IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

JACK EWING, Administrative Code Editor	Telephone:	515.281.6048	Email: Jack.Ewing@legis.iowa.gov
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
2024

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

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
26	**Friday, June 7, 2024**	**June 26, 2024**
1	**Wednesday, June 19, 2024**	**July 10, 2024**
2	**Friday, July 5, 2024**	**July 24, 2024**

PLEASE NOTE:

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 11, 2024, at 11 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Reporting disease—highly pathogenic avian influenza, 64.1
Notice **ARC 8025C**, also Filed Emergency **ARC 8026C** 5/29/24
Meat and poultry inspections—adoption by reference, amendments to ch 76 Notice **ARC 7934C** 5/15/24

ECONOMIC DEVELOPMENT AUTHORITY[261]

Enterprise zone (EZ) program; entrepreneurial ventures assistance (EVA) program; high quality jobs program (HQJP); environmental law compliance; violations of law; standard definitions; wage, benefit, and investment requirements; contracting; contract compliance and job counting; annual reporting, rescind chs 59, 60, 172 to 175, 187 to 189; adopt ch 68 Notice **ARC 7937C** 5/15/24
Agency procedure for rulemaking, ch 196 Notice **ARC 7936C** 5/15/24

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Operation of environmental protection commission, ch 1 Filed **ARC 7942C** 5/15/24
Submission of information and complaints—investigations; complaints, audits, enforcement options and administrative penalties; environmental self-audits; compliance and enforcement procedures, rescind chs 3, 12, 17; adopt ch 10 Filed **ARC 7943C** 5/15/24
Delegation of construction permitting authority, rescind ch 9 Filed **ARC 7944C** 5/15/24
Tax certification of pollution control or recycling property, ch 11 Filed **ARC 7945C** 5/15/24
Environmental covenants, rescind ch 14 Filed **ARC 7946C** 5/15/24
Cross-media electronic reporting, ch 15 Filed **ARC 7947C** 5/15/24
Revocation, suspension, and nonrenewal of license for failure to pay state liabilities, rescind ch 16 Filed **ARC 7948C** 5/15/24
Scope of title—definitions, rescind ch 20 Filed **ARC 7949C** 5/15/24
Compliance, excess emissions, and measurement of emissions, ch 21 Filed **ARC 7950C** 5/15/24
Controlling air pollution, ch 22 Filed **ARC 7951C** 5/15/24
Air emission standards, ch 23 Filed **ARC 7952C** 5/15/24
Operating permits, ch 24 Filed **ARC 7953C** 5/15/24
Measurement of emissions, rescind ch 25 Filed **ARC 7954C** 5/15/24
Prevention of air pollution emergency episodes, rescind ch 26 Filed **ARC 7955C** 5/15/24
Certificate of acceptance, ch 27 Filed **ARC 7956C** 5/15/24
Ambient air quality standards, rescind ch 28 Filed **ARC 7957C** 5/15/24
Qualification in visual determination of the opacity of emissions, rescind ch 29 Filed **ARC 7958C** 5/15/24
Fees, ch 30 Filed **ARC 7959C** 5/15/24
Nonattainment new source review, ch 31 Filed **ARC 7960C** 5/15/24
Animal feeding operations field study, rescind ch 32 Filed **ARC 7961C** 5/15/24
Construction permit requirements for major stationary sources—prevention of significant deterioration (PSD), ch 33 Filed **ARC 7962C** 5/15/24
Provisions for air quality emissions trading programs, rescind ch 34 Filed **ARC 7963C** 5/15/24
Air emissions reduction assistance program, rescind ch 35 Filed **ARC 7964C** 5/15/24
Animal feeding operations, ch 65 Filed **ARC 7965C** 5/15/24

EXECUTIVE COUNCIL[361]

Disbursement of money from civil reparations trust fund, adopt ch 1; rescind ch 12 Filed **ARC 8031C** 5/29/24
Contingent fund—disaster aid; disaster contingency fund, adopt ch 2; rescind ch 7 Filed **ARC 8032C** 5/29/24
Group insurance for state employees; deferred compensation program; health maintenance organizations, rescind chs 5, 6 Filed **ARC 8033C** 5/29/24
Agency realignment, rescind chs 8 to 10 Filed **ARC 8034C** 5/29/24
Inheritance tax payments, rescind ch 11 Filed **ARC 8035C** 5/29/24

HUