible for patient care.

h. Initial service program authorization is valid for a period of one year from its effective date unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked or surrendered.

i. An applicant shall provide evidence of liability insurance coverage for the service program and emergency medical care provider staff. Any change in insurance status must be reported to the department no later than 30 days from the change.

j. An applicant seeking endorsement must submit a department-approved application.

132.2(2) *Requirements for renewal of service program authorization.*

a. A service program seeking renewal of current authorization shall submit all required documentation to the department at least 90 days prior to the current authorization expiration date.

b. Transport service—full authorization. An entity seeking renewal authorization as a transport service program shall apply for full authorization at a minimum of the EMT level or the level of care that will be provided by the service program or through a transport agreement for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

(1) EMT.

(2) AEMT.

(3) Paramedic.

c. Transport service—conditional service level authorization. An entity seeking renewal authorization as a transport service that is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

(1) AEMT.

(2) Paramedic.

d. Nontransport service—full authorization. An entity seeking renewal authorization as a nontransport service program shall apply for full authorization at a minimum of the EMR level or at the level of care that will be provided for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

(1) EMR.

(2) EMT.

(3) AEMT.

(4) Paramedic.

e. Nontransport service—conditional service level authorization. An entity seeking renewal authorization as a nontransport service program that is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

(1) EMT.

(2) AEMT.

(3) Paramedic.

f. Air medical requirements.

(1) Staff fixed-wing ambulances, at a minimum on each flight request, with the following staff while a patient is being transported:

1. One health care clinician who is certified or licensed in the state from which the aircraft launches and is certified as an EMT or higher level; and

2. One FAA-certified commercial pilot who is appropriately rated in the aircraft being used for the transport.

(2) Staff rotorcraft ambulances, at a minimum on each flight request, with the following staff while a patient is being transported:

1. Two health care clinicians who are certified or licensed in the state from which the aircraft launches, one of whom must at a minimum be certified as a paramedic; and

2. One FAA-certified commercial pilot who is appropriately rated in the aircraft being used for the transport.

(3) Medical crew members trained in the following areas:

1. Patient care limitations in flight.
2. Altitude physiology.
3. Appropriate utilization of air medical services.
4. Air medical communication systems.
5. Aircraft operations and safety.
6. Emergency safety and survival.
7. Prehospital scene response and safety.
8. Crew resource management.
9. Program flight risk assessment procedures.

g. Conditional service level authorization requirements.

(1) A service program that has been granted conditional service level authorization shall only advertise or otherwise hold itself out to the public as an authorized service program at the level of full authorization.

(2) A service program authorized to operate at a conditional service level shall operate at such level only when an emergency medical care provider certified at the advanced certification level is listed on the service roster, physically present and directly responsible for patient care.

h. A service program that has submitted to the department fewer than 100 data reports per year for each of the previous two consecutive calendar years shall only be eligible for renewal of current authorization as an affiliate. The department will provide technical assistance in developing affiliations.

i. A service program shall be fully operational upon the effective date specified on the certificate of authorization and shall ensure compliance with Iowa Code chapter 147A and these rules.

j. A service program renewal authorization is valid for a period not to exceed three years from its effective date unless otherwise specified on the certificate of authorization or unless sooner revoked or suspended or surrendered.

132.2(3) *Reinstatement of service program authorization.*

a. A service program whose full authorization or conditional service level authorization has been revoked or suspended or surrendered may apply to the department for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the authorization is permanently revoked.

b. If the authorization was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

132.2(4) *Out-of-state service programs.*

a. An emergency medical service program authorized and based in another state shall provide the department with verification of current state authorization upon request and may provide emergency medical care to patients in Iowa.

b. A service program authorized and based in another state shall meet all requirements of Iowa Code chapter 147A and these rules and must be authorized by the department to respond to 911 requests in Iowa to transport patients in Iowa to locations within Iowa.

132.2(5) *Service program inspections.*

a. The department, at a minimum, will complete an inspection of each base of operations, all associated satellites, and all affiliate locations prior to initial authorization or renewal of current full authorization or conditional service level to ensure compliance with Iowa Code chapter 147A and these rules.

b. The department without prior notification may make additional inspections at times, at places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.

c. Service program inspection forms are available on the department's website.

d. A service program shall correct deficiencies identified during a service program inspection within the time period specified by the department on the inspection form. Failure to correct identified deficiencies within the specified time period may result in disciplinary action.

e. The department may request additional information from or may inspect the records of any service program or associated satellite or associated affiliate that is currently authorized or that is seeking

authorization to ensure continued compliance or to verify the validity of any information presented on the application for initial service program authorization or renewal of current authorization.

f. The department may inspect the patient care records of a service program to verify compliance with Iowa Code chapter 147A and these rules.

g. No person shall interfere with the inspection activities of the department or its agents pursuant to Iowa Code section 135.36.

h. Interference with or failure to allow an inspection by the department or its agents may be cause for disciplinary action.

641—132.3(147A) Service program operations.

132.3(1) *Ownership.*

a. Each service program will have a unique authorization number assigned by the department.

b. A service program with satellites will have a single authorization number assigned by the department for all locations.

c. A service program owner shall ensure compliance with Iowa Code chapter 147A and these rules.

d. A service program shall report any change in ownership to the department at least seven days prior to the change.

e. A service program changing ownership shall apply to the department at least seven days prior to the change in ownership for initial authorization in accordance with 132.2(1).

132.3(2) *Medical director.*

a. Each service program shall have a designated medical director at all times.

b. A medical director shall:

(1) Be accessible for medical direction 24 hours per day, seven days per week or ensure accessibility to alternate medical direction.

(2) Ensure that all duties and responsibilities of the medical director are not relinquished before a new or temporary replacement is functioning in that capacity.

(3) Complete a department-sponsored medical director training within one year of assuming duties as a medical director and at a minimum once every three years thereafter.

(4) Develop, approve, and update service program protocols that meet or exceed the minimum EMS clinical guidelines approved by the department.

(5) Ensure that the emergency medical care providers rostered with the service program are credentialed in the emergency medical skills to be provided and the duties of the emergency medical care provider do not exceed the provider's scope of practice as referenced in 641—subrule 131.4(2) and the service program's EMS service level of authorization.

(6) Be available for individual evaluation and consultation with service program personnel.

(7) Have authority to restrict a service program's authorized functional EMS service level.

(8) Have the authority to permanently or temporarily restrict a service program member to function within a lower level scope of practice or prohibit a service program member from providing patient care.

(9) Approve the service program's CQI program.

(10) Perform or complete, or appoint a designee to perform or complete, the medical audits in the service program's established CQI policy.

(11) Randomly audit (on at least a quarterly basis) documentation of calls where emergency medical care was provided.

(12) Randomly review audits performed by the qualified appointee.

c. A medical director may:

(1) Make additions to the department-approved EMS clinical guidelines when developing service protocols, provided the additions are within the service program's level of authorization, the EMS provider's scope of practice, and acceptable medical practice.

(2) Request that service program providers provide additional emergency medical care skills on a limited pilot project basis. The pilot project applications are available from the department upon request.

(3) Approve the physician, PA and RN exception form identifying the level of EMS provider equivalency not to exceed the service program's EMS service level authorization for each physician, PA and RN who will be providing emergency medical care as part of the service program.

d. A medical director who receives no compensation for the performance of the director's volunteer duties under this chapter is considered a state volunteer as provided in Iowa Code section 669.24 while performing volunteer duties as an emergency medical services medical director. Compensation does not include payments for reimbursement of expenses.

e. A medical director, supervising physician, PA, or ARNP who gives orders to an emergency medical care provider is not subject to criminal liability by reason of having issued the orders and is not liable for civil damages for acts or omissions relating to the issuance of the orders unless the acts or omissions constitute recklessness.

f. Nothing in these rules requires or obligates a medical director, supervising physician, PA, or ARNP to approve requests for orders received from an emergency medical care provider.

g. A service program medical director who fails to comply with Iowa Code chapter 147A or these rules may be referred to the Iowa board of medicine.

132.3(3) *Service director.*

a. Each service program shall have a designated service director at all times.

b. A service director shall:

(1) Be accessible 24 hours per day, seven days per week or ensure accessibility to a service director designee.

(2) Be responsible for providing direction and overall supervision of the administrative and operational aspects of the service program.

(3) Ensure that all duties and responsibilities of the service director are not relinquished before a new or temporary replacement is functioning in that capacity.

(4) Complete a department-sponsored training within one year of assuming duties as a service director and at a minimum once every three years thereafter.

(5) Ensure the service program is in compliance with service program policy, Iowa Code chapter 147A and these rules.

(6) Ensure that duties of the service program's emergency medical care providers do not exceed the providers' scope of practice as referenced in 641—subrule 131.4(2) or the service program's EMS service level of authorization.

132.3(4) *Service program requirements.*

a. A service program shall:

(1) Not advertise or otherwise imply or hold itself out to the public as a service program unless currently authorized by the department.

(2) Only advertise at or otherwise hold itself out as having the level of full authorization.

(3) Select a new or temporary medical director if the current medical director cannot or no longer wishes to serve in that capacity. Selection shall be made before the current medical director relinquishes the duties and responsibilities of that position.

(4) Notify the department in writing within seven days prior to any change in medical director or any reduction or discontinuance of operations.

(5) Select a new or temporary service director if the current service director cannot or no longer wishes to serve in that capacity. Selection shall be made before the current service director relinquishes the duties and responsibilities of that position.

(6) Notify the department in writing within seven days prior to any change in service director or any reduction or discontinuance of operations.

(7) Notify the department within seven days prior to any change in location of a service program base of operations, administrative office, satellite, or affiliate.

(8) Notify the department within seven days when entering into agreements with one or more service programs or a management entity to form multiservice systems for shared service program management, administration, data submission, or other services to ensure compliance with these rules.

(9) Report the termination or resignation in lieu of termination of an emergency medical care provider due to negligence, professional incompetency, unethical conduct, substance use, or violation of any of these rules to the department in writing within seven days.

(10) Report theft of drugs to the department in writing within 48 hours following the occurrence of the incident.

(11) Develop a notification process for service members in the event of a motor vehicle collision involving a first response vehicle, ambulance, rescue vehicle or personal vehicle when used by a service program member responding as a member of the service program.

(12) Notify the department in writing within 48 hours of a motor vehicle collision resulting in personal injury or death.

(13) Ensure a response to an initial 911 or emergency call request to the service program, 24 hours per day, seven days per week.

(14) Utilize protocols developed and approved by the service program medical director that meet or exceed the minimum EMS clinical guidelines approved by the department.

(15) Ensure alterations to the minimum EMS clinical guidelines by the service program's medical director are approved by and filed with the department.

(16) Maintain a communication system at a minimum between medical direction, receiving facility, and other emergency responders.

(17) Maintain a current personnel roster utilizing a department-approved registry system. Ensure all rostered personnel are currently certified as active EMS providers in the state of Iowa.

(18) Maintain files with the medical director and department-approved physician, PA and RN exception forms for appropriate personnel. Physician, PA and RN forms are available on the department's website.

(19) Ensure all service program members who operate motorized emergency response vehicles, ambulances, and rescue vehicles when used by a service member responding as a member of the service have a valid driver's license and attend driver training prior to driving an emergency vehicle.

(20) Develop, maintain and follow a written driver training policy that includes a review of Iowa laws regarding emergency vehicle operations (Iowa Code section 321.231), frequency of service required driver training, a review of service program policies and criteria for response with lights or sirens or both, speed limits, procedure for approaching intersections, and use of the service program communications equipment.

(21) Ensure the emergency medical care provider with the highest level of certification attends the patient unless otherwise indicated by patient assessment and approved by the service program's guidelines.

b. A ground transport service program shall:

(1) Provide as a minimum, on initial 911 or emergency calls, the following staff on each primary response ambulance:

1. One currently certified emergency medical care provider certified at the service program full level of authorization.
2. One driver.

(2) Provide as a minimum on each subsequent call or nonemergency call, when responding, the following staff:

1. One currently certified EMT.
2. One driver.

(3) Establish a transport decision policy that requires a complete assessment of a patient in order to determine transport needs. The service transport decision policy shall include:

1. The Out-of-Hospital Trauma and Triage Destination Decision Guideline, as amended to August 1, 2024, and described in 641—Chapter 135.
2. Time critical condition considerations for transport to facilities that specialize in conditions such as cardiac conditions or stroke.
3. A process for a service program provider to determine transportation to a hospital, medical clinic, extended care facility, or other facilities where health care is routinely provided.

4. A process for patient refusal or nontransport if emergency transport is not warranted. The service program provider will obtain a signed transport/treatment refusal document or liability release if transport is not required.

5. A process by which a service program provider may make arrangements for alternate transport if emergency transport is not needed and remain with the patient until alternate transport arrives unless the provider is called to respond to another emergency.

c. Air transport service programs.

(1) An air transport service program operating fixed wing ambulances shall, at a minimum on each flight request, staff fixed wing ambulances with the following staff while a patient is being transported:

1. One health care clinician who is certified or licensed in the state from which the aircraft launches and is certified as an EMT or higher level; and

2. One FAA-certified commercial pilot who is appropriately rated in the aircraft being used for the transport.

(2) An air transport service program operating rotorcraft ambulances shall, at a minimum on each flight request, staff rotorcraft ambulances with the following staff while a patient is being transported:

1. Two health care clinicians who are certified or licensed in the state from which the aircraft launches, one of whom must at minimum be certified as a paramedic; and

2. One FAA-certified commercial pilot who is appropriately rated in the aircraft being used for the transport.

d. Nontransport service programs.

(1) Nontransporting service programs, when responding to 911 or emergency calls, shall provide as a minimum one currently certified emergency medical care provider certified at the service program full level of authorization.

(2) Nontransport service programs shall have an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls.

(3) Nontransport service programs may transport patients in an ambulance only in an emergency situation when lack of transporting resources would cause an unnecessary delay in patient care.

132.3(5) *Data reporting.*

a. A service program shall report data electronically to the department.

b. A service program shall submit data in a format approved by the department.

c. A service program shall submit reportable data to the department no later than the last day of the month following the month services were provided.

d. The data collected by the EMS data registry and furnished to the department pursuant to this rule are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, pursuant to Iowa Code section 22.7. The compilations prepared for release or dissemination from the data collected are not confidential under Iowa Code section 22.7(2). However, information that individually identifies patients shall not be disclosed, and state and federal law regarding patient confidentiality shall apply.

e. The department may approve requests for reportable patient data for special studies and analysis provided:

(1) The request has been reviewed and approved by the department with respect to the scientific merit and confidentiality safeguards.

(2) The department has given administrative approval for the proposal.

(3) The confidentiality of patients is protected pursuant to Iowa Code section 22.7 and chapter 147A.

(4) The department may require those requesting the data to pay any or all of the reasonable costs associated with furnishing the reportable data.

f. For the purpose of ensuring the completeness and quality of reportable data, the department or authorized representative may examine all or part of the data record as necessary to verify or clarify all reportable data submitted by a service program.

g. To the extent possible, activities under this subrule shall be coordinated with other health data collection methods.

h. A service program will develop, maintain and follow a written data submission policy.

132.3(6) *Patient care reporting.*

a. Each service program, satellite, and affiliate shall complete and maintain a patient care report documenting the care provided to each patient.

b. The patient care report is a confidential document and is exempt from disclosure pursuant to Iowa Code section 22.7(2) and shall not be accessible to the general public. Information contained in these reports, however, may be utilized by any of the indicated distribution recipients and may appear in any document or public health record in a manner that prevents the identification of any patient or person named in these reports.

c. To facilitate the continuum of care, transport service programs shall provide at a minimum, upon delivery of a patient to a receiving facility, a verbal patient care report that contains details of the assessment and care provided.

d. Transport service programs shall provide a final patient care report within 24 hours to the receiving facility. Transport services and receiving facilities must work together to initiate reasonable and realistic mechanisms (including but not limited to paper, secure email, secure links, secure electronic system retrieval, and access to printers at the receiving facility) to ensure the delivery of the patient care report.

e. A service program will develop, maintain, and follow a written patient care report policy.

132.3(7) *Continuous quality improvement (CQI).*

a. A service program shall develop, maintain, and follow a CQI program that follows a written CQI policy.

b. The CQI program shall include medical audits that review patient care provided.

c. The CQI program shall be utilized to identify deficiencies or potential deficiencies regarding medical knowledge or skill or procedure performance.

d. The CQI program shall review at a minimum 911 response and scene times.

e. The CQI program shall develop a written plan that monitors, identifies and documents at a minimum continuing education, credentialing of skills and procedures, and personnel performance for the service program's emergency medical care providers, drivers, physicians, PA and RN exceptions.

f. The CQI program shall establish measurable outcomes that reflect the goals and standards of the service program.

g. The CQI program shall ensure completion of loop closure/resolution of identified areas of concern.

132.3(8) *Medications in service programs.*

a. A service program shall have written pharmacy agreements in accordance with the Iowa board of pharmacy's 657—Chapter 11.

b. A service program shall maintain all medications in accordance with the rules of the Iowa board of pharmacy's 657—Chapters 10 and 11.

c. A service program shall develop, maintain, and follow a written pharmacy policy.

132.3(9) *Vehicle standards, supplies, equipment and maintenance.*

a. All service programs, regardless of their designation as governmentally owned, not-for-profit, or privately operated, shall, at a minimum, annually systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all ambulances operated by the service program.

b. Ground transport and nontransport service programs shall utilize a vehicle inspection report approved by the department to record the results of an ambulance safety inspection. Safety inspection forms that comply with the requirements of 49 CFR 396 as amended to August 1, 2024, shall be approved by the department. A sample vehicle inspection form that complies with the reporting requirements of 49 CFR 396 as amended to August 1, 2024, can be found on the department's website.

c. All service programs shall ensure individuals performing safety inspections are qualified and capable of performing an inspection by reason of experience, training, or both.

d. All service programs shall not use an ambulance that fails to meet or maintain the requirements of this subrule to transport patients.

e. Ground transport and nontransport service programs shall house primary response ambulances in a garage or other enclosed facility that is maintained in a clean, safe condition, free of debris or other hazards; is temperature controlled; and has an unobstructed exit to the street.

f. All service programs shall secure all equipment stored in the ambulance patient compartment so the patient and service program personnel are not injured by moving equipment.

g. For ground transport and nontransport service programs, new ambulances manufactured and placed into service shall meet at a minimum either the Commission on Accreditation of Ambulance Services (CAAS) Ground Vehicle Standard for Ambulances, as amended to August 1, 2024, or the National Fire Protection Association (NFPA) Standard for Automotive Ambulances (NFPA 1917) as amended to August 1, 2024.

h. All service programs shall maintain first response and rescue vehicles in safe operating condition and provide regular maintenance. Vehicles shall have the exterior clean and the interior clean and disinfected.

i. All service programs shall ensure medical and patient care supplies are monitored for expiration dates, cleaned, laundered or disinfected. All medical supplies shall be stored in clean environments.

j. All service programs shall ensure personal protection equipment and supplies are available to ensure emergency medical care responder safety during every response.

k. All service programs shall ensure supplies to properly dispose of biomedical hazardous waste are available in all response vehicles, and all waste shall be disposed of according to accepted biomedical waste practices.

l. All service programs shall ensure medical equipment is maintained per manufacturer requirements for safe emergency medical care provider and patient use.

m. All service programs will develop, maintain, and follow vehicle standards, supplies, and equipment maintenance policies.

641—132.4(147A) Waivers. If during a period of authorization, a service program is unable to maintain compliance with Iowa Code chapter 147A and these rules, the department may grant a waiver.

132.4(1) The department may grant waivers of these rules to a currently authorized service program.

132.4(2) Requests for waivers shall apply only to the service program requesting the waiver and shall apply only to those requirements and standards for which the department is responsible.

132.4(3) A service program shall apply for a waiver in accordance with 441—Chapter 6.

641—132.5(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal.

132.5(1) All complaints regarding the operation of authorized emergency medical care service programs, or those purporting to be or operating as the same, shall be reported to the department.

132.5(2) Complaints and the investigative process will be treated as confidential in accordance with Iowa Code section 22.7 and chapter 272C. An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days following knowledge of the violation.

132.5(3) Service program authorization may be denied, issued a civil penalty not to exceed $1,000, issued a citation and warning, placed on probation, suspended, revoked, or otherwise disciplined by the department in accordance with Iowa Code section 147A.5(3) for any of the following reasons:

a. Knowingly allowing the falsifying of a patient care report (PCR).

b. Failure to submit required reports and documents.

c. Delegating professional responsibility to a person when the service program knows that the person is not qualified by training, education, experience or certification to perform the required duties.

d. Practicing, condoning, or facilitating discrimination against a patient, student or employee based on race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability diagnosis, or social or economic status.

e. Knowingly allowing sexual harassment of a patient, student or employee. Sexual harassment includes sexual advances, sexual solicitations, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

f. Failure or repeated failure of the applicant or alleged violator to meet the requirements or standards established pursuant to Iowa Code chapter 147A or the rules adopted pursuant to that chapter.

g. Obtaining or attempting to obtain or renew or retain service program authorization by fraudulent means or misrepresentation or by submitting false information.

h. Engaging in conduct detrimental to the well-being or safety of the patients receiving or who may be receiving emergency medical care.

i. Failure to correct a deficiency within the time frame required by the department.

j. Engaging in any conduct that subverts or attempts to subvert a department investigation.

k. Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.

l. Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

m. Knowingly aiding, assisting or advising a person to unlawfully practice EMS.

n. Acceptance of any fee by fraud or misrepresentation.

o. Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

p. Violating privacy and confidentiality. A service program shall not disclose or be compelled to disclose patient information unless disclosure is required or authorized by law.

q. Practicing emergency medical services or using a designation of certification or otherwise holding itself out as practicing emergency medical services at a certain level of authorization when the service program is not authorized at such level.

r. Failure to respond within 30 days of receipt, unless otherwise specified, of communication from the department that was sent by registered or certified mail.

132.5(4) The department will notify the applicant of the granting or denial of authorization or renewal, or will notify the alleged violator of action to issue a citation and warning, place on probation or suspend or revoke authorization or renewal pursuant to Iowa Code sections 17A.12 and 17A.18.

132.5(5) Appeal rights. Notice of the right to appeal the denial, citation and warning, probation, suspension or revocation of service program authorization or renewal will be given in accordance with 441—Chapter 16 and may be appealed pursuant to 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 147A and 2024 Iowa Acts, House File 2507.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9125C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to trauma care facility categorization and verification

The Department of Health and Human Services hereby rescinds Chapter 134, "Trauma Care Facility Categorization and Verification," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 147A.27.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 147A.23.

Purpose and Summary

This chapter was reviewed and is being rescinded and adopted new as part of the Red Tape Review process laid out by Executive Order 10. This rulemaking helps ensure all Iowa hospitals are verified to be equipped with the appropriate resources to provide trauma services and optimal care for injured patients. The chapter adopts by reference published national guidelines with required criteria and standards for hospitals to be verified trauma centers. The chapter also outlines the verification process, timeline, and disciplinary processes.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8512C**. A public hearing was held on the following date(s):

- January 15, 2025
- January 21, 2025

No one attended the public hearings. No public comments were received.

Two changes from the Notice have been made. The language related to appeals has been standardized to reflect current practice, and the Department added a sentence to subrule 134.2(6) to provide trauma care facilities with more clear expectations for verification.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 28, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on June 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 134 and adopt the following **new** chapter in lieu thereof:

CHAPTER 134
TRAUMA CARE FACILITY CATEGORIZATION AND VERIFICATION

641—134.1(147A) Definitions. For the purposes of these rules, the following definitions apply:

"ACS-COT" means the American College of Surgeons Committee on Trauma.

"Categorization" means the same as defined in Iowa Code section 147A.21.

"Certificate of verification" means a document awarded by the department that identifies a hospital or emergency care facility's level and term of verification as a trauma care facility.

"Criteria deficiency" or *"deficiency"* means a failure to meet criteria requirements as outlined in subrule 134.2(3).

"Emergency care facility" means the same as defined in Iowa Code section 147A.21.

"Emergency medical care provider" means emergency medical care provider as defined in Iowa Code section 147A.1.

"Final report" means the verification report issued by the department following a verification review conducted by trauma survey team members and department staff.

"Governing body" means a group of individuals responsible for the governance of a hospital, including but not limited to a board of directors or board of trustees.

"Hospital" means any hospital licensed under Iowa Code chapter 135B.

"On-site verification survey" means an on-site survey conducted by the department or survey team members to assess a hospital or emergency care facility's ability to meet the level of categorization requested.

"Persistently occurring deficiencies" means deficiencies identified in two sequential verification reviews.

"Trauma" means the same as defined in Iowa Code section 147A.21.

"Trauma care facility" means the same as defined in Iowa Code section 147A.21.

"Trauma survey team" means a group of health care providers contracted by the department to assist in verifying trauma care facilities' compliance with trauma criteria adopted in subrule 134.2(3).

"Type I criteria" or *"type I criteria deficiency"* indicates criteria requirements that may significantly impact a trauma care facility's ability to provide optimal care for trauma patients.

"Type II criteria" or *"type III criteria deficiency"* indicates criteria that are required but have a less critical impact on the trauma care facility's ability to provide optimal care for trauma patients than type I criteria.

"Verification" means the same as defined in Iowa Code section 147A.21.

641—134.2(147A) Trauma care facility categorization and verification. Categorization and verification of trauma care facilities will be made by the department in accordance with Iowa Code section 147A.23.

134.2(1) Categorization applications shall be submitted by all hospitals. New hospitals and emergency care facilities shall submit a categorization application no later than 90 days after licensing by the department of inspections, appeals, and licensing.

134.2(2) Categorization levels for trauma care facilities shall be identified as:

a. Level I.

b. Level II.

c. Level III.

d. Level IV.

134.2(3) Adoption by reference. Criteria specific to level I, II, and III trauma care facilities identified in the "Resources for Optimal Care of the Injured Patient" 2022 Standards published by the American College of Surgeons (ACS) is incorporated and adopted by reference for level I, II, and III hospital and emergency care facility categorization criteria. Criteria specific to level IV trauma care facilities identified in the "Resources for Optimal Care of the Injured Patient 2014" published by the ACS is incorporated and adopted by reference for level IV hospital and emergency care categorization

criteria. For any differences that may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

134.2(4) Categorization shall not be construed to imply any guarantee on the part of the department as to the level of trauma care services available at a trauma care facility.

134.2(5) A verified trauma care facility may apply to the department for a change in level of categorization through submission of a self-assessment categorization application.

134.2(6) Verification of a trauma care facility will be determined by the department upon successful completion of the categorization application and completion of a verification survey. All categorized hospitals and emergency care facilities shall be verified. Each hospital location operating on a single hospital license must provide the same level of trauma care or be verified separately to the level of trauma care services at that location.

a. Level I and II trauma care facilities shall be verified by the ACS-COT.

b. Trauma care facilities verified by the ACS-COT will be accepted by the department as equivalent for categorization and verification as a trauma care facility in Iowa provided that all policy, reporting, and administrative rules have been met. The department may issue a certification of verification provided that the trauma care facility has been verified by the ACS-COT. The facility shall provide the department documentation including but not limited to a current copy of the ACS-COT verification.

c. A level I or II trauma care facility that fails to attain ACS-COT verification shall submit an application to the department to be verified as a level III or IV trauma care facility to ensure compliance with Iowa Code section 147A.23(2)*"a."*

d. Level III and IV trauma care facilities will be verified by the department in consultation with the trauma survey team.

134.2(7) The department will conduct a verification survey for categorized hospitals or emergency care facilities.

a. Type I and II criteria deficiencies identified during the verification process shall be resolved in accordance with the trauma care facility's final report. Failure to rectify deficiencies in accordance with the trauma care facility's final report may result in disciplinary action.

b. The department may conduct electronic review or on-site verification that criteria deficiencies have been resolved as outlined in final reports or disciplinary actions.

c. The department will notify the applicant in writing as to the approval or denial of verification as a trauma care facility within 90 days after the completion of a verification survey.

d. Verification cannot be construed to imply any guarantee on the part of the department as to the level of trauma care services available at a hospital or emergency care facility.

e. Trauma care facility verification is valid for a period of three years from the effective date unless otherwise specified on the certificate of verification or unless sooner suspended or revoked.

f. Trauma care facilities shall be fully operational at their verified level upon the effective date specified on the certificate of verification.

g. Trauma care facilities that are unable to maintain their categorization or verification, or both, must notify the department within 48 hours.

h. The director, pursuant to 441—Chapter 7, may grant a waiver from the requirements of rules adopted under this chapter for any trauma care facility.

i. Proceedings, records, and reports developed pursuant to this chapter constitute peer review records under Iowa Code section 147.135 and are not subject to discovery by subpoena or admissible as evidence. All information and documents received from a hospital, emergency care facility, or trauma care facility under Iowa Code chapter 147A are confidential pursuant to Iowa Code section 272C.6(4).

641—134.3(147A) Complaints, investigations and appeals.

134.3(1) The department may deny verification as a trauma care facility or may give a citation and warning, place on probation, suspend, or revoke existing verification if the department finds reason to believe that the facility has not been operating or will not be operated in compliance with Iowa Code

section 147A.23 and these administrative rules or that there is insufficient assurance of adequate protection for the public.

134.3(2) All complaints regarding the operation of a trauma care facility, or those purporting to be or operating as the same, shall be reported to the department.

134.3(3) Complaints and the investigative process shall be treated as confidential to the extent that they are protected by Iowa Code section 22.7 and chapter 272C.

134.3(4) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

134.3(5) Notice of denial, citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of 441—Chapter 16 and appealed pursuant to 441—Chapter 7.

134.3(6) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, news media or employer.

These rules are intended to implement Iowa Code section 147A.23.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9126C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to procurement of equipment, materials, supplies and services

The Transportation Department hereby rescinds Chapter 20, "Procurement of Equipment, Materials, Supplies and Services," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 8A.302(1) and 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8A.302(1), 8A.311(20), 8A.514(3), 73.15 through 73.21, 307.12(1)"j" and 307.21.

Purpose and Summary

This rulemaking repromulgates Chapter 20 in compliance with Executive Order 10. Chapter 20 establishes the procedure for the procurement of equipment, materials, supplies and services. The process requires competitive procurement with public advertising at a set threshold and defines exceptions.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8486C**. Two public hearings were held on the following date:

- January 7, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20
PROCUREMENT OF EQUIPMENT, MATERIALS, SUPPLIES AND SERVICES

761—20.1(307) General.

20.1(1) *Scope.* This chapter pertains only to the procurement of equipment, materials, supplies and services by the Iowa department of transportation with funds from the department's operating budget or from the materials and equipment revolving fund established in Iowa Code section 307.47 or other program funds authorized for department use.

20.1(2) *Applicability.* Rules 761—20.4(307) through 761—20.6(307) apply to professional and technical services procured using the general purchasing process where contracts are awarded competitively, and cost is a factor. Rule 761—20.9(307) applies to professional and technical services contracts that are awarded based on qualifications when the cost is negotiated after the vendor is selected.

20.1(3) *Contact information.* Questions regarding this chapter may be directed to the Resources and Acquisitions Bureau, Purchasing Section, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1170.

761—20.2(307) Definitions. As used in this chapter, unless the context otherwise specifies:

"Bidder" means a respondent to a solicitation as a bidder, offeror or contractor.

"Competition" means the efforts of three or more parties acting independently to secure a contract with the department to provide equipment, materials, supplies or services to the department by offering or being in a position to offer the most favorable terms. "Favorable terms" includes, but is not limited to: price, speed of execution, anticipated quality of the product to be provided judged according to the

expertise and experience of the provider, or ability to produce a desired result or to provide a desired commodity.

"Firm" means any bona fide contracting entity, including individuals, public mitigation banks and educational institutions. Except for educational institutions, the term is not to include governmental agencies or political subdivisions.

"Methods of procurement" means formal solicitation, informal solicitation, or negotiation as follows:

1. *"Formal solicitation"* means procurement by competition through public advertising of bid documents stating departmental needs.

2. *"Informal solicitation"* means procurement by obtaining a sufficient number of quotations, bids or proposals from qualified sources.

3. *"Negotiation"* means any method of procurement other than formal solicitation or informal solicitation to seek the best and final offer that is most advantageous to the department.

"Professional and technical services" means services that are unique, technical, or infrequent functions performed by independent contractors whose occupation is the rendering of such services. Contracts may go to partnerships, firms, or corporations as procured through formal and informal solicitation or negotiation methods outlined in rules 761—20.3(307) through 761—20.6(307). Architectural, landscape architectural, surveying, general engineering consultant, construction inspection, or engineering services and other related professional and technical services are outlined in rule 761—20.9(307).

"Response" means the submittal of written documents by a prospective bidder, offeror or contractor as a response to any type of solicitation issued by the department for a quotation, bid or proposal.

"Solicitation" means the request by the department for a quotation, bid or proposal. This includes but is not limited to the complete assembly of related documents (whether attached or incorporated by reference) furnished to prospective bidders for the purpose of responding to a solicitation.

761—20.3(307) Procurement policy. It is the policy of the department to procure equipment, materials, supplies and services in a way that is most advantageous to the department and competitive to the maximum practicable extent.

20.3(1) *Formal solicitation.* The formal solicitation method of procurement is to be used whenever feasible and practicable under the existing conditions and circumstances and the estimated, aggregate amount of the purchase equals or exceeds $50,000.

20.3(2) *Informal solicitation.* The informal solicitation method of procurement may be used if formal solicitation is not feasible or practicable, or the estimated, aggregate amount of purchase is less than $50,000. This method is to be used as deemed necessary to ensure that the procurement is fair to the department, considering the administrative costs of the procurement, and is to be consistent with the nature and needs of the particular procurement so that the procurement is competitive to the maximum practicable extent.

20.3(3) *Negotiation.* The negotiation method of procurement may be used if formal solicitation or informal solicitation is not feasible or practicable, or in any of the following instances:

a. Procurement by negotiation is determined to be necessary and in the public interest during a period of man-made or natural disaster or emergency.

b. The estimated, aggregate amount of the purchase is less than $15,000.

c. The procurement is for architectural, landscape architectural, engineering, or related professional and technical services.

d. The procurement is for other professional and technical services.

e. When cost is only one of many factors considered to determine the award.

f. The procurement is for services to be rendered by an educational institution.

g. It is impracticable to secure competition through formal solicitation or informal solicitation, such as when:

(1) Equipment, materials, supplies or services can be obtained from only one source, pursuant to rule 761—20.7(307).

(2) Competition is precluded because of the existence of patent rights, copyrights, secret processes, control of basic raw materials, or similar circumstances, pursuant to rule 761—20.7(307).

(3) Solicitations have been made available to prospective bidders and no responses to the solicitation have been received.

(4) Solicitations have been made available and the submitted responses do not cover the quantity needed. In this case, negotiation is permitted for the remaining quantity needed.

(5) The procurement is for electrical power or energy, natural or manufactured gas, water or other utility services, or the procurement is for construction of a part of a utility system or railroad and it would not be practicable to allow a contractor other than the utility or railroad company to perform the work.

(6) The procurement is for professional and technical services in connection with the assembly, installation or servicing (or the instruction of personnel therein) of equipment of a highly technical or specialized nature.

(7) The procurement involves maintenance, repair, alteration or inspection, and the exact nature or amount of work to be done is not known.

(8) The procurement is for commercial transportation.

(9) It is impossible to draft adequate specifications or any other adequately detailed description of the item or services to be procured.

(10) The procurement is for a part or component being procured as a replacement in support of equipment specially designed by the manufacturer, and the data available is not adequate to ensure that the part or component supplied by another manufacturer will perform the same function as the part or component it is to replace.

(11) The procurement involves construction where a contractor or group of contractors is already at work on the site, and either it would not be practicable to allow another contractor or an additional contractor to work on the same site or the amount of work involved is too small to interest other contractors to mobilize and demobilize.

h. The procurement is for experimental, developmental or research work or for the manufacture or furnishing of property for experimentation, development, research or testing.

i. It is determined that the responses received are not reasonable or have not been independently arrived at.

j. Procurement by negotiation is otherwise authorized by law including but not limited to Iowa Code section 73.19.

k. The manufacturer is willing to sell directly to the state at distributor cost.

761—20.4(307) Formal solicitation procedures.

20.4(1) *Bidders list.* The department's purchasing section will maintain current bidders lists by commodity classification.

a. These lists are generated from the department's electronic sourcing platform and will be actively managed to stay current with the relevant industry players and accurate commodity classifications to secure competition to the maximum practicable extent. Solicitations will be posted on the Iowa economic development authority's targeted small business website no later than 48 hours prior to the issuance of the solicitation.

b. Any firm legally doing business in Iowa may be placed on an appropriate bidders list or lists by registering as a vendor on the department's electronic sourcing platform.

c. Subject to concurrence of legal counsel, a bidder's name may be removed from a bidders list or lists for any of the following reasons:

(1) When the bidder has failed to meet prequalification as set forth in the bid solicitation.

(2) When the bidder has failed to meet the performance standards of a previous procurement.

(3) When the bidder has attempted to improperly influence the decision of any state employee involved in the procurement process.

(4) When there are reasonable grounds to believe that there is a collusive effort by bidders to restrain competition by any means.

(5) Where there is a determination by the civil rights commission that the bidder conducts discriminatory employment practices.

d. A bidder may protest removal from a bidders list or lists by submitting the appeal in writing pursuant to instructions in paragraph 20.4(6)*"d."*

20.4(2) *Solicitation documents.* The department will prepare the solicitation documents complete with requirements, specifications and instructions, as applicable, to be publicly posted for the purpose of procuring goods or services.

a. In special situations (e.g., the procurement of new model equipment), the solicitation may be marked "preliminary" and sent to prospective bidders requesting their review of the solicitation to determine their ability to respond and meet the requirements of the procurement request. The "preliminary" solicitation process involves the following steps:

(1) A conference may be held to discuss the "preliminary" solicitation requirements with prospective bidders when the item in question is a new acquisition for the department.

(2) Written requests for variations, deviations or approved equal substitutions to the solicitation are to be accepted, evaluated and answered by the department.

(3) The solicitation requirements may be revised to incorporate approved changes.

(4) A final solicitation is to be sent to prospective bidders that participated in the preliminary process.

b. The solicitation is to be sent to a sufficient number of prospective bidders so as to promote adequate competition commensurate with the dollar value and nature of the procurement. The solicitation is to be furnished to others upon request.

c. The department will publicize the procurement by advertising in appropriate media, providing the date and time set for public opening of submitted responses, a general description of the item to be procured, and the name and address of the person to contact to obtain a copy of the solicitation.

20.4(3) *Response instructions.* Each bidder is to prepare the response to the solicitation in the manner prescribed and furnish all information and samples requested in the solicitation. All bidders are to adhere to the following when preparing and submitting responses:

a. Response preparation. Responses are to be submitted electronically in a secure authorized system as instructed in the solicitation. Telephonic, written, email or facsimile responses are not to be considered.

b. Information to be provided by bidder. In the space provided, the bidder is to denote brand name, manufacturer's name, model number and any other necessary information to assist in identifying each item the bidder proposes to supply.

c. New merchandise. Unless otherwise specified, all items offered are to be new, of the latest model or manufacture, and at least equal in quality to that specified.

d. Response price. Where requested, the unit and total price for each separate item, and the total price for all items, is to be provided in the bidder's response. Alternate prices for approved substitutions may be submitted by attaching a response marked as an alternate to the original response. In case of error, the unit price prevails. If unit price is not requested in the solicitation, the total price per item prevails.

e. Discounts. Bidders are to quote net discount price. No other discounts are to be considered in making the award.

f. Time of acceptance. The bidder is to hold the offered prices open for action by the department at least 30 days past the time set for public opening of submitted responses.

g. Escalator clauses. Unless specifically provided for in the solicitation, a response containing an escalator clause is not to be considered.

h. Federal and state taxes. Except for specific items that will be noted in the solicitation, the department is exempt from payment of federal and state taxes. These taxes are not to be included in the bidder's response. Exemption certificates are to be furnished to bidders upon request.

i. Delivery dates. In the space provided, the bidder is to show the earliest date on which delivery can be made. When the solicitation shows the acceptable delivery date for an item, the proposed delivery date may be used as a factor in determining the successful bidder.

j. Ties and reservations. No ties or reservations by the bidder are permitted. Any tie or reservation stipulated by the bidder shall be sufficient grounds to reject the submitted response.

k. Changes and additions. No changes in or additions to the solicitation are to be permitted unless a written request for a change or an addition is submitted to the department's purchasing section in sufficient time to allow an appropriate analysis and response to all bidders, and the change or addition is approved by the purchasing section. The purchasing section will notify all bidders of approved changes or additions by means of addenda. Any unauthorized change in or addition to the solicitation is to be sufficient grounds to reject the submitted response.

l. Response submission. All responses are to be submitted electronically prior to the time set for public opening of submitted responses. Responses received are to be dated and time-stamped electronically by the purchasing section showing the date and hour received. By submitting a response, the bidder:

(1) Agrees that the contents of the response will become part of the contract if the bidder receives the award.

(2) Certifies that the bidder has become familiar with the contents and requirements of the solicitation.

m. Bid bond. A bid bond may be necessary as security that the bidder will execute the contract if awarded. If necessary, each response is to be supported by a bid bond in the form and amount prescribed in the solicitation. Responses not so supported are not to be read.

n. Withdrawal of responses prior to opening. Responses may be withdrawn prior to the time set forth in the solicitation. Prior to opening, a bidder who withdraws the response to a solicitation may submit a new response if desired.

o. Modification or withdrawal of responses after opening. After opening, no response is to be modified. A response may be withdrawn after opening only if:

(1) The bidder submits, at least three days prior to award, a sworn statement asserting that the response contains a substantial inadvertent error and that the bidder would suffer a serious financial loss if the bidder were to perform under the response, and

(2) The purchasing director approves the withdrawal. The purchasing director may base the decision to approve or deny the withdrawal on any factors the purchasing director deems relevant, including but not limited to the best interests of the agency, possible prejudice to other bidders or the bidding process, and the extent of financial hardship on the bidder if withdrawal is not allowed.

20.4(4) *Public opening of responses.* Responses are to be opened publicly and read aloud at the time stipulated in the solicitation.

20.4(5) *Consideration of responses.* The department reserves the right to accept or reject any or all responses. Individual responses may be rejected for any of the following reasons:

a. Noncompliance with the requirements of this rule or of the solicitation.

b. Financial insolvency of the bidder.

c. Evidence of unfair bidding practices.

d. For any other reason stated in this rule.

20.4(6) *Recommendation of award.*

a. Time frame. Unless otherwise specified by the department in the solicitation, an award is to be made within 30 days after the date and time set for public opening of submitted responses if it is in the best interest of the state. If an award is not made within the applicable time frame, the procurement is to be canceled unless an extension of time is mutually agreed to by the department and the apparent successful bidder.

b. Tied responses. Responses that are equal in all respects and are tied in price are to be resolved among the tied bidders by giving first preference to an Iowa bidder and second preference to the bidder who satisfactorily performed a contract the previous year for the same item at the same location. If the tie involves bidders with equal standing, the award is to be determined by lot among these bidders. A tied bidder or the bidder's representative may witness the determination by lot.

c. Tabulation of responses. A tabulation of responses with an award recommendation is to be sent to all interested parties including bidders at least ten days prior to award.

d. Protests. Any protest of the recommended award is to be submitted in writing to: Director of the Purchasing Section, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. A written protest must be received by the director of purchasing within five days after the recommended award has been posted. The protest is to be considered by the authority making the award. This is not a contested case as defined in Iowa Code section 17A.2.

e. Return of bid bond. Unsuccessful bidders' bid bonds shall be promptly returned by the department after award is made. The bid bond of the successful bidder shall be returned in accordance with subrule 20.4(7).

20.4(7) *Contract execution and performance.*

a. Execution. The successful bidder is to make good effort to enter into (execute) a formal contract with the department within 14 days after award.

b. Performance bond and certificate of insurance. A performance bond or certificate of liability and property damage insurance, or both, may be needed for those contracts involving services or specially constructed equipment. If needed, the performance bond and certificate of insurance are to be filed with the department promptly after award and prior to contract execution.

c. Return of awarded bidder's bid bond. The bid bond of the successful bidder is to be returned following execution of the contract. However, if the successful bidder fails to execute the contract and file an acceptable performance bond and certificate of insurance (if needed) promptly after award and prior to contract execution, or fails to comply with Iowa Code chapter 490, the award may be annulled and the bid bond forfeited.

d. Assignment of contract. The contractor is not to assign the contract to another party without written authorization from the department's purchasing section.

e. Strikes, lockouts or acts of God. If the contractor's business or source of supply has been disrupted by a strike, lockout or act of God, the contractor is to promptly advise the department's purchasing section. The department may elect to cancel the contract without penalty to either the contractor or to the department.

f. Payment. Unless otherwise stated in the contract, payment terms shall be net following the department's receipt and acceptance of the item(s) procured and receipt of an original invoice, in accordance with Iowa Code section 8A.514(3).

g. Liquidated damages. The contract terms may provide for liquidated damages to be assessed if the contractor fails to complete the contract within the contract period or for any other reason as specified in the contract.

20.4(8) *Additional requirements.*

a. The department's standard specifications for highway and bridge construction, as available on the department's website at www.iowadot.gov, where applicable and not in conflict with this rule or with the needs of a particular procurement, shall apply to formal solicitation procurement activities.

b. If there are federal funds involved in a particular procurement, and the federal procurement regulations conflict with this rule, then the federal procurement regulations shall apply.

c. Procurement of motor vehicles is to be in accordance with Iowa Code section 8A.311(20).

761—20.5(307) Informal solicitation procedures.

20.5(1) *Bidders lists.* The department will use its current bidders lists (more information can be found in subrule 20.4(1)) to the extent feasible and practicable. However, the solicitation will also be offered to any qualified bidder that has requested an opportunity to participate.

20.5(2) *Form of solicitation.* The solicitation is to be as detailed and complete as practicable for the time and resources available.

20.5(3) *Form of response.* Responses are to be submitted in writing or electronically when practicable. Written responses will prevail over oral responses in case of discrepancies, disputes or errors. Following is the order of preference:

a. Original, signed submitted response.

b. Electronically submitted response (facsimile, email, Internet).

c. Oral response (e.g., telephonic).

20.5(4) *Award.* The award is to be offered to that responsible bidder whose response meets the requirements of the solicitation and is the most advantageous to the department. An Iowa bidder will be given preference over an out-of-state bidder when responses are equal in all respects and are tied in price.

761—20.6(307) Professional and technical services. This rule applies to professional and technical services procured through the purchasing section using formal solicitation, informal solicitation or negotiation methods outlined in rules 761—20.3(307) through 761—20.6(307). The purchasing section will use the request for proposal (RFP) process, excluding cost evaluation, to ensure qualification-based selection for architectural, landscape architectural, and engineering services. Professional and technical services procured by the project management bureau are covered by rule 761—20.9(307).

20.6(1) *RFP.* A solicitation prepared by the department will include at least the minimum needs for the type of goods or services sought. The solicitation is sent to prospective offerors and is publicly posted on the department's website.

20.6(2) *Evaluation committee.* A committee is established for the purpose of reviewing and evaluating proposed responses based on a set of criteria as outlined in the RFP. "Evaluation criteria" will define categories with assigned weighted values to be used as a scoring measure to determine the best overall solution for the department based on technical expertise and price, including but not limited to:

a. Overall content of written submitted proposal information.

b. Business knowledge.

c. Work experience in mandatory skill sets.

d. Presentation or demonstration.

e. Cost (will not be used for the selection of architectural, landscape architectural, or engineering services).

20.6(3) *Award.* The award is to be offered to a firm whose properly submitted compliant response best meets the needs of the solicitation and receives the highest overall score of the weighted criteria.

761—20.7(307) Sole source or emergency selection. Sole source or emergency selection applies to all services, including professional and technical services. The department will fully document and include in the contract file the justification for use of sole source or emergency selection, the basis on which a particular firm is selected and that appropriate approvals were obtained.

20.7(1) *Sole source selection.* The department may select a single firm qualified to perform the work with which to negotiate when one of the following conditions exists:

a. Only a single firm is determined qualified or eligible to perform the contemplated services or is eminently more likely to most satisfactorily complete the work than another firm.

b. The services involve work that is of such a specialized character or nature, or related to a specific geographical location, that only a single firm, by virtue of experience, expertise, proximity to or familiarity with the project or ownership of intellectual property rights, could most satisfactorily complete the work.

20.7(2) *Emergency selection.* The department may select a single firm qualified to perform the work when there is an emergency that will not permit the time necessary to use normal selection procedures. An emergency includes, but is not limited to, one of the following:

a. A condition that threatens the public health, welfare or safety.

b. A need to protect the health, welfare or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement.

c. A situation in which the department must act to preserve critical services or programs.

761—20.8(307) Conflicts with federal requirements. If any provision of this chapter would cause a denial of federal funds or services or would otherwise be inconsistent with federal law, federal law shall be adhered to, but only to the extent necessary to prevent denial of the federal funds or services or to eliminate the inconsistency with federal law.

761—20.9(307) Negotiation—architectural, landscape architectural, engineering and related professional and technical services. This rule prescribes procedures followed by the project management bureau for the procurement of architectural, landscape architectural, surveying, general engineering consultant, construction inspection, engineering and related professional and technical services by negotiation where selection is based on qualifications in compliance with 23 CFR Part 172. Contract costs are negotiated after a qualification-based selection.

20.9(1) *Registration of firms providing professional and technical services.*

a. A firm wishing to provide professional and technical services to the department as a consultant may register to receive information through the GovDelivery portal available at the department's website at www.iowadot.gov. The firm is responsible for keeping the firm's information updated. For information, persons may contact the consultant coordinator at the Project Management Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or by telephone at 515.239.1803.

b. The department will maintain a list of work categories, descriptions and requirements for each work category online.

20.9(2) *Request for professional and technical services.* Prior to selecting a firm with which to initiate negotiations under this rule, the department will document the need for outside services, a description of the needed services, the time frame within which the work must be performed, and the method of selection to be used. One of the following methods is to be used to select a firm with which to initiate negotiations:

a. Complete process. More information can be found in subrule 20.9(3).

b. Small contract process. More information can be found in subrule 20.9(4).

c. Sole source or emergency selection. More information can be found in rule 761—20.7(307).

20.9(3) *Complete process.* The complete process method will use the following process and will be used unless another selection method is justified:

a. RFP. The department will prepare an RFP that will include the scope of the work, duration of the contract, list of applicable work categories, evaluation criteria (excluding cost), any established disadvantaged business enterprise or targeted small business goal for the proposed work, type of contract anticipated, submission details including the point of contact for the RFP for any questions, the time by which the RFP should be received by the department and anticipated date of selection. The RFP will not request any cost information to be submitted by the proposing firms.

b. Website.

(1) The RFP will be posted on the department of administrative services' website no later than 48 hours prior to the issuance of the RFP.

(2) The RFP will be posted on the department's website. The notification of the RFP being posted will be sent to all users who have signed up to receive the notification via GovDelivery. The notification will include the link to the website where the RFP is posted. More information can be found in subrule 20.9(1).

(3) The department will post any questions received on the RFP and answers thereto on the website indicated in the GovDelivery notification.

c. Selection committee. The department will appoint a selection committee to become familiar with the RFP, review the firms that have responded to the RFP to determine if they meet the requirements of the work to be performed, and evaluate the firms that meet the qualifications per the evaluation criteria. The selection committee will, if necessary, interview the firms, score the firms, document the committee's decision and provide the scoring to the consultant steering committee.

d. Evaluation criteria. The selection committee is responsible for establishing criteria for evaluating each firm submitting a proposal, assigning weighted values to the criteria, and rating each firm on each criterion. Evaluation criteria are tailored to the needed services. Typical evaluation criteria are listed below. The list is intended as a guideline only; it is not exhaustive, nor is each criterion mandatory.

(1) Staffing expertise consistent with special project needs.

(2) Past experience with similar types of work.

(3) Current workload and commitment of key personnel.

(4) Specific qualifications of key staff who will be forming the firm's project team.

(5) Resources the firm has available and proposes to use on the project, including the firm's use of equipment and automated technology and the firm's compatibility with equipment and technology used by the department.

(6) Identification of proposed subconsultants and the work the subconsultants will perform.

e. Consultant steering committee. A consultant steering committee is responsible for reviewing the firms as scored by the selection committee, determining the order of preference for negotiations, and documenting its decision. The number of firms selected is to include at least two alternate firms. The committee is to document its reasoning when the number of selected firms is fewer than the minimum. The consultant steering committee is to consider not only the selection committee's scoring but other factors such as:

(1) A firm's ability to complete required tasks in the time allotted, taking into account other work currently under contract.

(2) The volume of work a firm has with the department, both existing and potential.

(3) The department's goal of having a breadth of experienced firms capable of providing quality services to the department.

(4) Other items unique to the particular contract.

f. Completion of selection process. After selection committee and consultant steering committee activities are complete, the department will determine whether negotiations may begin. If negotiations are approved, the department will proceed to negotiate with the firm that is first in order of preference.

g. Notification to firms. The department will post the results of the selection on the website identified in the GovDelivery notification. For firms not included on the ranked list of firms, the department will also provide a matrix showing the high, low and average scores for each item evaluated and that firm's score for each item.

20.9(4) *Small contract process.* The small contract process may be used to identify a single firm with which to negotiate when the estimated work under the contract can normally be completed within a 12-month period and the estimated cost of the contract will not exceed $150,000.

a. Selection committee. The department will appoint a selection committee to identify at least three firms that meet the requirements of the work categories involved in performing the work; document the names of the firms considered, if necessary; interview the firms; select a firm with which to initiate negotiations; and document the committee's decision.

b. Completion of selection process. After selection committee activities are complete, the department will determine whether negotiations may begin. If negotiations are approved, the department will proceed to negotiate with the selected firm.

20.9(5) *Selection dispute resolution.* Any dispute of the recommended selection is to be submitted in writing to the consultant coordinator. A written notice of the dispute with supporting evidence must be received by the consultant coordinator within 15 calendar days from the date the selection is posted on the department's website. This is not a contested case as defined in Iowa Code section 17A.2. The department will inform the selected firm(s) of the dispute and inform the firm(s) that the department reserves the right to proceed with negotiations with the selected firm(s) pending resolution of the dispute or claim.

20.9(6) *Negotiation of contract.* The purpose of negotiations is to develop a contract that is mutually satisfactory to the department and the selected firm.

a. The firm must submit a detailed cost proposal, including a detailed cost proposal for each proposed subcontract. The department will prepare an independent estimate of the cost of the proposed services, including a detailed estimate of the firm's staff hours needed to complete the contract. Significant differences are to be evaluated and resolved to the satisfaction of both parties. If it is impractical to make an independent estimate, the department will evaluate the acceptability of the firm's cost proposal on the basis of the reasonableness of the individual elements of the price proposed.

b. The department may perform a preaudit. A preaudit typically includes:

(1) An analysis of the firm's cost proposal and financial records for the method of accounting in place to ensure that the firm has the ability to adequately segregate and accumulate reasonable and allowable costs to be charged against the contract.

(2) An analysis of the firm's proposed direct costing rates and indirect overhead factors to ensure the firm's propriety and allowability.

c. For contracts with federal funding, the department will verify federal suspension and debarment actions and eligibility status of firms prior to entering into an agreement or contract.

20.9(7) *Unsuccessful negotiations.*

a. If a mutually satisfactory contract cannot be negotiated, the department will formally terminate the negotiations and notify the firm in writing. Termination of negotiations is without prejudice and at the department's discretion. The substance of terminated negotiations is confidential.

b. The department will then initiate negotiations with the firm given next preference, and this procedure may be continued until a mutually satisfactory contract has been negotiated. If a satisfactory contract cannot be negotiated with any of the selected firms, the department will either:

(1) Direct the selection committee to select one or more firms with which to continue negotiations, or

(2) Redefine the scope of the project or work and start over. More information can be found in subrule 20.9(2). Once negotiations are terminated, negotiations cannot be reopened with the same firm.

20.9(8) *Evaluation of performance.*

a. The department will evaluate all firms under this rule annually based on the contracts that were active during the fiscal year. Both the firm's performance and quality of the final product shall be evaluated. The evaluation considers:

(1) The quality and adequacy of work performed.

(2) The ability to meet established schedules and budgets.

(3) General administration of the contract, including substantiation of cost billings, payments to subconsultants, and documentation of claims.

(4) Cooperation shown by the firm in responding to requests for information and in revising procedures and products according to directions.

(5) Coordination exhibited by the firm in communicating with the department, subconsultants, agencies and others to accomplish tasks and resolve problems.

(6) Ingenuity displayed in solving unique and unusual design problems encountered during performance of contract objectives.

(7) The ability to obtain an acceptable end product with appropriate department staff guidance.

b. The firm is to be given an opportunity to review, comment on and sign the evaluation.

These rules are intended to implement Iowa Code sections 8A.302(1), 8A.311(20), 8A.514(3), 73.15 through 73.21, 307.12(1)*"j"* and 307.21.

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ARC 9127C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to competition with private enterprise

The Transportation Department hereby rescinds Chapter 25, "Competition with Private Enterprise," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 23A.2 and 307.12(1) "j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 23A.1 and 23A.2.

Purpose and Summary

This rulemaking repromulgates Chapter 25 in compliance with Executive Order 10. Chapter 25 defines exemptions from Iowa Code section 23A.2(1). The intended benefit is cost savings to the Department by allowing competition with private enterprise in some circumstances.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8483C**. Two public hearings were held on the following date:

- January 7, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

The Department is unable to determine the fiscal impact of this rulemaking due to lack of historical data and unpredictable market. However, the Department believes the impact will be positive.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25
COMPETITION WITH PRIVATE ENTERPRISE

761—25.1(23A) Interpretation. This chapter is not to be interpreted to mean that the department will provide a good or service with or without qualification, restriction, or charge.

761—25.2(23A) Exemptions. Activities related to the items listed in this rule are exempted from the provisions of Iowa Code section 23A.2(1).

25.2(1) Transportation-related printing, publications and electronically generated materials, including but not limited to: forms; brochures; booklets; manuals; directories; periodicals; county, city and state transportation maps; video and audio materials; computer tapes and discs; microfilm and other instructional and informative materials.

25.2(2) Copies of records or other services provided to meet the standards of Iowa Code chapter 22.

25.2(3) Transportation-related studies, planning and research.

25.2(4) Disposal of surplus, obsolete or junked materials and supplies and equipment.

25.2(5) Matters of intergovernmental cooperation. Cooperating with other government bodies does not involve providing goods or services to the public except in the broadest sense. The term "government bodies" includes regional transit systems. Activities that involve intergovernmental cooperation include but are not limited to the following:

a. Use or consumption of departmental facilities, equipment, materials or supplies by other government bodies, including loans, rentals and sales of equipment, materials and supplies.

b. Services provided to or performed for other government bodies. These services include:

(1) Vehicle maintenance and repair services provided to other state agencies.

(2) Purchasing services provided to other government bodies.

(3) Purchases made by other government bodies through state contracts.

(4) Disposal of surplus, obsolete or junked materials and supplies and equipment belonging to other state agencies, counties or cities.

(5) Other services performed for government bodies. These services cover a wide range of activities and are performed primarily for county and city highway departments, agencies having park or institutional roads, county treasurers, public transit systems, publicly owned airports, law enforcement agencies, regional planning agencies, and transportation-related boards.

25.2(6) Acquisition and disposal of land and improvements or mitigation banks acquired for highways or facilities use.

25.2(7) Lease of right-of-way.

25.2(8) Design, construction, reconstruction, inspection and maintenance of highways, including but not limited to signs erected in the right-of-way and acknowledgment signs used in the adopt-a-highway program.

25.2(9) Use or consumption of specialized departmental equipment, materials, supplies or services to complete a contract with the department if the goods or services are not readily available on the open market and the department can provide the goods or services at a competitive price.

25.2(10) Use of departmental facilities to complete a contract with the department.

25.2(11) Activities related to emergencies, including but not limited to providing assistance to the public.

25.2(12) Goods or services for use or consumption by the department.

25.2(13) Use of departmental facilities or services by persons providing services to or representing departmental employees, including but not limited to the following services or persons: food, credit union and employee organizations.

25.2(14) Use of departmental conference rooms or grounds by civic groups and nonprofit organizations.

25.2(15) Personal protective items purchased by departmental employees through state contracts.

25.2(16) Goods or services promoting transportation or transportation safety.

25.2(17) Development, implementation, and licensing of software for use by governmental agencies, whether in Iowa or elsewhere, designed for crash data reporting and analysis; generating

uniform citations and other forms for use in public safety; and transmission of such data, analysis, and forms to the appropriate agencies.

25.2(18) Development, implementation, and licensing of systems for use by governmental agencies, whether in Iowa or elsewhere, designed for situational incident response, resource management, and interagency communications.

25.2(19) Any other activity permitted or required by law.

These rules are intended to implement Iowa Code sections 23A.1 and 23A.2.

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[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9128C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to secondary road fund distribution methodology

The Transportation Department hereby adopts new Chapter 103, "Secondary Road Fund Distribution Methodology," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j" and 312.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 7E.3(3) as amended by 2024 Iowa Acts, Senate File 2385, section 69; 312.2; 312.3 as amended by 2024 Iowa Acts, Senate File 2385, section 303; 312.3B as amended by 2024 Iowa Acts, Senate File 2385, section 304; 312.5 as amended by 2024 Iowa Acts, Senate File 2385, section 305; and 312.16 as amended by 2024 Iowa Acts, Senate File 2385, section 306.

Purpose and Summary

This rulemaking adopts new Chapter 103 in accordance with 2024 Iowa Acts, Senate File 2385. Chapter 103 sets forth requirements for the adoption of the formulas to be used for distribution of moneys in the Secondary Road Fund and the Farm-to-Market Road Fund and to formalize the process by which the Transportation Commission (Commission) will administer its duties.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8482C**. A public hearing was held on the following date(s):

- January 6, 2025

No one attended the public hearing. No public comments were received. References to 2024 Iowa Acts, Senate File 2385, have been removed since the amendments in the Senate File have been codified in the 2025 Iowa Code. No other changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 761—Chapter 103:

CHAPTER 103
SECONDARY ROAD FUND DISTRIBUTION METHODOLOGY

761—103.1(312) General.

103.1(1) *Purpose.* The purpose of these rules is to adopt the formulas to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund and to formalize the process by which the commission will administer its duties in accordance with Iowa Code section 312.3.

103.1(2) *Contact information.* Questions regarding this chapter may be directed to the Systems Planning Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone, 515.239.1664.

103.1(3) *Definitions.* As used in this chapter:

"Bridges" means those structures under the jurisdiction of a county secondary roads department that are included in the National Bridge Inventory System.

"Commission" means the same as defined in Iowa Code section 312.16.

"Committee" means an ad hoc committee as described in rule 761—103.2(7E,312).

"Daily vehicle miles of travel" means the product of a road segment's length, in miles, multiplied by the daily traffic count thereon, in vehicles per day, reported for that segment by department, based on the most recent counts available.

"Earth surfaced" means roads under the jurisdiction of a county secondary roads department that are not surfaced.

"Formula" means the appropriate secondary road fund distribution formula or farm-to-market road fund distribution formula as described in subrules 103.3(1) and 103.3(2).

"Granular surfaced" means roads under the jurisdiction of a county secondary roads department that have crushed rock, gravel, or oiled earth surfaces.

"Paved surfaced" means roads under the jurisdiction of a county secondary roads department with hot mix asphalt, Portland cement concrete, or stabilized base with waterproof surfacing.

"Rural population" means the count, taken from the most recently certified decennial federal census, of persons who reside in the unincorporated areas of a county.

761—103.2(7E,312) Composition and membership of the ad hoc secondary road fund distribution committee.

103.2(1) The committee is composed of six county engineers, six county supervisors, two representatives of the department, and the executive director of the Iowa county engineers association service bureau.

103.2(2) The county engineers are appointed by the president of the Iowa county engineers association, the county supervisors are appointed by the president of the Iowa state association of county supervisors, and the department representatives are appointed by the department.

103.2(3) The county engineer members and the county supervisor members are selected according to the population of their counties, as follows:

a. Two county engineers and two county supervisors from large counties.

b. Two county engineers and two county supervisors from medium counties.

c. Two county engineers and two county supervisors from small counties.

103.2(4) To the extent possible, the committee is geographically diverse, and no county will have both an engineer and a supervisor as members simultaneously.

103.2(5) All county members are voting members. The department representatives and the executive director of the Iowa county engineers association service bureau are nonvoting members.

103.2(6) The committee selects from its membership a chair and a vice-chair. The vice-chair presides at a meeting in the absence of the chair.

761—103.3(312) Formulas.

103.3(1) *Formula for determining secondary road fund allocation factors.* The Iowa county engineers association service bureau annually computes percentage allocation factors for the allocation of secondary road fund revenues among the counties by using the methodology determined by the commission and calculating and summing the following percentage subtotals for each county:

a. Thirty percent times the ratio that the total area of each county bears to the total area of the state.

b. Ten percent times the ratio that the rural population of each county bears to the total rural population of the state.

c. Twelve and one-half percent times the ratio that the total daily vehicle miles of travel on each county's secondary roads bear to the total daily vehicle miles of travel on all secondary roads in the state.

d. One-half percent times the ratio that the earth-surfaced miles of secondary roads of each county bear to the total miles of earth-surfaced secondary roads in the state.

e. Twenty percent times the ratio that the granular-surfaced miles of secondary roads of each county bear to the total miles of granular-surfaced secondary roads in the state.

f. Thirteen percent times the ratio that the paved-surfaced miles of secondary roads of each county bear to the total miles of paved-surfaced secondary roads in the state.

g. Fourteen percent times the ratio that the length, in lineal feet, of secondary road bridges of each county bears to the total length of secondary road bridges in the state.

103.3(2) *Formula for determining farm-to-market road fund allocation factors.* The Iowa county engineers association service bureau annually computes percentage allocation factors for the allocation of farm-to-market road fund revenues among the counties by using the methodology determined by the commission and calculating and summing the following percentage subtotals for each county:

a. Thirty percent times the ratio that the total area of each county bears to the total area of the state.

b. Fifteen percent times the ratio that the rural population of each county bears to the total rural population of the state.

c. Ten percent times the ratio that the total daily vehicle miles of travel on each county's farm-to-market roads bear to the total daily vehicle miles of travel on all farm-to-market roads in the state.

d. Nine percent times the ratio that the granular-surfaced miles of farm-to-market roads of each county bear to the total miles of granular-surfaced farm-to-market roads in the state.

e. Twenty-three percent times the ratio that the paved-surfaced miles of farm-to-market roads of each county bear to the total miles of paved-surfaced farm-to-market roads in the state.

f. Thirteen percent times the ratio that the length, in lineal feet, of farm-to-market road bridges of each county bears to the total length of farm-to-market road bridges in the state.

103.3(3) *Considerations for a new or modified distribution formula.* A distribution formula that is proposed in accordance with rule 761—103.4(312) should substantially meet the following objectives:

a. Funding levels to counties should be relatively stable, with only small changes occurring from year to year.

b. The formula should be able to factor in changes in population, mileages, the centerline lineal feet of bridges, and traffic levels as they occur over time, without needing to be revised.

761—103.4(312) Process for approval of a new or modified distribution formula.

103.4(1) Proposals to adopt a new or modified distribution formula may be initiated by the executive board of either the Iowa county engineers association or the Iowa state association of county supervisors upon request to the commission.

103.4(2) When a formula change has been initiated or requested, the commission directs the committee to develop a work plan and set up a work schedule.

103.4(3) The committee is to evaluate the proposal and, within 18 months after initiation or receipt of the proposal, publish an official report outlining the committee's findings and recommendations.

103.4(4) If the official report recommends adoption of a new or modified distribution formula, the chair communicates the details of the committee's recommendations to all county engineers, all county supervisors and the department in such a manner as the committee deems appropriate. This communication solicits comments on the committee's recommendations.

103.4(5) After receipt and consideration of comments from counties, the committee may adopt a resolution that formally proposes a distribution formula and places it into official consideration.

103.4(6) The chair forwards the resolution to the executive boards of both the Iowa county engineers association and the Iowa state association of county supervisors, with a request for endorsement of the proposed distribution formula.

103.4(7) If both executive boards endorse the proposed distribution formula, the chair requests each individual county to consider and adopt a resolution in favor of or in opposition to the proposed distribution formula.

103.4(8) If at least 66 counties adopt resolutions in favor of the proposed distribution formula, the chair forwards the distribution formula to the commission for action.

103.4(9) If the distribution formula is adopted by the commission, the committee chair notifies the following organizations and groups when the distribution formula has been approved:

a. The executive board of the Iowa county engineers association.

b. The executive board of the Iowa state association of county supervisors.

c. The systems planning and local systems bureaus of the department.

d. The office of the treasurer of state.

e. All county engineers and county supervisors.

f. The Iowa county engineers association service bureau.

761—103.5(312) Judicial review. Any county that is aggrieved or adversely affected by a decision of the commission may seek judicial review of such agency action under the provisions of Iowa Code section 17A.19.

761—103.6(312) Severability clause. If any section, provision, or part of these rules is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of these rules as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

These rules are intended to implement Iowa Code sections 7E.3(3), 312.2, 312.3, 312.3B, 312.5 and 312.16.

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ARC 9129C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to signing for Iowa medal of honor highway

The Transportation Department hereby rescinds Chapter 131, "Signing on Primary Highways," and adopts a new Chapter 131, "Signing for Iowa Medal of Honor Highway," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j" and 314.31.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 314.31.

Purpose and Summary

This rulemaking repromulgates Chapter 131 in compliance with Executive Order 10. Chapter 131 lays out uniform requirements, responsibilities, and procedures for requesting the installation of Medal of Honor signs on U.S. Route 20 across Iowa. The purpose of these signs is to raise awareness of the brave members of the U.S. armed forces that defend our country.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8467C**. Two public hearings were held on the following date:

- January 6, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 131 and adopt the following **new** chapter in lieu thereof:

CHAPTER 131
SIGNING FOR IOWA MEDAL OF HONOR HIGHWAY

761—131.1(314) Contact information. Information regarding the signing addressed in this chapter is available from: Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Submissions to the traffic and safety bureau may also be sent or delivered to this address. Additional information and guidance may be found at www.iowadot.gov/traffic/Library/Traffic-and-Safety-Manual.

761—131.2(314) Signing. This rule establishes the conditions and procedures for private entities to purchase and pay for the installation of signs designating the Iowa medal of honor highway.

131.2(1) *Definition.*

"Iowa medal of honor highway" means the segment of the highway known as United States Highway 20, as designated as of June 17, 2020, that crosses this state from Sioux City to Dubuque.

131.2(2) *Conditions.*

a. The number of signs within the highway right-of-way is limited to one sign at each end of the Iowa medal of honor highway for traffic entering the state and one sign at each entry point of the corporate limits of each city through which the Iowa medal of honor highway passes.

b. Each sign is to match the design approved and provided by the department, and the sign materials are to comply with departmental standard specifications as they exist at the time of fabrication. The departmental standard specifications can be found on the department's electronic reference library at www.iowadot.gov/erl.

c. Once signs are installed at one of the approved locations, no additional requests will be accepted for that location. When signs have been installed at all locations identified in paragraph 131.2(2)*"a,"* no further requests will be accepted.

d. The applicant may purchase a sign from the department's sign shop or from a private sign fabricator. If an applicant chooses to obtain a sign from a private sign fabricator, the department will furnish the sign design and approve the construction prior to purchase. The department will also inspect the sign as stated in subrule 131.2(5).

e. Signs designating the Iowa medal of honor highway are furnished and paid for by the applicants, including any replacements needed due to sign deterioration or damage. Each applicant is responsible for providing the traffic and safety bureau with the applicant's current contact information so the applicant can be contacted when a replacement sign is needed. Failure to provide current information may result in removal of all signs the applicant purchased. This would allow a new private entity to sponsor the signing.

f. The applicant is responsible for the cost to install the sign, including the posts and hardware.

g. The department will install the sign.

131.2(3) *Procedures.* Requests to purchase or install a sign are submitted to the traffic and safety bureau and contain the following:

a. The applicant's name and contact information.

b. A description of the location where the sign is to be installed.

c. A statement as to whether the sign will be purchased from the department or from a private sign fabricator.

131.2(4) *Approval.* If the request complies with this rule, the traffic and safety bureau will respond to the applicant with approval of the proposed location or modified location and an estimate of the costs for the sign and installation. Following inspection of the sign in compliance with subrule 131.2(5), the department will install the sign and bill the applicant.

131.2(5) *Inspection.* If a sign is not purchased from the department's sign shop, the applicant is to deliver the sign to the department's sign shop for inspection. Upon receipt of the sign, the department will inspect the sign for compliance with the approved sign design and departmental specifications and notify the applicant.

These rules are intended to implement Iowa Code section 314.31.

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ARC 9144C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to automated traffic enforcement mobile systems

The Transportation Department hereby adopts new Chapter 145, "Automated Traffic Enforcement Mobile Systems," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j" and 321P.3 and 2024 Iowa Acts, House File 2681.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2681, and Iowa Code section 321P.3.

Purpose and Summary

Chapter 145 establishes conditions, procedures, and responsibilities for the use of automated traffic enforcement mobile systems to issue citations for violations of the speed limit. These rules apply to local authorities using or planning to use an automated traffic enforcement mobile system.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 8, 2025, as **ARC 8740C**. A public hearing was held on the following date(s):

- January 28, 2025

Persons attended the public hearing; however, no oral comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact beyond the impact estimated by the Legislative Services Agency for 2024 Iowa Acts, House File 2681.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 761—Chapter 145:

CHAPTER 145
AUTOMATED TRAFFIC ENFORCEMENT MOBILE SYSTEMS

761—145.1(321P) General.

145.1(1) *Purpose and applicability.* This chapter establishes conditions, procedures, and responsibilities for the use of automated traffic enforcement mobile systems to issue citations for violations of the speed limit. These rules apply to local authorities using or planning to use an automated traffic enforcement mobile system.

145.1(2) *Overview.*

a. Mobile systems must comply with Iowa Code chapter 321P.

b. A local authority's use of a mobile system is subject to the population limit identified in Iowa Code section 321P.3(2). However, a local authority of any population may use a mobile system to issue warnings in accordance with Iowa Code section 321P.3(3).

c. Use of a mobile system is limited to locations identified in Iowa Code section 321P.3(2).

d. Mobile systems are to be situated in a manner that:

(1) Maintains a safe environment for all road users.

(2) Allows for free passage along the roadway right-of-way.

(3) Minimizes the potential to cause backups or delays.

(4) Does not obstruct the view of other road users or traffic control devices.

145.1(3) *Contact information.* Information relating to this chapter may be obtained from the Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or at www.iowadot.gov/traffic.

145.1(4) *Definitions.* The definitions in Iowa Code section 321P.1 apply to this chapter. In addition:

"Automated traffic enforcement mobile system" or *"mobile system"* means a vehicle, trailer, or other portable apparatus containing one or more automated or remote systems for traffic law enforcement.

"Interstate road" means the same as "interstate roads" as defined in Iowa Code section 306.3.

"Location" means a street address, a block number, an intersection, or a mile marker and includes the direction of traffic being monitored.

"Primary road" means the same as "primary roads" as defined in Iowa Code section 306.3.

761—145.2(321P) Conditions for mobile systems.

145.2(1) *Placement.*

a. Except when used in a construction zone, a mobile system shall not be placed or parked:

(1) Less than 15 feet from any traffic lane of an interstate road unless shielded by a crashworthy barrier.

(2) On the outside shoulder of any non-interstate primary road for longer than 72 hours unless shielded by a crashworthy barrier.

(3) Within the median or on the inside shoulder of any road.

(4) Less than two feet behind the back of a curb on any road.

(5) Less than two feet from the edge of any traffic lane on any road.

b. When used in a construction zone, a mobile system shall be shielded by a crashworthy barrier unless it is placed or parked more than 15 feet from any active traffic lane.

145.2(2) *Duration of use.* Except when used in a construction zone, a mobile system shall not be used in one location for longer than three consecutive weeks or be used in one location for more than 21 days in any 45-day period. When used in a construction zone, a mobile system may be used in one location for the duration of construction activities.

145.2(3) *Public notice.* A local authority operating a mobile system shall provide information regarding where and when a mobile system will be used on the local authority's Internet site or social media outlets.

145.2(4) *Vehicles and trailers.* A vehicle or trailer used as a mobile system shall be operated by a law enforcement agency, marked with distinguishing decals, and identified by a distinguishing license plate affixed to the vehicle or trailer.

761—145.3(321P) Permitting.

145.3(1) *Initial permit.* A local authority may apply for a permit by submitting a request to the department, following the procedure outlined in Iowa Code section 321P.2(2), for each location where a mobile system is proposed to be used. The department will not issue an initial permit before July 1, 2026.

145.3(2) *Updating an existing permit.* A local authority holding a permit may apply to update the permit with one or more additional locations by submitting a request to the department, following the procedure outlined in Iowa Code section 321P.2(2), for each location where a mobile system is proposed to be used.

145.3(3) *Department review.* The department will review the application within 180 days of receipt and will approve or deny each requested location based on the department's determination that use of a mobile system is appropriate, necessary, and the least restrictive means to address the critical traffic safety issues at that location. Incomplete applications will be returned to the applicant. If approval is granted, the department will issue a permit listing all approved locations.

145.3(4) *Exception for warnings.* Use of a mobile system at a location solely for the issuance of warnings does not require a permit.

761—145.4(321P) Annual report.

145.4(1) A local authority using a mobile system shall submit to the department and post an annual report as described in Iowa Code section 321P.5(2).

145.4(2) The report must also include the following information from the previous calendar year for each location listed in the permit:

a. Number of days the mobile system was in use.
b. Count of all vehicles traveling past the mobile system while it was in use.
c. Speed distribution data for all vehicles traveling past the mobile system while it was in use.
d. Description of any changes in traffic patterns, roadway infrastructure, zoning, or land use.
e. Identification of any other safety countermeasures that have been implemented.

761—145.5(321P) Continued use of mobile system.

145.5(1) *Reevaluation.* The department will utilize information collected from the annual report to assist in annually evaluating the ongoing need for a mobile system at each location listed in the permit. Continued approval of each location will be contingent on the effectiveness of the mobile system in addressing the critical traffic safety issues and the local authority's compliance with these rules and Iowa Code chapter 321P. The department may also consider the following factors in the reevaluation:

a. Changes in traffic speeds, volumes, or patterns.
b. Changes in roadway infrastructure.
c. Changes in zoning or land use.
d. Implementation or consideration of other safety countermeasures.
e. Appropriate administration of the mobile system by the local authority.

145.5(2) *Reserve the right.* The department reserves the right to rescind a permit, remove a mobile location from a permit, or require modification of a mobile system.

145.5(3) *Continued use.* A local authority may continue to operate a mobile system at a location listed in the original permit until five days after the date the department rescinds the permit or amends the permit to remove the mobile location.

761—145.6(321P) Appeal process. A local authority may appeal a decision made by the department under this chapter by submitting a written explanation of the issues for appeal and any supporting information to the director of transportation or director's designee (director). Once the director receives the appeal, the department will schedule a contested case hearing within 45 days. The decision by the department's presiding officer is final agency action.

These rules are intended to implement Iowa Code chapter 321P.

[Filed 4/7/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9130C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to surface transportation block grant program

The Transportation Department hereby rescinds Chapter 162, "Surface Transportation Block Grant Program," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 8.41(3)"c" and 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8.41(3)"c," 307.44 and 313.4(1).

Purpose and Summary

This rulemaking repromulgates Chapter 162 in compliance with Executive Order 10. Chapter 162 establishes requirements for the distribution of federal Surface Transportation Block Grant (STBG) funds as required in Iowa Code section 8.41(3). This Iowa Code section requires that federal funds associated with a block grant be deposited in a special fund in order to allocate funds. Federal authorization laws appropriate funds to states to support transportation investments. A portion of these funds is made available through STBG funds. STBG funds can be used for any federal-aid highway, bridge or tunnel on any public road and may also be used on pedestrian bicycle infrastructure and transit improvements. These funds may also be swapped with primary road funds in accordance with Iowa Code section 313.4(1). These funds are administered by the Department and are made available on a fair and equitable basis. The Department, through consultation with city, county and local planning agency officials, makes these funds available to Iowa's transportation management areas, metropolitan planning organizations and regional planning affiliations, counties, cities and the Department. Allocation of these funds is based on distribution methodology approved by the Iowa Transportation Commission upon passage of each federal authorization act. Funds allocated to cities and counties to support the Federal-aid Highway Bridge Program are made in accordance with Instructional Memorandum 1.100. All allocations of the STBG funds are made in accordance with the Federal Highway Administration's regulations and include the allocations of the Surface Transportation Program (STP) Set-Aside for transportation alternatives as established in 23 U.S.C. Section 133(h).

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8479C**. Two public hearings were held on the following date:

- January 6, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. This chapter allows for the expenditure of federal funds that are deposited in a special fund pursuant to Iowa Code section 8.41(3). Any costs incurred would be associated with the requirements of federal law in 23 U.S.C. Section 133(h). Costs typically associated with federal aid projects include those necessary to plan, develop and administer projects. The benefits of which ensure the reimbursement of nearly $100 million annually for investments in Iowa's transportation system.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 162 and adopt the following **new** chapter in lieu thereof:

CHAPTER 162
SURFACE TRANSPORTATION BLOCK GRANT PROGRAM

761—162.1(8,307) Purpose and information.

162.1(1) Federal authorization acts appropriate funds to states to support surface transportation investments. A portion of these funds are provided to the state of Iowa for the Surface Transportation Block Grant Program. The purpose of these rules is to establish requirements for the Surface Transportation Block Grant Program.

162.1(2) Information relating to this chapter may be obtained from the Program Management Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1288; or on the department's website at www.iowadot.gov.

761—162.2(8,307) Source of funds. The Surface Transportation Block Grant Program established in 23 U.S.C. Section 133 provides for the use of federal funds to preserve and improve the condition and performance of any federal-aid highway, bridge or tunnel project on any public road. Surface Transportation Block Grant funds may also be used on pedestrian and bicycle infrastructure and transit capital projects, including intercity bus terminals.

761—162.3(8,313) Swapping of funds. Surface Transportation Block Grant funds allocated to city and county road or bridge construction projects may be swapped with primary road funds in accordance with Iowa Code section 313.4(1).

761—162.4(8,307) Administration of funds. Surface Transportation Block Grant funds are administered by the department and will be made available for obligation throughout the state on a fair and equitable basis. The department, in consultation with city, county and local planning agency officials, through their representative organizations, will allocate these funds to Iowa's transportation management areas, metropolitan planning organizations, regional planning affiliations, incorporated cities, counties and the department. Allocation of these funds is to be based upon a distribution methodology approved by the commission. The commission reviews and approves the distribution methodology upon passage of each federal authorization act. Funds allocated to cities and counties to support the Federal-Aid Highway Bridge Program will be made in accordance with Instructional Memorandum 1.100 dated June 12, 2024, available at www.iowadot.gov/local_systems/publications/im/1100.pdf. All allocations of the Surface Transportation Block Grant funds are made in accordance with the Federal Highway Administration's regulations and include the allocations of the Surface Transportation Program (STP) Set-Aside for transportation alternatives as established in 23 U.S.C. Section 133(h) in effect as of December 4, 2015.

These rules are intended to implement Iowa Code sections 8.41(3)*"c,"* 307.44 and 313.4(1).

[Filed 3/17/25, effective 5/21/25]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9131C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to quotation process for governmental entities for public improvement for vertical infrastructure

The Transportation Department hereby rescinds Chapter 180, "Quotation Process for Governmental Entities for Public Improvement for Vertical Infrastructure," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j" and 314.1A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 26.2, 26.14, 314.1A, 314.1B, 573.2 and 573.28.

Purpose and Summary

This rulemaking repromulgates Chapter 180 in compliance with Executive Order 10. Chapter 180 establishes the process by which governmental entities are to obtain and evaluate competitive quotations relating to public improvement projects for vertical infrastructure. The intended benefit is to ensure competition and equal opportunity through a standardized process and to keep vendors accountable by permitting retained funds.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8490C**. Two public hearings were held on the following date:

- January 8, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 180 and adopt the following **new** chapter in lieu thereof:

CHAPTER 180
QUOTATION PROCESS FOR GOVERNMENTAL ENTITIES FOR PUBLIC IMPROVEMENT FOR VERTICAL INFRASTRUCTURE

761—180.1(26,314) Purpose and contact information.

180.1(1) The purpose of these rules is to prescribe the manner by which governmental entities are to administer competitive quotations for contracts pertaining to a public improvement for vertical infrastructure in accordance with Iowa Code section 26.14.

180.1(2) Questions regarding this chapter may be directed to the Resources and Acquisitions Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1170.

761—180.2(26,314) Definitions.

"Estimated total cost" means the same as defined in Iowa Code section 26.2.

"Governmental entity" means the same as defined in Iowa Code section 26.2.

"Public improvement for vertical infrastructure" is a "public improvement" as defined in Iowa Code section 26.2(3)*"a"* and *"b"* but excludes those improvements in Iowa Code section 26.2(3)*"b"*(1) through 26.2(3)*"b"*(6).

"Responsible quotation" means a quotation submitted by a contractor who is capable of performing the work. To be considered responsible, the contractor must possess the necessary financial and technical capability to perform the work as well as the ability to complete the work as demonstrated by past performance or other appropriate considerations.

"Responsive quotation" means a quotation in which the contractor agrees to do everything required by the governmental entity's solicitation of quotations and by the plans and specifications and other related documents without any conditions, qualifications or exclusions.

761—180.3(314,573) Solicitation of quotations.

180.3(1) A governmental entity is to solicit competitive quotations for a public improvement for vertical infrastructure when the estimated total cost of the public improvement for vertical infrastructure exceeds the competitive quotation threshold established in Iowa Code section 26.14, as adjusted pursuant to Iowa Code section 314.1B, but is less than the competitive bid threshold established in Iowa Code section 26.3, as adjusted pursuant to Iowa Code section 314.1B. The adjusted thresholds are published on the department's website at www.iowadot.gov.

180.3(2) The governmental entity is to make a good-faith effort to obtain quotations for the work from at least two contractors regularly engaged in such work prior to letting a contract. Quotations are to be obtained by means of either an oral or a written solicitation directed to not less than two contractors.

180.3(3) Each solicitation is to include a description of the work to be performed, and plans and specifications for the work prepared by an architect or engineer if required by Iowa Code chapter 542B

or 544A (additional guidelines can be found in 193B—Chapter 5 or rule 193C—1.5(542B). In its solicitation, the governmental entity is to advise each contractor that it has an opportunity to inspect the work site. Each contractor requesting to inspect the work site is to be provided an equal and adequate opportunity to do so.

180.3(4) Additional information deemed pertinent by the governmental entity, or requested by a contractor, may be provided by the governmental entity if the same information is provided to all contractors from which quotations are solicited. If the information is provided in written form to a contractor, it is to be provided in the same form to all contractors from which quotations are solicited.

180.3(5) In its solicitation, the governmental entity is to:

a. Specify the required form and content of quotations (more information can be found in rule 761—180.5(314)).

b. Request quotations to be filed by a particular time, at a particular location and with a particular office or representative of the governmental entity.

c. Establish the acceptable method(s) for delivery of quotations. The governmental entity may specify any or all of the following methods of delivery: mail, electronic mail, or delivery in-hand.

180.3(6) In accordance with Iowa Code section 573.2, the governmental entity is to utilize the solicitation to inform quoting contractors that the awarded contractor is to provide a performance and payment bond to secure the performance and timely completion of the work and to secure the payment of subcontractors and suppliers.

180.3(7) In its solicitation, the governmental entity may stipulate that each quoting contractor:

a. Provide along with its quotation a bid bond, or other bid security or evidence of its responsibility, to ensure that it will enter into a contract to perform the work and that it will provide the necessary performance and payment bond.

b. Commit to the execution of a contract for the work.

c. Commit to commencement and completion dates for the work as directed by the governmental entity.

d. File evidence of insurance, as specified by the governmental entity, with its quotation, or commit to filing such evidence of insurance upon award of the contract to perform the work.

180.3(8) In its solicitation, the governmental entity may provide that it will issue special sales tax exemption certificates to contractors and subcontractors pursuant to Iowa Code section 423.3(80).

761—180.4(314) Submission of competitive quotation by governmental entity. The governmental entity may itself file a competitive quotation to perform the work. The governmental entity's quotation is to be filed in the same manner as quotations are to be filed by contractors except as provided in subrule 180.5(3).

761—180.5(314) Form and content of competitive quotations.

180.5(1) A competitive quotation filed by a contractor or by the governmental entity is to be in writing and include the total price for labor, equipment, materials and supplies necessary to perform the work. A contractor may include in its quotation or in individual quotation items a breakdown of costs for labor, materials, equipment and supplies. Competitive quotations filed by contractors are to include all other information, documentation or commitments requested by the governmental entity in its solicitation of quotations.

180.5(2) If the governmental entity in its solicitation indicates its intention to file a competing quotation, contractors are to also separately identify in their quotations the premium cost for the necessary performance and payment bond and an estimate of the sales and fuel taxes they will incur in performing the work. However, if in its solicitation the governmental entity provides for the issuance of sales tax exemption certificates to the contractor and subcontractors performing the work, quoting contractors are not to include or separately identify estimated sales tax in their quotations.

180.5(3) A quotation submitted by a governmental entity need not include the information, documents or commitments in subrule 180.3(7). A performance and payment bond is not mandatory for a governmental entity.

180.5(4) The governmental entity may insist that quotations from contractors be submitted on a form prescribed by the governmental entity, provided the form complies with these rules.

761—180.6(314) Evaluation of competitive quotations.

180.6(1) If a quoting contractor does not file a quotation in the form specified by the governmental entity, or does not provide all information or documentation or make all commitments requested by the governmental entity, or does not sign the quotation if required by the governmental entity, the quotation will be determined to be nonresponsive and be rejected by the governmental entity.

180.6(2) If the governmental entity submits a quotation to perform the work, paragraphs 180.6(2)*"a"* through *"c"* are applicable. If the governmental entity does not submit a quotation, these paragraphs do not apply.

a. Because the governmental entity is not required to pay sales tax or fuel tax or to submit a performance and payment bond in connection with work performed by governmental employees using governmental equipment, each contractor's total quotation is to be adjusted to deduct the amounts identified in the quotation for estimated sales and fuel taxes and the bond premium. The amount of each contractor's adjusted quotation is to then be compared to the amount of the quotation submitted by the governmental entity for the purpose of determining if the governmental entity's quotation is the lowest responsive, responsible quotation.

b. If in its solicitation the governmental entity provides for the issuance of sales tax exemption certificates to the contractor and subcontractors performing the work, quoting contractors are not to include or separately identify estimated sales tax in their quotations, and the governmental entity is not to deduct estimated sales tax from the contractors' quotations for the purpose of determining if the governmental entity's quotation is the lowest responsive, responsible quotation.

c. The governmental entity may request that the contractor to which the work is awarded provide documentation of the premium cost incurred by it for the performance and payment bond and of all sales and fuel taxes paid by it and its subcontractors in connection with the work. The governmental entity may decline to pay the amounts identified by the contractor in its quotation for the bond premium and estimated sales and fuel taxes if these amounts are not properly documented as having been paid.

761—180.7(314) Award of contract and subsequent procedures.

180.7(1) Except as provided in subrule 180.7(3), the governmental entity is to award the contract for the work to the contractor submitting the lowest responsive, responsible quotation, subject to Iowa Code section 26.9, or the governmental entity may reject all of the quotations. A contract is to be considered awarded when the governmental entity unconditionally accepts and approves the lowest responsive, responsible quotation. The governing body of the governmental entity is to record the approved quotation in its meeting minutes.

180.7(2) The governing body of a governmental entity may delegate the authority to award and execute contracts, or to award contracts and authorize the work to proceed, to an officer or employee of the governmental entity, provided that an award approved outside a meeting of the governing body is to be reported in the meeting minutes of the next regular meeting of the governing body.

180.7(3) If no quotations are received from contractors to perform the work or if the governmental entity's estimated cost to do the work with its employees, as reflected in its quotation, is less than the lowest responsive, responsible quotation received from a contractor, the governmental entity may authorize its employees to perform the work.

180.7(4) Upon the submission of the necessary performance and payment bond by the contractor to which the contract has been awarded and upon approval of the bond by the governmental entity, the governmental entity is to execute a contract to perform the work or shall authorize the contractor to proceed with the work.

180.7(5) Upon execution of the contract by the contractor and the governmental entity or upon authorization to proceed by the governmental entity and acknowledgment thereof by the contractor, the governmental entity releases the bid bonds or other quotation security submitted with the quotations received.

180.7(6) If the governmental entity is a city and the cost of the work will exceed the amount provided for in Iowa Code section 380.4, the governing body is to pass a resolution approving the expenditure.

761—180.8(314,573) Retained funds. In addition to requiring the contractor to submit a performance and payment bond, the governmental entity also retains funds from each payment to the contractor for the benefit of subcontractors and suppliers, and applies or releases such funds, in accordance with Iowa Code chapter 573.

These rules are intended to implement Iowa Code sections 26.2, 26.14, 314.1A, 314.1B, 573.2 and 573.28.

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ARC 9132C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to driver's privacy protection

The Transportation Department hereby rescinds Chapter 301, "Driver's Privacy Protection—Motor Vehicle Records," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j," 321.11 and 321A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.1, 321.10, 321.11, 321.13 and 321A.3 and 18 U.S.C. Section 2721 et seq.

Purpose and Summary

This rulemaking repromulgates Chapter 301 in compliance with Executive Order 10. Chapter 301 implements Iowa Code section 321.11, which explains Iowa's adoption of the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. Section 2721 et seq.), and Iowa Code section 321A.3, which requires the Department to provide operating record abstracts upon request. The chapter explains the requirements, procedures, and exceptions for requesting personal information and highly restricted personal information contained in motor vehicle records, including crash reports, vehicle information, and driver record information. This chapter also explains the requirements for obtaining bulk data that does not include personal information from the Department's Motor Vehicle Division.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8484C**. Two public hearings were held on the following date:

- January 6, 2025

No one attended the public hearings.

The Department received one comment from the American Property Casualty Insurance Association (APCIA) during the Regulatory Analysis comment period. The Department received a question from Lexis Nexis concerning Form 430030 during the Notice of Intended Action comment period. During the

Department's review of the proposed chapter, the Department determined that a new subrule needed to be added to make sure that the Department's current Memorandum of Understanding (MOU) practice is abundantly clear.

One change from the Notice has been made to add new subrule 301.4(7).

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

The Department anticipates that approximately $90,951 will be collected in bulk data request fees annually due to the Department's authority under Iowa Code section 321.11 to collect reasonable fees for provisions of bulk records. Any other fees collected for motor vehicle records are set by statute, not rule, and thus would not cause a fiscal impact to the State beyond what is already required by the underlying statute.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 301 and adopt the following **new** chapter in lieu thereof:

VEHICLES

CHAPTER 301
DRIVER'S PRIVACY PROTECTION—MOTOR VEHICLE RECORDS

761—301.1(321) Applicability and adoption. This chapter applies to personal information and highly restricted personal information in motor vehicle records of the department. The department adopts the Driver's Privacy Protection Act of 1994 (18 U.S.C. §2721 and 2725 effective as of October 23, 2000, and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994) for motor vehicle records. The department does not provide the waiver procedure described in the Driver's Privacy Protection Act (codified as 18 U.S.C. §2721(d) effective as of October 23, 2000).

This rule is intended to implement Iowa Code section 321.11; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.2(321) Definitions. The definitions in Iowa Code section 321.1 and 18 U.S.C. §2725 effective as of October 23, 2000, are hereby adopted and incorporated. In addition:

"Certified abstract of operating record" means the same as described in Iowa Code section 321A.3(1).

"Driver's license" means the same as defined in Iowa Code section 321.1(20A).

"Express written consent" as used in Iowa Code section 321.11 means the same as "express consent" as defined in 18 U.S.C. §2725(5) effective as of October 23, 2000, and must either be notarized or accompanied by proof of identity of the requester.

"Law enforcement agency" includes but is not limited to county attorneys, federal district attorneys, attorneys general, state and federal departments of justice, and a division or unit of a governmental agency if the division's or unit's primary responsibility is to prevent or detect crime or enforce criminal laws.

"Motor vehicle record" as used in the Driver's Privacy Protection Act and this chapter means any record that pertains to a driver's license, nonoperator's identification card, certificate of title, registration receipt, or registration renewal receipt issued by the department or a county treasurer. This also includes information on individuals who do not currently hold a driver's license or nonoperator's identification card, including but not limited to operating records and records of driver sanctions.

"Proof of identity" means a copy of the individual's driver's license or nonoperator's identification card issued by the department or another state, the document discriminator number of a driver's license or nonoperator's identification card issued by the department, or an alternate form approved by the department.

"Requester" means an individual, organization or entity that seeks from the department access to personal information or highly restricted personal information contained in a motor vehicle record. A requester does not include an individual who is an authorized employee of the department or a county treasurer acting within the scope of the employee's office or employment.

"Sanction" means the same as defined in rule 761—615.1(321).

This rule is intended to implement Iowa Code sections 321.1 and 321.11; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.3(321) Information and addresses. Information and forms for records pertaining to motor vehicle records may be obtained at any driver's license service center or by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 515.237.3110; by email at privacy.agreements@iowadot.us; or on the department's website at www.iowadot.gov/mvd/vehicleregistration/records for vehicle records and www.iowadot.gov/mvd/driverslicense/records for driving records.

This rule is intended to implement Iowa Code section 321.11.

761—301.4(321) Requirements and procedures.

301.4(1) A requester seeking personal information or highly restricted personal information is required to:

a. Complete Form 431069, "Privacy Act Agreement for Request of Motor Vehicle Records," and submit the form to any driver's license service center or the motor vehicle division at the address in rule 761—301.3(321). Requests for information about another individual require completion of Parts A, B (if applicable), C, and D of Form 431069. Requests for an individual's own information require completion of Part A.

b. Provide proof of identity and proof of eligibility to access the information. The department may request additional information to confirm that the requester is eligible under Iowa Code section 321.11; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; 18 U.S.C. §2722 through 2724 effective as of September 13, 1994; and this chapter to access the information.

301.4(2) A law enforcement agency that requests personal information or highly restricted personal information is to either follow the process in subrule 301.4(1) or complete and submit Form 431200, "Certified Motor Vehicle Record Request Form for Use by County Attorney's Offices and Law Enforcement Agencies," to any driver's license service center or the motor vehicle division at the

address in rule 761—301.3(321). Alternately, a law enforcement agency may enter into a memorandum of understanding with the department for the purposes of requesting personal information or highly restricted personal information.

301.4(3) Personal information and highly restricted personal information, except for an individual's photograph or image, may be disclosed with the express written consent of the individual or vehicle owner to whom such information applies. When the requester has obtained the written consent of the individual or vehicle owner to whom the information applies, the requester must attach that written consent on a completed Form 431069, "Privacy Act Agreement for Request of Motor Vehicle Records," and submit the form to any driver's license service center or the motor vehicle division at the address in rule 761—301.3(321).

301.4(4) The statutory fee, if applicable, is due at the time the request for a motor vehicle record is submitted.

301.4(5) Requested information will be provided to the requester electronically unless the requester specifies otherwise. The department shall not release any personal information or highly restricted personal information if the request is made by plate number or validation sticker number, except as provided in Iowa Code section 321.11.

301.4(6) All requesters who obtain personal information or highly restricted personal information from the department are required to comply with Iowa Code section 321.11 and the Driver's Privacy Protection Act.

301.4(7) The department may also enter into a memorandum of understanding with an authorized requester for purposes of disclosing personal information or highly restricted personal information.

This rule is intended to implement Iowa Code sections 321.10, 321.11 and 321.13; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.5(321) Online motor vehicle records access. Online access to motor vehicle records may be available to recurring authorized requesters upon approval by the department and upon payment of any applicable fees. The requester must complete and submit Form 430030 using a method provided for in rule 761—301.3(321), including any required attachments.

This rule is intended to implement Iowa Code section 321.11; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.6(321,321A) Certified abstract of operating records.

301.6(1) A certified abstract of the operating record includes the information that is on the face of an individual's driver's license, plus information on the individual's sanctions, reportable vehicle accidents, and convictions. The certified abstract of operating record does not include the individual's photograph, social security number, or medical or disability information.

a. In accordance with Iowa Code section 321A.3, a certified abstract of operating record can be obtained by following the process outlined in rule 761—301.4(321).

b. The statutory fee, if applicable, is due at the time of the request.

301.6(2) The single-use restriction in Iowa Code section 321A.3(8) applies only to the certified abstract of operating records and to persons who are subject to the fee listed in Iowa Code section 321A.3(1).

301.6(3) Any person who obtains a certified abstract of operating record from the department is required to comply with Iowa Code section 321.11 and the Driver's Privacy Protection Act.

This rule is intended to implement Iowa Code sections 321.11, 321.13 and 321A.3; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.7(321) Fees for records. In addition to the statutory fees, the following fees related to motor vehicle records of the department provided pursuant to Iowa Code section 321.10 or 321.11 may include:

301.7(1) A $5 fee for an audio recording of a contested case hearing.

301.7(2) A $0.0003-per-record or -line of data bulk data request fee. However, no fee will be assessed to requesters that are government entities.

301.7(3) A one-time programming set-up fee for online data access or electronic data transfers, not to exceed the costs incurred in the set-up.

301.7(4) Fees commensurate with file size and complexity for other data file requests.

This rule is intended to implement Iowa Code sections 321.10 and 321.11.

[Filed 3/17/25, effective 5/21/25]
[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9133C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to equipment and inspection requirements for certain motor vehicles

The Transportation Department hereby rescinds Chapter 450, "Motor Vehicle Equipment," and adopts a new Chapter 450, "Equipment and Inspection Requirements for Certain Motor Vehicles," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j" and 321.438.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)"j," 321.1, 321.23, 321.438 and 321.445.

Purpose and Summary

This rulemaking repromulgates Chapter 450 in compliance with Executive Order 10. Chapter 450 implements Iowa Code section 321.23, which authorizes the registration and titling of specially constructed or reconstructed vehicles, street rods, or replica vehicles in Iowa. The chapter also implements Iowa Code section 321.438, which requires the Department to establish a minimum measurable standard of transparency for windshields, windows and sidewings, and Iowa Code section 321.445, regarding exemptions from seat belt requirements.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8474C**. Two public hearings were held on the following date:

- January 6, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 450 and adopt the following **new** chapter in lieu thereof:

CHAPTER 450
EQUIPMENT AND INSPECTION REQUIREMENTS FOR CERTAIN MOTOR VEHICLES

761—450.1(307,321) Addresses information and application.

450.1(1) *Information.* Information for inspections may be obtained from the Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa; by email at www.iowadot.gov/biip/contact-us; or on the department's website at www.iowadot.gov/mvd/vehicleregistration/vehicle-inspections-for-titling.

450.1(2) *Definitions.* The definitions in Iowa Code section 321.1 and rule 761—400.16(321) are hereby made part of this chapter. In addition:

a. The exchange of compatible body parts does not meet the definition of a specially constructed, reconstructed, street rod, or replica motor vehicle; or of a specially constructed or reconstructed motorcycle or motorized bicycle; or of a specially constructed, reconstructed, street rod, or replica autocycle.

b. The removal, addition, or substitution of reconstructed motor vehicle parts that modifies the vehicle's external appearance so that it does not reflect the original make or manufacturer model for that model does meet the definition of a specially constructed, reconstructed, street rod, or replica motor vehicle.

c. The removal, addition, or substitution of a reconstructed motorcycle or motorized bicycle part that modifies the vehicle's external appearance so that it does not reflect the original make or manufacturer model does meet the definition of a specially constructed, reconstructed, street rod, or replica motorcycle or motorized bicycle.

EXEMPTION: The conversion of a manufactured motorcycle from two-wheel to three-wheel operation by the addition or substitution of a bolt-on conversion kit does not meet the definition of a reconstructed motorcycle.

d. The removal, addition, or substitution of reconstructed autocycle parts that modifies the autocycle's external appearance so that it does not reflect the original make or manufacturer model for that model does constitute a specially constructed, reconstructed, street rod, or replica autocycle.

450.1(3) *Application.*

a. After receiving the application forms and exhibits outlined in rule 761—400.16(321), the department shall:

(1) Examine the vehicle and ownership documents.

(2) Determine if the motor vehicle complies with this rule, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly.

(3) If the provisions of paragraph 450.1(3)*"b"* are met, assign an identification number to the vehicle and certify that the motor vehicle is eligible for titling and registration.

b. If the frame or unibody specified on an application for a specially constructed, reconstructed, street rod, or replica motor vehicle; a specially constructed or reconstructed motorcycle or motorized bicycle; or a specially constructed, reconstructed street rod or replica autocycle is manufactured or designated "not for highway use," the application shall not be approved.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.1 and 321.23.

761—450.2(307,321) Equipment requirements for specially constructed, reconstructed, street rod, and replica motor vehicles other than autocycles, motorcycles and motorized bicycles. The following standards are minimum requirements to meet the definition of a specially constructed, reconstructed, street rod, and replica motor vehicle other than autocycles, motorcycles and motorized bicycles:

450.2(1) *Defroster and defogging device.* If the motor vehicle is a closed motor vehicle, it is equipped with a device capable of defogging or defrosting the windshield area.

450.2(2) *Door latches.* The motor vehicle that is equipped with doors leading directly into a compartment that contains one or more seating accommodations is equipped with mechanically actuated door latches that firmly and automatically secure the door when pushed closed and that allow each door to be opened from the inside by the actuation of a convenient lever, handle or other nonelectric device. Interior handles must be visible.

450.2(3) *Floor pan.* The motor vehicle is equipped with a floor pan under the entire passenger-carrying compartment that supports the weight of the number of occupants that the vehicle is designed to carry. The floor pan shall be so constructed that it prevents the entry of exhaust fumes.

450.2(4) *Glazing.*

a. Windshields. The motor vehicle is equipped with a laminated safety glass windshield that complies with and bears the approval marking of the American National Standards Institute (ANSI) Z 26.1-1996 Standard as set forth in 49 CFR Section 571.205 effective October 1, 2024. The windshield shall be in such a position that it affords continuous horizontal frontal protection to the driver and front seat occupants. The minimum vertical height of the unobstructed windshield glass shall be six inches. This paragraph does not preclude the use of a windshield that can be folded down to a horizontal position, provided that the windshield can be firmly fastened in both the vertical and horizontal positions.

b. Side and rear glass. Side and rear glass is not required in motor vehicles. If present, however, this glass must be either laminated or tempered safety glass bearing the approval of the ANSI Z 26.1-1996 Standard as set forth in 49 CFR Section 571.205 effective October 1, 2024.

450.2(5) *Driver visibility.* The motor vehicle provides the driver with a minimum outward horizontal vision capability of 90 degrees each side of a vertical plane passing through the fore and aft centerline of the vehicle. This plane of vision may be interrupted by window framing and windshield door support posts not exceeding four inches in width at each side location.

450.2(6) *Hood latches.* If a motor vehicle is equipped with a front-opening hood, that hood is equipped with a primary and secondary latching system to hold the hood in a closed position.

450.2(7) *Instruments and controls.* The motor vehicle is equipped with:

a. An operating speedometer calibrated to indicate "miles per hour."

b. An operating odometer calibrated to indicate "total miles driven."

c. A steering wheel circular or nearly circular in shape, having an outside diameter of not less than 13 inches.

d. An accelerator control system that returns the engine throttle to an idle position automatically when the driver removes the actuating force from the accelerator control.

450.2(8) *Brakes.* The motor vehicle is equipped with brakes acting upon all wheels, service brakes, and parking brakes that comply with Iowa Code sections 321.430 and 321.431.

450.2(9) *Rearview mirror.* The motor vehicle is equipped with two rearview mirrors, each having substantial unit magnification. One is mounted on the inside of the vehicle in such a position that it affords the driver a clear view to the rear. The other is mounted on the outside of the vehicle on the driver's side in such a position that it affords the driver a clear view to the rear. When an inside mirror does not give a clear view to the rear, a right-hand outside mirror is required in lieu thereof. The mirror mounting provides a stable support for the mirror and provides for mirror adjustment by tilting in both horizontal and vertical directions. Each mirror has a minimum of ten square inches of reflective surface.

450.2(10) *Seat belts.* The motor vehicle complies with Iowa Code section 321.445(1).

450.2(11) *Seating.* All bench-type and individual seats in motor vehicles are firmly anchored to structural components or body parts.

450.2(12) *Exhaust system.* The motor vehicle has an exhaust system meeting the following requirements:

a. The system is free of leaks, including the exhaust manifold (or headers), piping forward of the muffler, the muffler(s), and tail piping.

b. Exhaust fumes are emitted to the extremity of the vehicle, behind the rear wheels, or to the extremity of the vehicle within six inches in front of the rear wheels. Exhaust fumes from trucks, other than enclosed vans, may be emitted to the rear of that part of the vehicle designed for and normally used for carrying the driver and passengers.

c. Each exhaust system is equipped with a muffler that prevents excessive noise.

d. No part of the exhaust system passes through any area of the vehicle that is used as a passenger-carrying compartment, and is constructed that persons entering the vehicle cannot make contact with the exhaust system.

e. All exterior side exhaust pipes are fully shielded and any vertical truck exhaust stacks are shielded to the top of the cab.

450.2(13) *Frame.* The motor vehicle is equipped with a frame consisting of wall box tubing, round tubing, wall channel or unitized construction capable of supporting the vehicle, its load and the torque produced by the power source.

450.2(14) *Fuel system.* The motor vehicle has a fuel system in which all components are securely fastened with fasteners designed for this purpose, including the tank, tubing, hoses, clamps, etc. The filler from the system is located in a position not within the passenger-carrying compartment and is capped. The system is leakproof, and fuel lines are positioned so as not to come in contact with high temperature surfaces or moving parts.

450.2(15) *Steering and suspension.*

a. The motor vehicle does not have any parts extending below the wheel rims in their lowest position, except for tires and electrical grounding devices designed for this purpose.

b. The steering system remains unobstructed when turned from lock to lock.

c. The steering wheel has no less than two turns and no more than six turns when turning the road wheels from lock to lock.

d. While in a sharp turn at a speed between 5 and 15 MPH, release of the steering wheel results in a distinct tendency for the vehicle to increase its turning radius.

e. The motor vehicle is not constructed so that the weight on any axle is less than 20 percent of the gross weight of the vehicle and load.

f. The motor vehicle is equipped with a damping device at each wheel location providing a minimum relative motion between the unsprung axle and the chassis of plus or minus two inches.

g. When each corner of the vehicle is depressed and released, the damping device stops vertical body motion within two cycles.

h. There is no heating or welding on coil springs, leaf springs, or torsion bars.

450.2(16) *Tires.* Tires comply with Iowa Code section 321.440. Each tire has a load-bearing capacity in keeping with the size and weight of the vehicle.

450.2(17) *Lighting and electrical system.* The motor vehicle is equipped with approved lighting devices in sufficient number, type, and locations to meet the requirements of Iowa Code sections 321.384 through 321.423, including headlamps, rear lamps, license plate lamp, rear reflectors, parking lamps, stop lamps, turn signals, and high-low beam indicator. In addition, the motor vehicle is equipped with:

a. A driver-controlled switch capable of selecting high and low beams (dimmer switch).

b. A motor vehicle more than 40 inches in width is equipped with turn signal lamps and have a manually operated switch controlled by the driver that causes the turn signal lamps to function. This switch is self-canceling.

c. A horn that complies with Iowa Code section 321.433.

d. All wiring is done in an orderly and workmanlike fashion, with no wiring in contact with high temperature surfaces or moving parts.

e. Headlamps are in a plane that is perpendicular to a vertical plane through the longitudinal centerline of the vehicle. The headlamps are mounted not less than 24 inches, nor more than 54 inches, above the road surface when measured to the headlamp center.

f. A tail lamp or lamps are mounted on the rear of the motor vehicle or vehicle, exhibiting a red light plainly visible from a distance of 500 feet to the rear. The tail lamp or lamps are mounted not less than 15 inches, nor more than 72 inches, above the roadway.

g. All original lamps and lighting equipment provided on the motor vehicle by the manufacturer are maintained in working condition or shall be replaced with equivalent equipment.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.23.

761—450.3(307,321) Minimum requirements for constructing and equipping specially constructed or reconstructed motorcycles or motorized bicycles. The following standards are minimum requirements to meet the definition of a specially constructed or reconstructed motorcycle or motorized bicycle as defined in Iowa Code section 321.1:

450.3(1) *Upgrade pulls—minimum speed.* Iowa Code section 321.382 applies.

450.3(2) *Frame/chassis.* The motorcycle or motorized bicycle frame/chassis, including the suspension components and engine mountings, is of sufficient strength, capable of supporting the combined weight of all vehicle components and riders for which the vehicle was designed.

450.3(3) *Front end assembly.*

a. Trail (extended fork measured in inches). The reconstructed or specially constructed motorcycle or motorized bicycle does not have the front fork so extended as to place the center of the front wheel axle farther than 36 inches from a vertical plane through the steering axis.

b. Rake (extended fork measured in degrees). The reconstructed or specially constructed motorcycle or motorized bicycle does not have the front fork so extended as to exceed a 45-degree angle between the fork assembly and a vertical plane through the steering axis.

c. Extensions. The reconstructed or specially constructed motorcycle or motorized bicycle is not equipped with extension slugs. However, one-piece extension tubes and springer units, if approved, are acceptable.

d. Wheelbase. The reconstructed or specially constructed motorcycle or motorized bicycle does not have an overall wheelbase, measured from the center of the front axle to the center of the rear axle, of less than 40 inches.

e. Motorcycle front end geometry. A representation of the front end geometry of a motorcycle is depicted in the Appendix to this rule.

450.3(4) *Brakes.* The motorcycle and motorized bicycle is equipped with at least a rear brake. If the vehicle is also equipped with a front brake, all control cables, lines and hoses are located and secured so as not to become pinched between the fork and frame members when the wheel is turned completely to the left or right. Brake-actuating devices are in a readily accessible location, unencumbered by vehicle

components. A suitable mechanism is provided for the purpose of automatically returning the actuating devices to a normal position upon release.

450.3(5) *Tires, wheels, rims.* The motorcycle tires are of pneumatic design with a minimum width of two and twenty-five hundredths inches and designed for highway use. Wheel rim diameters are not less than 10 inches and rims otherwise comply with applicable federal standards.

450.3(6) *Steering and suspension.*

a. Stability. The motorcycle or motorized bicycle steering and suspension provides the operator with the means of safely controlling vehicle direction.

b. Wheel alignment. The rear wheel of a two-wheel motorcycle or motorized bicycle tracks behind the front wheel within one inch with both wheels in a vertical plane when the vehicle is operating on a straight course. On a three-wheel motorcycle or motorized bicycle, the two wheels mounted on the rear axle have a wheel track distance not less than 30 inches and the midpoint of the rear wheel track distance is within 1 inch of the front wheel track when the vehicle is proceeding on a straight course.

c. Steering.

(1) The steering head is provided with a bearing or similar device that will allow the steering shaft to turn freely in rotational motion only. All handlebar-mounted control cables, wires, lines and hoses are located and secured so as not to become pinched between the fork and frame members when the wheel is turned completely to the right or the left.

(2) A steering wheel may be used on a three-wheel reconstructed or specially constructed motorcycle or motorized bicycle provided:

1. The steering wheel is circular or nearly circular in shape, having an outside diameter of not less than 13 inches.

2. The steering wheel has no less than two turns and no more than six turns when the road wheels are turned from lock to lock.

d. Handlebars. Handlebars are of sturdy construction, adequate in size (length) to provide proper leverage for steering, and capable of withstanding a minimum force of 100 pounds applied to each hand grip in any direction. The handlebars provide a minimum distance of 18 inches between grips after final assembly.

e. Hand grips. The motorcycle or motorized bicycle has handlebars equipped with hand grips of nonslip design or material.

f. Suspension. The motorcycle or motorized bicycle is equipped with a suspension system, and the suspension system applies to at least the front wheel. The suspension system(s) is designed for the purpose of maximum vehicle stability.

450.3(7) *Fuel system.* All fuel system components, including the tank, pump, tubing, hoses, clamps, etc., are securely fastened to the motorcycle or motorized bicycle so as not to interfere with vehicle operation and are leakproof when the vehicle is in its normal operating attitude. Fuel lines and tank are positioned in a manner so as to prevent their contact with the engine head, manifold, exhaust system, or other high temperature surfaces or moving components. The fuel system is adequately vented and provided with a fuel shutoff valve located between the fuel supply and the engine.

450.3(8) *Exhaust system.* The motorcycle or motorized bicycle with an internal combustion engine is equipped with an exhaust system incorporating a muffler or other mechanical device for the purpose of reducing engine noise. Cutouts and bypasses in the exhaust system are prohibited. The system is leakproof and all components are securely attached to the vehicle and located so as not to interfere with the operation of the motorcycle or motorized bicycle. Shielding is provided to prevent inadvertent contact with the exhaust system by the operator and/or passenger during normal operations.

450.3(9) *Mirrors.* The motorcycle and motorized bicycle is equipped with at least one mirror of unit magnification, securely affixed to the handlebar and capable of adjustment within a range that will reflect an image that includes at least the horizon and the road surface to the rear of the motorcycle or motorized bicycle. The mirror consists of a minimum reflective surface of ten square inches. All mirrors are regular in shape (circular, oval, rectangular, or square) and do not contain sharp edges or projections capable of producing injury.

450.3(10) *Seat or saddle.* A seat or saddle securely attached to the vehicle is provided for the use of the operator. The seat or saddle is not less than 20 inches above a level road surface when measured to the lowest point on top of the seat or saddle cushion with the driver seated in a driving position. The seat or saddle adjustment locking device prevents relative movement of the seat from its selected and secured position under all normal vehicle operating conditions.

450.3(11) *Horn.* The motorcycle or motorized bicycle complies with Iowa Code sections 321.432 and 321.433.

450.3(12) *Speedometer and odometer.* The motorcycle or motorized bicycle is equipped with a properly operating speedometer and odometer calibrated in miles per hour and miles respectively and is fully illuminated when the headlamp(s) is activated.

450.3(13) *Lighting equipment.* The motorcycle or motorized bicycle is equipped with at least one headlamp but not more than two, mounted securely. Headlamp(s) are mounted not less than 24 inches, nor more than 54 inches, above the level road surface. A headlight beam indicator light is located within the operator's field of vision and illuminated automatically when the high beam of the headlamp is actuated. The motorcycle or motorized bicycle is equipped with a tail and brake light assembly and a license plate light. All original lamps and lighting equipment provided on the motor vehicle by the manufacturer are maintained in working condition or are replaced with equivalent equipment.

450.3(14) *Footrest.* The motorcycle is equipped with two footrests, one on each side of the vehicle and footrests are provided for each designated seating position. Footrests are located so as to provide reasonable accessibility. Footrests are able to fold upward if they protrude beyond the side of the motorcycle's fixed items. The motorized bicycle is equipped with either two footrests or two pedals, one on each side of the vehicle, to provide reasonable accessibility.

450.3(15) *Highway bars.* If a motorcycle or motorized bicycle is so equipped, highway bars (alternate footrests) are located at a maximum distance of 26 inches from the foot controls and do not interfere with the operation of the foot controls.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.23.

761—450.4(307,321) Minimum requirements for constructing and equipping specially constructed or reconstructed autocycles. Minimum requirements to meet the definition of a specially constructed or reconstructed autocycle as defined in Iowa Code section 321.1 are as follows:

450.4(1) *Seat belt.* The autocycle complies with Iowa Code section 321.445(1).

450.4(2) *Seat.* A seat that is firmly attached to the autocycle and does not require the operator to straddle or sit astride is provided for the use of the operator.

450.4(3) *Lighting equipment.* The autocycle is equipped with at least one headlamp, at least one taillight, and either a taillight or a separate white light that illuminates the license plate if a taillight does not. All original lamps and lighting equipment provided on the autocycle by the manufacturer are maintained in working condition or are replaced with equivalent equipment.

450.4(4) *Warning devices.* The autocycle is equipped with at least one red reflector, either separate or as part of the taillight or taillights.

450.4(5) *Brakes.* The autocycle is equipped with a braking system, other than a parking brake, in accordance with Iowa Code section 321.431.

450.4(6) *Horn.* The autocycle is equipped with a horn that complies with Iowa Code section 321.433.

450.4(7) *Exhaust system.* The autocycle with an internal combustion engine is equipped with a muffler and emission control system in accordance with 49 CFR Section 393.83 as amended through October 1, 2024. When a muffler and emission control system are factory equipped, neither may be removed.

450.4(8) *Mirrors.* The autocycle is equipped with a mirror that shall consist of a minimum reflective surface of ten square inches. All mirrors are regular in shape (circular, oval, rectangular, or square) and do not contain sharp edges or projections capable of producing injury.

450.4(9) *Tires.* The autocycle is equipped with tires that comply with the requirements of Iowa Code section 321.440.

450.4(10) *Floor pan.* The autocycle is equipped with a floor pan under the entire passenger-carrying compartment. The floor pan supports the weight of the number of occupants that the autocycle is designed to carry. The floor pan is so constructed that it prevents the entry of exhaust fumes.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.23.

761—450.5(321) Front windshields, windows or sidewings.

450.5(1) "Excessively dark or reflective" means that the windshield, front side window or front sidewing does not meet a minimum standard of transparency of 70 percent light transmittance.

450.5(2) Motor vehicles operating with a dark window exemption issued prior to July 4, 2012, are subject to the provisions of rule 761—450.7(3) in effect April 13, 2022.

This rule is intended to implement Iowa Code section 321.438.

761—450.6(307,321) Seat belt exemptions.

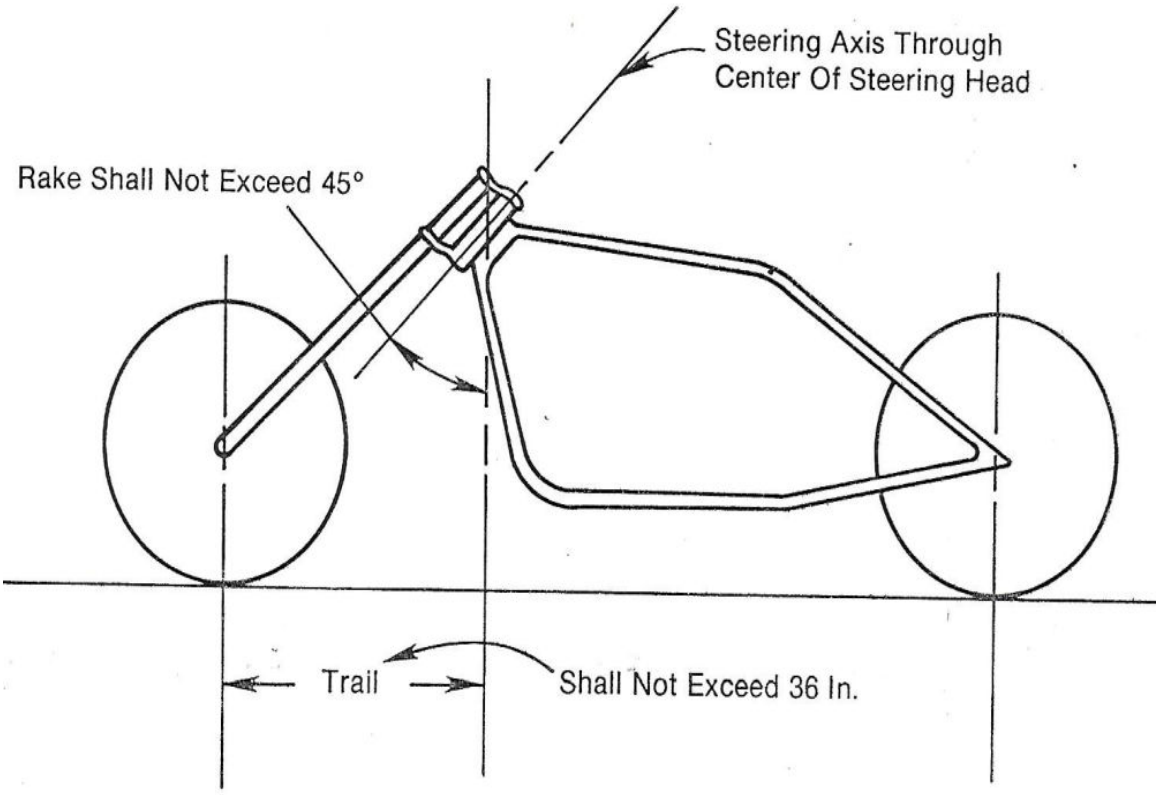
450.6(1) A person who is unable to wear a safety belt or safety harness for physical or medical reasons may obtain a form to be signed by the person's health care provider licensed under Iowa Code chapter 148 or 151. Form No. 432017, "Iowa Medical Safety Belt Exemption," is available from the motor vehicle division.

450.6(2) Iowa Code section 321.445(1) and 321.445(2) shall not apply to the front seats and front seat passengers of motor vehicles owned, leased, rented or primarily used by a person with a physical disability who uses a collapsible wheelchair.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.445.

APPENDIX TO RULE
761—450.3(321)

MOTORCYCLE FRONT END GEOMETRY



[Filed 3/17/25, effective 5/21/25]
[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9134C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to towing wrecked or disabled vehicles

The Transportation Department hereby rescinds Chapter 454, "Towing Wrecked or Disabled Vehicles," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j" and 321.463.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.463 and 23 U.S.C. Section 141(a) and (b).

Purpose and Summary

This rulemaking repromulgates Chapter 454 in compliance with Executive Order 10. Chapter 454 aims to provide a clearer definition of the terms "tow" and "wrecked or disabled vehicle" within the context of Iowa Code section 321.463. Specifically, the chapter limits the weight exemption under Iowa Code section 321.463 to situations where a disabled vehicle is being removed from a crash scene to a location for repair or storage.

Additionally, this chapter ensures compliance with federal law (specifically 23 U.S.C. Section 141(a) and (b)), which pertains to the enforcement of vehicle size and weight laws.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8488C**. A public hearing was held on the following date(s):

- January 6, 2025
- January 7, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 454 and adopt the following **new** chapter in lieu thereof:

CHAPTER 454
TOWING WRECKED OR DISABLED VEHICLES

761—454.1(307,321) Definitions. For the purpose of Iowa Code section 321.463, the following definitions are established:

"Tow" means the transportation by a vehicle designed to tow or transport wrecked or disabled vehicles directly from the scene of a crash, disablement, or impoundment to any place of repair, storage, or safekeeping.

"Wrecked or disabled vehicle" means a vehicle upon a highway involved in a crash or having mechanical failure, broken parts, or other defects, any of which prevent the vehicle from moving safely under its own power, or any vehicle impounded by the order of a peace officer.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.463 and 23 U.S.C. §141(a) and (b).

[Filed 3/17/25, effective 5/21/25]
[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9135C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to sanctions

The Transportation Department hereby rescinds Chapter 615, "Sanctions," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 252J.8, 307.12(1)"j," 321.16, 321.180B, 321.194(10), 321.208, 321.210, 321.210A, 321.210D, 321.211, 321.213B, 321.513 and 321.560.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A: Iowa Code sections 232.52(2), 252J.1, 252J.8, 252J.9, 299.1B, 307.12(1)"j," 321.1, 321.16, 321.177 through 321.216, 321.216C, 321.218, 321.261, 321.323A, 321.372, 321.445, 321.446, 321.491, 321.513, 321.555, 321.556, 321.560, 321A.4 through 321A.11, 321A.17, 321A.31, 321J.9, 321J.12, 321J.17, 321J.21, 331.665 and 707.6A; and 2024 Iowa Acts, Senate File 2109.

Purpose and Summary

This rulemaking repromulgates Chapter 615 in compliance with Executive Order 10. The Department is also aligning this chapter with 2024 Iowa Acts, Senate File 2109, related to special minor's restricted licenses and minor's restricted work licenses issued pursuant to Iowa Code sections 321.178 and 321.194. Chapter 615 establishes consistent requirements and transparency for the processes concerning all driver's license and driving privilege sanctions the Department is required or authorized to initiate under the Iowa Code (with the exception of commercial driver's license (CDL) disqualifications, operating while intoxicated (OWI) revocations, and financial responsibility law sanctions, which are covered in other applicable chapters). This chapter is intended to increase compliance with driver's license sanctions, which are by law intended to ensure highway safety.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8477C**. Two public hearings were held on the following date:

- January 7, 2025

No one attended the public hearings. No public comments were received.

Changes from the Notice have been made within subrule 615.16(1) to correct "child support recovery unit" to "child support services" to comply with 2023 Iowa Acts, Senate File 514. References to 2024 Iowa Acts, Senate File 2109, have been removed because the Senate File has been codified in the 2025 Iowa Code.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 615 and adopt the following **new** chapter in lieu thereof:

CHAPTER 615
SANCTIONS

761—615.1(321) Definitions. The following definitions apply to this chapter:

"Accident free" as used in Iowa Code section 321.180B means the driver has not been involved in a contributive accident.

"Appropriate school authority" means the superintendent of a public school or the superintendent's designee; the chief administrator of an accredited nonpublic school, an alternative school, or an adult education program or designee; or the primary instructor of a student who receives competent private instruction or independent private instruction.

"Contributive accident" or *"contributed to an accident"* means the driver was involved in an accident for which there is evidence in departmental records that the driver performed an act that resulted in or contributed to the accident or failed to perform an act which would have avoided or contributed to the avoidance of the accident.

"Deny" or *"denial"* means a rejection of an application for a license or a refusal to issue, renew or reinstate a license.

"Involvement in a motor vehicle accident" as used in Iowa Code section 321.180B means involvement in a contributive accident.

"License" means "driver's license" as defined in Iowa Code section 321.1(20A) unless the context otherwise requires.

"Moving violation," unless otherwise provided in this chapter, means any violation of motor vehicle laws except:

1. Violations of equipment standards to be maintained for motor vehicles.
2. Parking violations as defined in Iowa Code section 321.210.
3. Child restraint and safety belt and harness violations under Iowa Code sections 321.445 and 321.446.
4. Violations of registration, weight and dimension laws.
5. Operating with an expired license.
6. Failure to appear.
7. Disturbing the peace with a motor vehicle.
8. Violations of Iowa Code section 321.20B for failure to provide proof of financial liability coverage.

"Sanction" means a license denial, cancellation, suspension, revocation, bar or disqualification.

This rule is intended to implement Iowa Code sections 321.1, 321.178, 321.180A, 321.189, 321.194, 321.210, 321.215, 321.445, 321.446 and 321.555.

761—615.2(321,321A,321J) Scope. This chapter of rules applies to any license. However:

615.2(1) Additional rules addressing denial, cancellation or disqualification of a commercial driver's license are found in 761—Chapter 607, "Commercial Driver Licensing."

615.2(2) Rules implementing Iowa Code chapter 321J are found in 761—Chapter 620, "OWI and Implied Consent."

615.2(3) Rules implementing Iowa Code chapter 321A are found in 761—Chapter 640, "Financial Responsibility."

This rule is intended to implement Iowa Code chapters 321, 321A and 321J.

761—615.3(307) Information and address. Applications, forms and information concerning license sanctions are available at any driver's license service center or at www.iowadot.gov. Assistance is also available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or by telephone at 515.244.9124.

This rule is intended to implement Iowa Code section 307.12(1)*"j."*

761—615.4(321) Habitual offender.

615.4(1) A person is determined to be a habitual offender under Iowa Code section 321.555(1) in accordance with the following point system:

a. Points are assigned to convictions as follows:

Conviction	Points
Perjury or the making of a false affidavit or statement under oath to the department of public safety	2 points
Driving while under suspension, revocation or denial (except Iowa Code chapter 321J)	2 points
Driving while under Iowa Code chapter 321J revocation or denial	3 points
Driving while barred	4 points
Operating a motor vehicle in violation of Iowa Code section 321J.2	4 points
An offense punishable as a felony under the motor	5 points

vehicle laws of Iowa or any felony in the commission of which a motor vehicle is used	
Failure to stop and leave information or to render aid as required by Iowa Code sections 321.261 and 321.263	5 points
Eluding or attempting to elude a pursuing law enforcement vehicle in violation of Iowa Code section 321.279	5 points
Serious injury by a vehicle in violation of Iowa Code section 707.6A(4)	5 points
Manslaughter resulting from the operation of a motor vehicle	6 points

b. Based on the points accumulated, the person is to be barred from operating a motor vehicle on the highways of this state as follows:

Points	Length of bar
6 – 7	2 years
8 – 9	3 years
10 – 12	4 years
13 – 15	5 years
16+	6 years

615.4(2) A person declared to be a habitual offender under Iowa Code section 321.555(2) is to be barred from operating a motor vehicle on the highways of this state for one year.

615.4(3) A revocation under Iowa Code section 321.560 will begin on the date the previous revocation expires.

This rule is intended to implement Iowa Code sections 321.555, 321.556 and 321.560.

761—615.5(321) Suspension of a habitually reckless or negligent driver.

615.5(1) The department may suspend a person's license for at least 60 days if the person is a habitually reckless or negligent driver of a motor vehicle. "Habitually reckless or negligent driver" means a person who has accumulated a combination of three or more contributive accidents and convictions for moving violations or three or more contributive accidents within a 12-month period.

615.5(2) In this rule, speeding violations specified in Iowa Code section 321.210(2)*"d"* and violations under Iowa Code section 321.276 are not included.

This rule is intended to implement Iowa Code section 321.210.

761—615.6(321) Suspension of a habitual violator.

615.6(1) The department may suspend a person's license when the person is a habitual violator of the traffic laws. "Habitual violator" means that the person has been convicted of three or more moving violations committed within a 12-month period.

615.6(2) The minimum suspension periods are as follows unless reduced by a driver's license hearing officer based on mitigating circumstances:

3 convictions in 12 months	90 days
4 convictions in 12 months	120 days
5 convictions in 12 months	150 days
6 convictions in 12 months	180 days
7 or more convictions in 12 months	1 year

615.6(3) In this rule, speeding violations specified in Iowa Code section 321.210(2)*"d"* and violations under Iowa Code section 321.276 are not included.

This rule is intended to implement Iowa Code section 321.210.

761—615.7(321) Suspension or denial for incapability. A person who is physically or mentally incapable of safely operating a motor vehicle is subject to license suspension or denial by the department.

615.7(1) Suspension or denial for incapability may be based on one or more of the following:

a. Receipt of a medical report or vision report stating that the person is not physically or mentally capable of safely operating a motor vehicle.

b. Failure of the person to appear for a required reexamination or failure to submit requested information within the specified time.

c. Ineligibility for licensing under Iowa Code sections 321.177(4) through 321.177(7).

615.7(2) A suspension or denial under this rule will remain in effect until the department receives satisfactory evidence that the licensee has been restored to capability.

615.7(3) A person whose license has been suspended or denied for incapability may be eligible for a special noncommercial instruction permit under rule 761—602.21(321).

615.7(4) A person who has a valid Iowa license that would otherwise be suspended for incapability shall, in lieu of a suspension, be denied further licensing if there is less than 30 days' validity on the license.

a. The denial will take effect when the license is no longer valid.

b. The license shall be surrendered to the department. The department shall issue a temporary driving permit that allows the person to drive until the effective date of the denial.

615.7(5) If a person who is denied licensing for incapability does not have a valid Iowa license, the department may refuse orally to issue a license, effective immediately, or may deny licensing in writing, effective on the date the denial notice is served.

This rule is intended to implement Iowa Code sections 321.177, 321.210, 321.212 and 321.216.

761—615.8(321) Suspension for unlawful use of a license. The department may suspend a person's license upon receipt of a conviction or written law enforcement report that the person has permitted unlawful or fraudulent use of the license. The suspension period will be at least 30 but no more than 60 days.

This rule is intended to implement Iowa Code sections 321.210, 321.212 and 321.216.

761—615.9(321) Suspension or revocation for out-of-state offense. The department may suspend or revoke a person's license when the department is notified by another state that the person committed an offense in that state that, if committed in Iowa, would be grounds for suspension or revocation. The notice may indicate either a conviction or a final administrative decision. The period of the suspension or revocation is to be the same as if the offense had occurred in Iowa.

This rule is intended to implement Iowa Code sections 321.205 and 321.210.

761—615.10(321) Suspension for a serious violation.

615.10(1) The department may suspend a person's license when the person has committed a serious violation of the motor vehicle laws.

615.10(2) "Serious violation" means that:

a. The person's conviction for a moving violation was accompanied by a written report from the arresting officer, the prosecuting attorney or the court indicating that the violation was unusually serious. The suspension period will be at least 60 days.

b. The person was convicted of a moving violation that contributed to a fatal motor vehicle accident. The suspension period will be at least 120 days.

c. The person was convicted for speeding 25 miles per hour (mph) or more above the legal limit. The minimum suspension period is as follows unless reduced by the department based on mitigating circumstances:

25 mph over the legal limit	60 days
26 mph over the legal limit	65 days
27 mph over the legal limit	70 days

28 mph over the legal limit	75 days
29 mph over the legal limit	80 days
30 mph over the legal limit	90 days
31 mph over the legal limit	100 days
32 mph over the legal limit	110 days
33 mph over the legal limit	120 days
34 mph over the legal limit	130 days
35 mph over the legal limit	140 days
36 mph over the legal limit	150 days
37 mph over the legal limit	160 days
38 mph over the legal limit	170 days
39 mph over the legal limit	180 days
40 mph over the legal limit	190 days
41 mph over the legal limit	210 days
42 mph over the legal limit	230 days
43 mph over the legal limit	250 days
44 mph over the legal limit	270 days
45 mph over the legal limit	290 days
46 mph over the legal limit	310 days
47 mph over the legal limit	330 days
48 mph over the legal limit	350 days
49 mph or more over the legal limit	one year

d. The person was convicted of violating Iowa Code section 321.372(3) or a similar ordinance of any political subdivision. The suspension period will be:

(1) 30 days for a first conviction.

(2) 90 days for a second conviction.

(3) 180 days for a third or subsequent conviction.

e. The person was convicted of violating Iowa Code section 321.323A or a similar ordinance of any political subdivision. The suspension period is established in Iowa Code section 321.323A(4)*"c."*

This rule is intended to implement Iowa Code sections 321.210, 321.323A, 321.372 and 321.491.

761—615.11(321) Suspension under the nonresident violator compact. The department may suspend a person's license when a report is received from another state under the nonresident violator compact that an Iowa licensee has failed to comply with the terms of a traffic citation. The suspension will continue until the department receives evidence of compliance with the terms of the citation, at which point the department shall issue a notice terminating the suspension.

This rule is intended to implement Iowa Code sections 321.210 and 321.513.

761—615.12(17A,321) Suspension for a charge of vehicular homicide; hearing and appeal process.

615.12(1) The department shall suspend a person's license when the department receives notice from the clerk of the district court that an indictment or trial information has been filed charging the person with homicide by vehicle under Iowa Code section 707.6A(1) or 707.6A(2). The suspension takes effect ten days after the department's suspension notice is issued.

615.12(2) In a contested case hearing, the sole issue is whether there is a possibility of a judgment being rendered against the person for homicide by vehicle under Iowa Code section 707.6A(1) or 707.6A(2). A suspension under this subrule will be upheld if there is evidence in department records that the indictment or trial information was found or approved by a grand jury, magistrate, or judge.

This rule is intended to implement Iowa Code chapter 17A and section 321.210D.

761—615.13(307,321) Suspension of a special minor's restricted license and minor's restricted work license.

615.13(1) *Suspension of a special minor's restricted license.*

a. Suspensions issued under Iowa Code section 321.194(7) may be concurrent. Each suspension requires a separate three-month waiting period pursuant to Iowa Code section 321.194(7)*"b."*

b. A written report submitted to the department by a peace officer, parent, guardian, custodian, or appropriate school authority will constitute evidence that the licensee violated the restrictions of the license.

c. A suspension issued under this subrule terminates when the person attains the age of 18.

615.13(2) *Suspension of a minor's restricted work license.* The department may suspend a minor's restricted license for at least 30 days upon receiving notice of the licensee's conviction for one moving violation or evidence that the licensee has violated the license restrictions.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.178 and 321.194.

761—615.14(321) Suspension for nonpayment of fine, penalty, surcharge or court costs.

615.14(1) A suspension issued by the department under Iowa Code section 321.210A shall continue until the department receives notice from a clerk of the district court that all appropriate payments have been made, the person has entered into an executed installment agreement under Iowa Code section 321.210B, or the notice to suspend was submitted in error. Upon receipt of such notice, the department shall terminate the suspension.

615.14(2) An informal settlement, hearing or appeal to contest the suspension is limited to a determination of whether the facts required by Iowa Code section 321.210A and this subrule are true. The merits of the conviction will not be considered.

This rule is intended to implement Iowa Code sections 321.210A and 321.210B.

761—615.15(232,299,307,321) Suspensions for juveniles.

615.15(1) *Suspension for juveniles adjudicated delinquent for certain offenses.*

a. Pursuant to Iowa Code section 321.213A, the department will suspend the license of a person for one year upon receipt of an adjudication and dispositional order from the clerk of the juvenile court.

b. The department may issue to a person suspended under this subrule a temporary restricted license in accordance with rule 761—615.28(321) if issuance is permitted under Iowa Code section 321.215 and the person is otherwise eligible for the license. To obtain a temporary restricted license that is valid for educational or employment purposes, the applicant must meet the requirements for issuance of a special minor's restricted license under Iowa Code section 321.194 and rule 761—602.26(321).

615.15(2) *Suspension for juvenile's failure to attend school.*

a. The department shall suspend the driver's license of a person of compulsory age upon receipt of notification from the appropriate school authority that the person is in violation of Iowa Code section 299.1B.

b. The suspension will continue until the person reaches the age of 18 or the department receives notification from the appropriate school authority that the person is no longer in violation of Iowa Code section 299.1B.

c. The department may issue to the person a minor's restricted work license pursuant to Iowa Code section 321.178 and rule 761—602.25(321) if the person is eligible for the license.

This rule is intended to implement Iowa Code sections 232.52(2), 321.178, 321.213B, 299.1B, 307.12(1)*"j,"* 321.213, 321.213A and 321.215.

761—615.16(252J) Suspension upon receipt of a certificate of noncompliance.

615.16(1) *From child support services.*

a. The department shall suspend a person's Iowa-issued driver's license upon receipt of a certificate of noncompliance from the child support services.

b. The suspension shall continue until receipt of a withdrawal of the certificate of noncompliance from the child support services.

c. The filing of an application pursuant to Iowa Code section 252J.9 stays the suspension pending the outcome of the district court hearing.

615.16(2) Reserved.

This rule is intended to implement Iowa Code sections 252J.1, 252J.8 and 252J.9.

761—615.17(307,321) Suspension for violation of a license restriction. The department may suspend a person's license when the department receives satisfactory evidence of a violation of a restriction imposed on the license. The suspension period is at least 30 days for the first violation and at least 90 days for subsequent violations.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321.193.

761—615.18(307,321,707) Mandatory revocation.

615.18(1) A revocation issued by the department pursuant to Iowa Code section 321.209 shall be at least one year except as provided in Iowa Code section 321.212.

615.18(2) For purposes of issuing a revocation under Iowa Code section 321.209(2), "felony" includes a conviction that meets at least one of the following criteria:

a. The record provides specific factual findings by the court that a motor vehicle was used in the commission of the offense,

b. The record is accompanied by information from the prosecuting attorney indicating that a motor vehicle was used in the commission of the crime, or

c. The record indicates that the elements of the offense actually required the use of a motor vehicle.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.209, 321.212, 321.261 and 707.6A.

761—615.19(307,321J) Extension of suspension or revocation period under Iowa Code chapter 321J. The department is to extend the period of license suspension or revocation for an additional like period when the person is convicted of operating a motor vehicle while the person's license is suspended or revoked under Iowa Code chapter 321J.

This rule is intended to implement Iowa Code sections 307.12(1)*"j"* and 321J.21.

761—615.20(321) Effective date of sanction. Unless otherwise specified by statute or rule, a suspension, revocation, disqualification or bar shall begin 30 days after the department's notice of such action is served. However, a cancellation issued by the department under Iowa Code section 321.184, 321.185, 321.189, 321.191, or 321.201 will take effect ten days after the department's notice of cancellation is served.

This rule is intended to implement Iowa Code sections 321.208, 321.209, 321.210 and 321.556.

761—615.21(321,321J,331) Service of notice.

615.21(1) The department shall send a notice of a sanction by first-class mail to the person's mailing address as shown on departmental records.

615.21(2) In lieu of service by mail, the notice may be delivered by a peace officer, a departmental employee, or any person over 18 years of age.

a. The person serving the notice shall prepare a certificate of personal service certifying delivery, specifying the name of the receiver, the address and the date, or certifying nondelivery.

b. The department will pay fees for personal service of notice by a sheriff as specified in Iowa Code section 331.655. The department may also contract for personal service of notice when the department determines that it is in the best interests of the state.

615.21(3) The sanction shall become effective on the date specified in the notice.

615.21(4) The department may prepare an affidavit of mailing verifying the fact that a notice was mailed by first-class mail. To verify the mailing of a notice, the department may use its records in conjunction with U.S. Postal Service records available to the department. The department's affidavit of mailing may be attested to and certified in accordance with Iowa Code section 622.1.

This rule is intended to implement Iowa Code sections 321.16, 321.211, 321.211A, 321.556, 321J.9, 321J.12 and 331.655.

761—615.22(17A,321,321J) Hearing and appeal process.

615.22(1) *Applicability.* This rule applies to:

a. License denials, cancellations and suspensions under Iowa Code sections 321.177 through 321.215 and 321A.4 through 321A.11 except suspensions under Iowa Code sections 321.213A and 321.213B.

b. License suspensions and revocations under Iowa Code sections 321.218 and 321J.21.

c. License revocations under Iowa Code sections 321.193 and 321.205.

d. Disqualifications from operating a commercial motor vehicle under Iowa Code section 321.208.

e. License bars under Iowa Code section 321.556.

615.22(2) *Submission of request.*

a. A person subject to a sanction listed in subrule 615.22(1) may contest the action by following the provisions of 761—Chapter 13 as supplemented by this rule.

b. A person may request an informal settlement, a contested case hearing, or an appeal of a presiding officer's decision by submitting a request in writing to the motor vehicle division at the address in rule 761—615.3(17A).

c. The request is to include the person's name, date of birth, driver's license or permit number, mailing address and telephone number and the name, address and telephone number of the person's attorney, if any.

d. A request for an informal settlement or a request for a contested case hearing will be deemed timely submitted if it is delivered to the motor vehicle division or postmarked within the time period specified in the department's notice of the sanction.

(1) Unless a longer time period is specified in the notice or another time period is specified by statute or rule, the time period will be 20 days after the notice is served.

(2) However, a request to appeal a sanction under rule 761—615.7(321) or a denial of a license may be submitted at any time.

615.22(3) *Informal settlement or hearing.*

a. The person may request an informal settlement. Following an unsuccessful informal settlement procedure, or instead of that procedure, the person may request a contested case hearing.

b. Notwithstanding paragraph 615.22(3)*"a,"* a request received from a person who has participated in a driver improvement interview on the same matter shall be deemed a request for a contested case hearing.

615.22(4) *Appeal.* A request to appeal a presiding officer's decision shall be submitted in accordance with 761—subrule 13.5(3).

615.22(5) *Stay of sanction.*

a. Upon receipt of a properly submitted, timely request under this rule, the department will review its records to determine whether the sanction may be stayed pending the outcome of the settlement, hearing or appeal unless prohibited by statute or rule or unless otherwise requested by the requester/appellant.

(1) If the stay is granted, the department will send a notice indicating the effective date of the stay. The notice allows the person to drive while the sanction is stayed if the license is valid and no other sanction is in effect.

(2) A person whose stay authorizes driving privileges shall carry the notice of stay at all times while driving.

b. Of the sanctions listed in subrule 615.22(1), the department shall not stay the following, and the person's driving privileges do not continue:

(1) A suspension for incapability.

(2) A denial.

(3) A disqualification from operating a commercial motor vehicle.

(4) A suspension under Iowa Code section 321.180B.

(5) A suspension or revocation under Iowa Code section 321.218 or 321J.21.

This rule is intended to implement Iowa Code chapter 17A and sections 321.177 through 321.215, 321.218, 321.556, 321A.4 through 321A.11 and 321J.21.

761—615.23(307,321,321A) Surrender of license. A person whose Iowa license has been sanctioned shall surrender the license to the designated representative of the department on or before the effective date of the sanction.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.201, 321.208, 321.210D, 321.212, 321.216, 321.556 and 321A.31.

761—615.24(321,321A,321J) License reinstatement or reissue. The department may reinstate the license when the sanction has ended if the person is otherwise eligible for issuance of the license and the person has:

615.24(1) Filed proof of financial responsibility under Iowa Code chapter 321A, when required, for all vehicles to be operated. Only the motor vehicles covered under the proof of financial responsibility filed by the applicant may be operated.

615.24(2) Paid the civil penalty when required by Iowa Code section 321J.17.

615.24(3) Complied with the specific instructions given in the department's notice terminating the sanction.

615.24(4) Successfully completed any required driver license examinations.

615.24(5) Paid the reinstatement fee under Iowa Code section 321.191 when required.

615.24(6) Paid the appropriate license fee or duplicate license fee under Iowa Code sections 321.191 and 321.195.

This rule is intended to implement Iowa Code sections 321.186, 321.191, 321.195, 321.208, 321.212, 321A.17 and 321J.17.

761—615.25(321) Investigation of convictions based on fraud. A person requesting investigation of fraudulent use of a person's name or other fraudulent identification that resulted in a record of conviction for a scheduled violation under Iowa Code chapter 321 and listed in Iowa Code section 805.8A may submit a written application to the department using Form 420049. The department will review the application and determine whether investigation is warranted under Iowa Code section 321.200A.

This rule is intended to implement Iowa Code section 321.200A.

761—615.26(321) Remedial driver improvement.

615.26(1) Pursuant to Iowa Code section 321.180B(3)*"a,"* remedial driver improvement action means any or all of the following as determined by the department: suspension, safety advisory letter, additional restriction(s), safety consultation, educational program, knowledge examination, or driving examination.

615.26(2) A suspension period under Iowa Code section 321.180B(3) shall be at least 30 days for the first violation, at least 60 days for the second violation, and at least 90 days for a third or subsequent violation. A person whose driving privilege has been suspended under this rule is not eligible for a temporary restricted license.

615.26(3) Any action under this rule terminates when a person attains the age of 18.

This rule is intended to implement Iowa Code section 321.180B.

761—615.27(307,321) Driver improvement program.

615.27(1) *When required.*

a. In lieu of suspension, the department may require the following persons to attend and successfully complete, at the person's own expense, a driver improvement program approved by the department:

(1) A habitual violator.

(2) A person who is convicted for speeding at least 25 but not more than 29 miles per hour over the legal limit.

(3) A person whose license is subject to suspension under Iowa Code section 321.210C.

(4) A person who is convicted of a first offense violation of Iowa Code section 321.372(3) or a similar ordinance of any political subdivision.

b. However, a person is not eligible to attend a driver improvement program in lieu of suspension more than once within a two-year period.

615.27(2) *Scheduling.* The department shall forward the person's contact information to the approved driver improvement program provider nearest the person's last known address. The provider will schedule the person's attendance at the provider's next available program opening.

a. One request for rescheduling may be granted by the provider if the program begins within 30 days of the originally scheduled date and if space is available.

b. A request to attend a program in another state may be granted if the curriculum is approved by the department.

615.27(3) *Probation.* When a person is required to attend and successfully complete a driver improvement program, the person must immediately thereafter complete a one-year probationary driving period. The department may suspend the person's license upon receipt of one conviction for a moving violation committed by the person during the probationary period. The suspension period will be for the length of the original underlying suspension.

615.27(4) *Failure to attend.* The department shall suspend the license of a person who is required to attend a driver improvement program and who does not attend, or does not successfully complete, the program. The suspension period will be for the length of the original underlying suspension.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.210, 321.210C and 321.372.

761—615.28(252J,307,321,321J) Temporary restricted license (work permit).

615.28(1) A person is not eligible for a temporary restricted license under Iowa Code section 321.215 if the person is subject to the following sanctions:

a. License denial or cancellation.

b. License suspension for incapability.

c. License suspension for noncompliance with the financial responsibility law.

d. Suspension or revocation of a special minor's restricted license or minor's restricted work license.

e. License revocation under Iowa Code section 321.209(1) through 321.209(4) or revocation for a second or subsequent conviction for drag racing.

f. License bar under Iowa Code section 321.560 unless the applicant is declared to be a habitual offender under Iowa Code section 321.555(1)*"c"* or 321.555(2).

g. License suspension under Iowa Code section 252J.8.

h. License suspension under Iowa Code section 321.180B(3).

615.28(2) Application for a temporary restricted license is to be made online at www.iowadot.gov/mvd/driverslicense/Suspensions-and-Revocations#TempRL or using Form 430100 and submitted to the motor vehicle division at the address in rule 761—615.3(17A).

615.28(3) The application is to be accompanied by supporting documentation signed by each entity able to attest to the applicant's eligibility for each requested purpose authorized under Iowa Code section 321.215(1)*"a"*(1) through 321.215(1)*"a"*(6). An applicant under Iowa Code section 321.215(1)*"a"*(5) must also submit a copy of the court order for community service. Acceptable statements will explain the need for the license and list specific places and times for the activity that can be verified by the department.

615.28(4) A temporary restricted license issued for employment may include permission for the licensee to transport dependent children or adults between the licensee's residence and a child or dependent adult care location, provided the care is essential for continuation of the licensee's employment and the application includes a signed statement from the care provider.

615.28(5) An applicant for a temporary restricted license is also required to do all of the following:

a. File proof of financial responsibility under Iowa Code chapter 321A, if required, for all motor vehicles to be operated under the temporary restricted license.

b. Pay the civil penalty when required by Iowa Code section 321J.17.

c. Pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license.

d. Pay any applicable reinstatement and license fees.

615.28(6) The department will determine the restrictions to be imposed by the temporary restricted license based on the documents submitted. The licensee may apply at any time to the department in writing with a justification for any requested change in license restrictions.

615.28(7) An applicant who has been denied a temporary restricted license or who contests the license restrictions imposed by the department may contest the decision in accordance with rule 761—615.22(321).

This rule is intended to implement Iowa Code chapter 321A and sections 252J.8, 307.12(1)*"j,"* 321.177, 321.178, 321.184, 321.185, 321.186, 321.189, 321.191, 321.193, 321.194, 321.195, 321.201, 321.205, 321.209, 321.210, 321.210A, 321.212, 321.213A, 321.213B, 321.215, 321.218, 321.513, 321.560 and 321J.17.

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TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to driver education

The Transportation Department hereby rescinds Chapter 634, "Driver Education," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j," 321.178 and 321.178A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.13, 321.178, 321.178A, 321.180B and 321.194.

Purpose and Summary

This rulemaking repromulgates Chapter 634 in compliance with Executive Order 10. Chapter 634 implements the Department's rulemaking authority granted in Iowa Code section 321.178, which explains driver education course requirements for school districts and private and commercial driver education schools, including the qualification, application, and certification requirements for behind-the-wheel instructors. The chapter also implements Iowa Code section 321.178A, which explains the requirements for a teaching parent to provide driver education as an alternative to a driver education course offered by a course provider.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8470C**. Two public hearings were held on the following date:

- January 9, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 634 and adopt the following **new** chapter in lieu thereof:

CHAPTER 634
DRIVER EDUCATION

761—634.1(321) Information and location. Applications, forms and information regarding this chapter are available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Boulevard, Ankeny, Iowa 50021; by telephone at 515.244.8725; by facsimile at 515.239.1837; or on the department's website at www.iowadot.gov/mvd/drivereducation.

761—634.2(321) Definitions.

"Approved course" means a driver education curriculum approved by the department that meets the requirements of Iowa Code section 321.178A and is appropriate for teaching parent-directed driver education and related behind-the-wheel instruction.

"Behind-the-wheel instruction" means the street or highway driving instruction component of an approved driver education course.

"Clear driving record" means the person currently and during the prior two-year period has not been identified as a candidate for suspension or revocation of a driver's license under the habitual offender or habitual violator provisions of rule 761—615.4(321) or rule 761—615.6(321); is not subject to a driver's license suspension, revocation, denial, cancellation, disqualification, or bar; has no record of a

contributive motor vehicle accident that caused the death or serious injury of another person; and has no record of two or more contributive motor vehicle accidents in a two-year period.

"Course vendor" means a third-party vendor that makes available commercially an approved course.

"Driver education school" means any school district, area education agency, merged area school, or other agency or person planning to offer driver education.

"Instructor," for purposes of this chapter, means a person certified to provide behind-the-wheel instruction.

"Laboratory instruction" includes instruction received by a student while the student is in the driver education vehicle or adjacent to it as referred to in paragraphs 634.3(2)*"c"* and *"d"* and may also include range or simulation as referred to in paragraphs 634.3(2)*"h"* and *"i."*

"Serious injury" means the same as defined in Iowa Code section 702.18.

"Student" means the same as defined in Iowa Code section 321.178(1)*"d."*

"Teacher" means the same as defined in Iowa Code section 256.145(16).

"Teaching parent" means the same as defined in Iowa Code section 321.178A(2)*"c."*

761—634.3(321) Driver education course standards and requirements.

634.3(1) *Course approval.* Any school district, area education agency, merged area school, or other entity planning to offer a driver education course must apply for and receive departmental approval, including approval of all teachers, instructors, and course curriculum. Approvals remain valid for a calendar year, expiring December 31, and must be renewed annually. The application for course renewal shall be submitted to the department within 60 days of the expiration date unless otherwise approved by the department.

634.3(2) *Course requirements.*

a. The instruction provided under Iowa Code section 321.178(1)*"a"* is to be performed in a dual-controlled motor vehicle and exclusive of observation time.

b. Except upon showing of good cause, laboratory instruction shall not conclude later than 45 days after classroom instruction has been completed. When the driver education course provider determines there is good cause, the laboratory instruction shall not conclude later than 90 days after classroom instruction has been completed. For the purpose of this paragraph, "good cause" means an unanticipated event causing a delay in the student's ability to complete the laboratory instruction if the event is beyond the student's control.

c. Behind-the-wheel instruction shall be limited to a maximum of 30 minutes per student per session and a maximum of 60 minutes in a single day.

d. Two or more students shall be scheduled for all behind-the-wheel instruction to ensure that appropriate observation time is experienced.

e. Routine maintenance and operation of motor vehicles to maximize energy efficiency and safety will be included in classroom instruction.

f. Each school district will provide students who are absent from instruction an opportunity to make up a reasonable amount of time and coursework.

g. When driving simulators are used for part of the behind-the-wheel driving experience, four hours of simulator experience will be considered equal to one hour of behind-the-wheel driving in the car. However, in addition to simulator time, a minimum of three hours of on-street, behind-the-wheel driving must be completed.

h. When driving ranges are used in driver education courses, two hours of range experience will be considered equal to one hour of on-street, behind-the-wheel driving. However, in addition to range time, a minimum of three hours of on-street, behind-the-wheel driving must be completed.

i. Motor vehicles that are designed primarily for carrying nine or fewer occupants, excluding motorcycles and mopeds, are the only motor vehicles approved for use in driver education courses, and each shall be equipped with a dual control. Vehicles must bear a manufacturer's label pursuant to 49 CFR §567.4 effective as of October 1, 2023.

j. The driver education teacher or instructor is to verify at the beginning of each course that each student possesses a valid instruction permit or driver's license. Each student is responsible for possessing

an instruction permit or driver's license throughout all laboratory instruction and is to report any suspension, revocation or cancellation of the instruction permit or driver's license to the driver education teacher or instructor prior to attending laboratory instruction.

634.3(3) *Experimental program.* The department may approve an experimental program based on student or school district need for improved instruction. The maximum duration of an experimental program is three years. Annual documentation of the effectiveness of instruction must be submitted to the department.

761—634.4(321) Instructor qualifications, application, and certification.

634.4(1) *Behind-the-wheel instructor qualifications.* Behind-the-wheel instructors must:

a. Hold a valid driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.

b. Have a clear driving record for the previous two years.

634.4(2) *Behind-the-wheel instructor's certification requirements.* Except as otherwise provided in this chapter, the following requirements apply to a behind-the-wheel instructor:

a. An applicant for a behind-the-wheel instructor's certification will apply to the department using Form 431160.

(1) An initial behind-the-wheel instructor's certification is to be submitted annually within 60 days of the expiration date unless otherwise approved by the department. The instructor approval expires on December 31 but remains valid for an additional 30 days after the expiration date.

(2) To renew a behind-the-wheel instructor's certification, a person will do all of the following:

1. Apply to the department annually. Instructor approval is valid for a calendar year or the remainder of a calendar year. The instructor approval expires on December 31 but remains valid for an additional 30 days after the expiration date. An application for renewal of instructor approval shall be submitted within 60 days of the expiration date unless otherwise approved by the department.

2. Provide behind-the-wheel instruction for a minimum of 12 clock hours during each calendar year.

b. A behind-the-wheel instructor will complete at least one state-sponsored or state-approved behind-the-wheel instructor refresher course biennially. Approved courses may include electronic completion or remote attendance options. The department may develop a special course for licensed teachers or peace officers who qualify to provide behind-the-wheel instruction under subrule 634.4(3) or 634.4(5).

c. Upon certification, but prior to providing behind-the-wheel instruction, the person will be:

(1) Authorized by the Iowa board of educational examiners to provide behind-the-wheel driving instruction unless exempt under Iowa Code section 321.178.

(2) Employed by a public or licensed commercial or private provider of the approved driver education course.

634.4(3) *Instructor's certification for licensed teachers.* A teacher licensed by the Iowa board of educational examiners as provided in 282—subrule 13.10(8) will be included as an approved instructor on an annual driver education course approval as referenced in subrules 634.3(1) and 634.6(1) and shall meet the requirements in paragraph 634.4(2)*"b"* to be certified by the department to provide behind-the-wheel instruction.

634.4(4) *Instructor application and certification for a teacher with an expired teacher's license.* A teacher who holds an expired initial, standard, exchange, or master educator license with an endorsement for driver education as provided in 282—subrule 13.10(8) shall meet the requirements in subrule 634.4(2) to be certified by the department to provide behind-the-wheel instruction.

634.4(5) *Instructor application and certification for active peace officers and retired peace officers.*

a. An applicant for behind-the-wheel instructor certification who is an active peace officer or a retired peace officer as referenced in Iowa Code section 321.178 shall:

(1) Be at least 25 years of age.

(2) Submit Form 431233 certifying the person's status as an active or retired peace officer.

(3) Meet all other requirements of subrule 634.4(2), except peace officers or retired peace officers who otherwise qualify under this subrule are not required to meet the requirement of subparagraph 634.4(2)*"c"*(1).

b. A retired peace officer is only required to submit Form 431233, required under paragraph 634.4(5)*"a,"* to the department once unless the form is invalid or not accepted by the department.

634.4(6) *Instructor application and certification for persons other than licensed teachers, peace officers or retired peace officers.* A person who is not licensed by the Iowa board of educational examiners to provide classroom driver education as provided in 282—subrule 13.10(8), who does not hold an expired teacher's license as referenced in subrule 634.4(4), or who is not a peace officer or a retired peace officer as referenced in Iowa Code section 321.178 must satisfy all of the following to be certified by the department to provide behind-the-wheel instruction:

a. Be at least 25 years of age.

b. Meet the requirements in subrule 634.4(2).

c. Successfully complete a department-approved instructor preparation course within 12 months of application for behind-the-wheel instruction certification. The instructor preparation course will:

(1) Be a driver education teacher preparation program that is designed to observe, coach, and evaluate behind-the-wheel instructor candidates.

(2) Be approved by the Iowa board of educational examiners.

(3) Consist of 24 hours of classroom instruction in sessions not exceeding 4 hours that covers, at minimum, the psychology of the young driver, behind-the-wheel teaching techniques, and driving route selection.

(4) Consist of 12 hours of behind-the-wheel instruction in sessions not exceeding 4 hours in a dual-controlled vehicle with a licensed driver education instructor.

634.4(7) *Behind-the-wheel certification—reissuance.*

a. Completion of the behind-the-wheel instructor preparation course will be required to re-issue a behind-the-wheel instructor certification that has expired and is past the renewal date unless the applicant has:

(1) Held a valid behind-the-wheel certification within the two years immediately preceding the application.

(2) Provided a minimum of 12 clock hours of behind-the-wheel instruction within the two years immediately preceding the application.

(3) Completed at least one state-sponsored or state-approved behind-the-wheel instructor refresher course within the two calendar years immediately preceding the application unless otherwise exempt under this chapter.

(4) Completed a minimum of 12 clock hours shadowing a teacher licensed by the Iowa board of educational examiners as provided in 282—subrule 13.10(8) through a department-approved driver education program within 90 days immediately preceding the application.

b. Upon recertification but prior to providing behind-the-wheel instruction, the person will:

(1) Be authorized by the Iowa board of educational examiners to provide behind-the-wheel driving instruction unless otherwise exempt under this chapter.

(2) Be employed by a public or licensed commercial or private provider of the approved driver education course and work under the supervision of a person licensed by the Iowa board of educational examiners as provided in 282—subrule 13.10(8).

761—634.5(321) Instructor disqualification, investigation, and cancellation.

634.5(1) *Disqualifications.* A person will be disqualified by the department from certification as a behind-the-wheel driving instructor for any of the reasons for which the chair of the Iowa board of educational examiners would deny an application for licensure, certification or authorization as provided in rule 282—11.35(256).

634.5(2) *Investigation.* The department may investigate an applicant for a behind-the-wheel instructor's certification or an instructor to determine if the applicant or instructor meets the

requirements for certification. The investigation may include but is not limited to an inquiry into the applicant's or instructor's criminal history from the department of public safety.

634.5(3) *Cancellation.* The department shall cancel the behind-the-wheel instructor's certification of an individual who no longer qualifies under this chapter.

761—634.6(321) Private and commercial driver education schools. The department licenses private and commercial driver education schools as follows:

634.6(1) *Course approval.* A driver education school will receive course approval, which includes approval of all teachers and instructors listed on the application, from the department prior to the beginning of the first class that is offered and annually thereafter. Behind-the-wheel instruction must be provided by a person who meets the instructor requirements in rule 761—634.4(321). Evidence of the approvals and certifications will be submitted to the department upon application for a license, upon renewal of a license, and upon reinstatement of a license following cancellation.

634.6(2) *Application and fees.* Application for license issuance or renewal is $25. The fee will be made to the department in a manner determined by the department.

634.6(3) *Issuance and renewal.* A license to teach driver education shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an additional 30 days after the expiration date. The application for renewal will be submitted to the department within 60 days of the expiration date unless otherwise approved by the department.

634.6(4) *Cancellation.* A license to teach driver education shall be canceled if the course, teacher, or instructor is no longer approved or the person providing only behind-the-wheel instruction for driver education is no longer certified by the department and authorized by the Iowa board of educational examiners.

761—634.7(321) Driver education—teaching parent. As an alternative to a driver education course offered by a course provider approved under rule 761—634.3(321), a teaching parent may instruct a student in an approved course of driver education.

634.7(1) *Instruction by a teaching parent.*

a. A teaching parent will instruct the student using an approved course.

b. The teaching parent will select the course to be used from the list of approved courses posted at www.iowadot.gov/mvd/driverseducation/Parent-taught/Step-2 and will purchase the course directly from the applicable course vendor.

c. No person will provide driver education as a teaching parent unless the person meets the definition of a teaching parent, and the department will not recognize driver education that was:

(1) Provided by a person who does not meet the definition of a teaching parent.

(2) Provided to a person who is not a student as defined in rule 761—634.2(321).

(3) Offered under a course other than an approved course.

634.7(2) *Course completion—certificate of completion.*

a. Upon the student's completion of an approved course, the teaching parent will apply for a certificate of completion on behalf of the student pursuant to Iowa Code section 321.178A.

b. The department will deny issuance of a certificate of completion if:

(1) The course was not conducted by a person meeting the definition of a teaching parent.

(2) The application does not properly identify a student eligible to be instructed in driver education by the teaching parent.

(3) The application and evidence do not demonstrate the student's successful completion of an approved course.

(4) The application and evidence do not include all documentation, statements, certifications, and logs required by Iowa Code section 321.178A in adequate and proper form and content.

(5) The department has determined that the application should be rejected for any reason listed in Iowa Code section 321.13.

c. If the application is denied, the department will issue a letter of denial to the teaching parent explaining the reason for the denial.

d. If the application is approved, the department will issue a certificate of completion to the student. A certification of completion issued by the department under this subrule constitutes proof of successful completion of an Iowa-approved course in driver education but shall not be grounds for waiver of a driving test under 761—subrule 604.31(2).

634.7(3) *Course approval.*

a. For a course to become an approved course under Iowa Code section 321.178A, a vendor of a driver education curriculum will submit an application on a form provided by the department to the address in rule 761—634.1(321), along with a copy of all proposed curriculum materials.

b. To be designated as an approved course, the curriculum submitted must, at a minimum, meet the requirements of Iowa Code section 321.178A, be appropriate for teaching-parent-directed driver education and related street or highway instruction, and meet or exceed the required content set forth in the Appendix to this rule.

c. If the proposed curriculum does not meet the requirements for an approved course, the department will issue a letter of denial to the course vendor explaining the reason for denial.

d. If the proposed curriculum is approved, the department will issue a certificate of approval to the vendor designating the curriculum as an approved course and will list the approved course on the department's website. Course approval will be issued for one calendar year or for the remainder of a calendar year. The approval expires on December 31 and must be renewed annually by the submission of an application on a form provided by the department and all required materials as set forth in this subrule at least 60 days prior to the expiration date unless otherwise approved by the department.

These rules are intended to implement Iowa Code sections 321.13, 321.178, 321.178A, 321.180B and 321.194.

Appendix to Rule 761—634.7(321)

To be designated as an approved course, a curriculum must, at a minimum, meet the requirements of Iowa Code section 321.178A, be appropriate for teaching-parent-directed driver education and related street or highway instruction, and meet or exceed the required content listed below:

1. *Duration and required content.* The course must provide for both classroom and behind-the-wheel instruction. As used in this rule, *"classroom instruction"* means instruction provided by a teaching parent in a private setting using printed or electronic course materials, and *"behind-the-wheel instruction"* means street or highway driving instruction provided by a teaching parent or a person who is qualified to provide street or highway driving instruction pursuant to Iowa Code section 321.178 in a motor vehicle operated by the student.
    a. Classroom instruction shall include all of the following:
        i. Instruction concerning distracted driving and substance abuse.
        ii. Instruction concerning railroad crossing safety.
        iii. Instruction relating to becoming an organ donor under the revised uniform anatomical gift Act as provided in Iowa Code chapter 142C.
        iv. Instruction providing awareness about sharing the road with pedestrians, bicycles and motorcycles.
    b. Behind-the-wheel instruction shall consist of at least 40 hours of street or highway driving, including 4 hours of driving after sunset and before sunrise while accompanied by the teaching parent or a person who is qualified to provide street or highway driving instruction pursuant to Iowa Code section 321.178.
2. *Required topics.* The course may follow any format the vendor determines, provided all of the following topics are properly and adequately covered, as detailed in the course application form provided by the department:
    a. Traffic law – *classroom instruction*
        i. Introduction to driver education and driving laws and privileges.
        ii. Understanding your license to drive.
        iii. Right-of-way.
        iv. Traffic control devices.
        v. Controlling traffic flow.
        vi. Alcohol and other drugs.
        vii. Cooperating with other roadway users.
    b. Driver preparation – *classroom and behind-the-wheel instruction*
        i. Pre-drive tasks.
        ii. Occupant protection.
        iii. Symbols and devices.
        iv. Starting tasks.
        v. Vehicle operation and control tasks.
        vi. Post-drive tasks.
        vii. In-car progress assessment.
        viii. Driving plan *(classroom instruction)*.
    c. Vehicle movements – *classroom and behind-the-wheel instruction*
        i. Visual attention, mental attention and communication.
        ii. Reference points.
        iii. Vehicle balance.

iv. Vehicle maneuvers.

v. In-car progress assessment *(behind-the-wheel instruction)*.

d. Driver readiness – *classroom and behind-the-wheel instruction*

i. Driving practices.

ii. Fatigue.

iii. Aggressive driving.

iv. In-car progress assessment *(behind-the-wheel instruction)*.

e. Risk reduction – *classroom and behind-the-wheel instruction*

i. Risk factors.

ii. Space management.

iii. In-car progress assessment *(behind-the-wheel instruction)*.

f. Environmental factors – *classroom and behind-the-wheel instruction*

i. Environmental characteristics.

ii. Environmental risk factors.

iii. In-car progress assessment *(behind-the-wheel instruction)*.

g. Distractions – *classroom and behind-the-wheel instruction*

i. Distractions.

ii. Multi-task performances.

iii. In-car progress assessment *(behind-the-wheel instruction)*.

h. Alcohol and other drugs – *classroom instruction*

i. Introduction of alcohol and other drug problems.

ii. Nature of alcohol-related crash problems.

iii. Physiological effects of alcohol.

iv. Psychological effects of alcohol.

v. Other drug effects on the driving task.

vi. Zero-tolerance in the driving environment.

i. Vehicle movement and reference points – *behind-the-wheel instruction*

i. Vehicle movements and reference points (entering and exiting traffic and parking).

ii. In-car progress assessment *(behind-the-wheel instruction)*.

j. Adverse conditions – *classroom instruction*

i. Adverse weather and reduced visibility conditions.

ii. Traction loss.

iii. Emergencies.

k. Vehicle requirements – *classroom and behind-the-wheel instruction*

i. Vehicle malfunctions *(classroom instruction)*.

ii. Vehicle maintenance *(classroom instruction)*.

iii. Trip planning *(classroom instruction)*.

iv. Adverse conditions and vehicle requirements – off-street simulated practice *(behind-the-wheel instruction)*.

v. In-car progress assessments *(behind-the-wheel instruction)*.

l. Consumer responsibility – *classroom and behind-the-wheel instruction*

i. Vehicle use and ownership *(classroom instruction)*.

ii. Vehicle insurance *(classroom instruction)*.

iii. Environmental protection and litter prevention *(classroom instruction)*.

iv. Anatomical gift Act – organ donor *(classroom instruction)*.

m. Personal responsibility *(classroom and behind-the-wheel instruction)*.

i. Comprehensive classroom progress assessment (testing) *(classroom instruction)*.

ii. Driver licensing *(classroom instruction)*.

iii. In-car progress assessment *(behind-the-wheel instruction)*.

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[Published 4/16/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9137C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to motorcycle rider education

The Transportation Department hereby rescinds Chapter 635, "Motorcycle Rider Education (MRE)," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j" and 321.179.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)"j," 321.179 and 321.180B.

Purpose and Summary

This rulemaking repromulgated Chapter 635 in compliance with Executive Order 10. Chapter 635 complies with Iowa Code sections 321.179 and 321.180B(5). The chapter outlines the application, renewal, and eligibility requirements for motorcycle rider education (MRE) courses, sponsors and instructors in the state. The Department is also required to establish the framework under which MRE sponsors may be reimbursed from the Motorcycle Rider Education Fund for the costs of providing MRE courses.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8472C**. Two public hearings were held on the following date:

- January 9, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 11, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 635 and adopt the following **new** chapter in lieu thereof:

CHAPTER 635
MOTORCYCLE RIDER EDUCATION (MRE)

761—635.1(307,321) Information and location. Applications, forms and information regarding this chapter are available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 515.244.8725; by facsimile at 515.239.1837; or by email at mre.dot@iowadot.us.

761—635.2(307,321) Definitions.

"Approved course" means the motorcycle rider education course approved by the department.

"Instructor" means a person licensed by the department to instruct an approved course.

"MRE" means motorcycle rider education.

"Sponsor" means an entity that provides the approved course.

761—635.3(307,321) Application, renewal and fees.

635.3(1) *Application and renewal.*

a. An applicant for a sponsor license must apply to the department in a manner determined by the department prior to the beginning of the first class offered in the approved course and annually thereafter.

b. An applicant for an instructor license must apply to the department in a manner determined by the department prior to the beginning of the first class of the approved course taught by the instructor and annually thereafter. However, an individual who meets the qualifications for a license except for paragraph 635.5(2)*"d"* or whose license is denied under subrule 635.6(2) may teach the approved course as provided in paragraph 635.6(2)*"b."*

c. A sponsor or instructor license is valid for a calendar year or remainder of a calendar year and expires on December 31 but remains valid for an additional 30 days after the expiration date.

d. Unless otherwise approved by the department, an application for license renewal is due to the department within 60 days of the expiration date.

635.3(2) *Fees.* The initial application and annual renewal fee are $25 for a private or a commercial sponsor. The fee is to be paid in a manner approved by the department.

761—635.4(307,321) Approved course in MRE.

635.4(1) *Course requirements.*

a. Only an MRE course approved by the department using nationally recognized, research-based curriculum is to be taught by any sponsor providing MRE.

b. On-cycle instruction of the approved course must meet the following requirements:

(1) The student is at least 14 years of age; possesses a valid driver's license as defined in Iowa Code section 321.1; is able to touch the ground with the balls of both feet while sitting astride the training motorcycle; wears a U.S. DOT-approved helmet, an eye-protective device, and protective clothing including gloves, a long-sleeved shirt or jacket, long pants, and shoes or boots that cover the feet and ankles; and completes the motorcycle safety course waiver form, including the signature of a parent or legal guardian if the student is under the age of 18.

(2) The scheduled time for classroom or on-cycle instruction, or a combination of both, does not exceed eight hours in any one calendar day.

(3) The student-instructor ratio for classroom instruction does not exceed 36 to 1. The student-instructor ratio for on-cycle instruction does not exceed 6 to 1; however, no more than 12 students may receive on-cycle instruction at one time on a single full-size range.

(4) The driving range used for on-cycle instruction is paved, free of hazards to motorcycle travel, and has an unobstructed, paved runoff of at least 20 feet in all directions.

(5) The sponsor provides for each student engaged in on-cycle instruction one fully operational motorcycle manufactured for highway use that has not been modified, does not contain aftermarket equipment, and meets at least two of the following criteria:

1. Has an engine displacement of 500 cubic centimeters or less, or an electric motor of 30 kW or less.
2. Has a curb (wet) weight of 440 pounds or less.
3. Has a seat height of 30 inches or less.

635.4(2) *Certificate of completion.* Only persons successfully completing all elements of the approved course will be issued an Iowa certificate of completion for MRE by the sponsor to be submitted to the department by the methods provided in 761—subrule 602.2(1). The driving test for a Class M driver's license or a motorcycle endorsement may be waived under 761—subrule 604.31(2) within two years of the issuance of a certificate of completion.

761—635.5(307,321) Instructor and sponsor qualifications.

635.5(1) *Instructor license.* To qualify for an instructor's license, an individual must:

a. Possess a valid Class M driver's license or a motorcycle endorsement or equivalent license or endorsement that is valid for a two-wheel motorcycle.

b. Successfully complete a nationally recognized, research-based instructor preparation course approved by the department.

c. Possess a current instructor certification from a nationally recognized motorcycle safety organization approved by the department.

d. Before a license is granted, teach one class of the approved course under the guidance of an experienced, licensed instructor approved by the department.

e. After the year in which a license is granted, teach at least one nationally recognized, research-based motorcycle rider preparation course approved by the department in Iowa or another state each calendar year.

f. After the year in which a license is granted, complete at least one state-sponsored or state-approved instructor update each calendar year. The update must be completed in Iowa every other year.

g. Have a clear driving record for the previous two years. A clear driving record means the individual has:

(1) Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

(2) No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

(3) Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

(4) No record of a law enforcement investigative report indicating a contributive motor vehicle accident that caused the death or serious injury of another person.

(5) No record of two or more contributive motor vehicle accidents in a two-year period.

h. Comply with any department review and verification of the instructor's qualifications under this subrule.

635.5(2) *Sponsor license.* To qualify for a sponsor's license, an entity must:

a. Use only a course approved under rule 761—635.4(307,321).

b. Use only instructors licensed by the department to teach the approved course.

c. Maintain liability insurance in an amount of not less than $1 million, combined single limit, with an aggregate limit of not less than $2 million, and file a certificate of this insurance with the department verifying coverage for scheduled courses of instruction. The certificate shall name the department and its officers, agents, representatives and employees as additional insureds with respect to all work, deliveries or services performed for the department by the named insured, and specify that the department's motor vehicle division shall be given at least 30 days' prior notice of any material change in or cancellation of the insurance.

d. Provide written verification of self-insurance to the department if the sponsor is a state agency or public educational institution.

e. Maintain complete instructional accident report files and furnish this information to the department in a manner determined by the department.

f. Maintain a record of costs incurred in providing the approved course.

g. Allow the department or the department's designee to audit any class of the approved course, either announced or unannounced.

h. Involve a program administrator in an annual department-sponsored, in-service seminar.

i. Provide and maintain adequate instructional facilities and equipment to accommodate all components of the approved course, including but not limited to the lecture, audio-visual, and on-cycle components.

761—635.6(307,321) Cancellation or denial.

635.6(1) *Cancellation.* The department shall cancel the license if the sponsor or instructor fails to comply with the applicable provisions of this chapter or Iowa Code section 321.179 or 321.180B(5) or if the course or instructors are no longer approved.

635.6(2) *Denial.* The department shall deny an initial or renewal application if the applicant does not meet the criteria for issuance of a license under this chapter. A denial for an instructor's failure to comply with the provisions of paragraph 635.5(1)*"c," "e"* or *"f"* will remain in effect until the instructor completes the following requirements, as applicable:

a. Presents an unexpired instructor certification from a nationally recognized motorcycle safety organization approved by the department.

b. Teaches one class of the approved course under the guidance of an experienced, licensed instructor approved by the department.

c. Completes at least one state-sponsored or state-approved instructor update.

761—635.7(321) Use of MRE fund. The MRE fund may be used for the following purposes:

635.7(1) *Course development.* New or current sponsors may apply to the department for funds to establish delivery of the approved course at an unserved site. Current sponsors may apply for funds to expand delivery at an existing site.

a. Expenditures eligible for funding are limited to:

(1) Acquisition of necessary classroom furnishings and audio-visual systems if used exclusively to deliver the approved course.

(2) Required curriculum materials including necessary audio and visual components.

(3) Range development and maintenance excluding land acquisition, surfacing and resurfacing.

(4) Training motorcycles and motorcycle maintenance equipment if the equipment is to be used exclusively for the upkeep of the motorcycles.

(5) On-cycle safety equipment limited to helmets, eye-protective devices and gloves.

b. Application for funds shall be made in a manner determined by the department. Departmental approval will be based on the geographical area, the number of students to be served and the availability of moneys in the MRE fund. The number of students to be served is determined by range size, the number of courses to be offered, and the number of sponsors providing the course.

c. Payment to the sponsor for course development expenditures will be on a cost-reimbursement basis and made after claims under subrule 635.7(5) are paid.

635.7(2) *Instructor preparation.* The department will sponsor and accept applications for enrollment in initial instructor preparation courses.

a. An instructor preparation course is open to any individual who:

(1) Possesses a valid Class M driver's license or a motorcycle endorsement or equivalent license or endorsement that is valid for a two-wheel motorcycle.

(2) Submits verification from an approved sponsor of employment as an instructor of the approved course to be offered within the next 12 months.

b. Upon proof of successful completion of the instructor preparation course, an individual may be reimbursed for course tuition.

635.7(3) *Instructor updates.* The department will sponsor and fund instructor updates held in Iowa. Instructor updates are open to all state-licensed MRE instructors and instructor trainers.

635.7(4) *Instructor trainer preparation.*

a. An experienced, state-licensed MRE instructor may apply to the department for funding assistance on forms provided by the department if both the following occur:

(1) The instructor is accepted for enrollment in a nationally recognized instructor trainer preparation course approved by the department.

(2) The instructor agrees to be an instructor trainer in a department-sponsored instructor preparation course within 12 months following successful completion of the instructor trainer preparation course.

b. The department may approve the application if the department determines there is a need for additional instructor trainers.

c. If the department approves the application, then all the following apply:

(1) Funding assistance is limited to course tuition, travel, and subsistence (meals and lodging).

(2) Upon approval of the application, the department will pay for course tuition and travel to the training site.

(3) Upon receipt by the department of evidence of successful completion accompanied by documentation of subsistence expenses incurred, the department will reimburse the instructor for food and lodging based on the in-state reimbursement limits established for state employees by the department of administrative services.

(4) If the instructor fails to attend the training, the instructor must repay the department both the course tuition and the travel purchased.

(5) If the instructor fails to successfully complete the course, the instructor must repay the department one-half the course tuition and one-half the travel purchased. Meal and lodging expenses will not be reimbursed.

635.7(5) *Reimbursement of per pupil costs.* The department will reimburse a sponsor for each student who completes the approved course contingent upon the availability of moneys in the MRE fund.

a. Reimbursement will be paid twice each calendar year, once for training provided from January to June and once for training provided from July to December.

b. The reimbursement will be based on a per pupil rate determined semiannually by the department. The rate will be based on the amount of moneys available in the MRE fund, less the administrative and instructor training costs, and will be distributed to sponsors based on the total number of students who complete the approved course.

c. Claims for reimbursement shall be submitted in a manner determined by the department and include a summary of courses taught with site, date, and instructor information; a report for each class

taught that provides the name, age, and driver's license number of each student; and any other information required by the department.

d. Failure to provide course, instructor and student information; failure to meet instructor certification and licensure requirements; failure to comply with applicable provisions of this chapter in providing the course; or failure to meet prescribed instructor-student ratios shall result in the forfeiture of reimbursement for those courses and students involved.

These rules are intended to implement Iowa Code sections 307.12(1)*"j,"* 321.179 and 321.180B(5).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.

ARC 9142C

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Adopted and Filed

Rulemaking related to retired and senior volunteer program

The Iowa Commission on Volunteer Service hereby rescinds Chapter 7, "Retired and Senior Volunteer Program (RSVP)," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 15H.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15H.2.

Purpose and Summary

This chapter outlines the Retired and Senior Volunteer Program (RSVP) grant application and administration. At its November 14, 2024, meeting, the Commission voted to rescind the chapter and put the information in a policy manual.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 19, 2025, as **ARC 8577C**. Two public hearings were held on the following date:

- March 11, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department of Health and Human Services on March 27, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on June 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **817—Chapter 7**.

[Filed 3/27/25, effective 6/1/25]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.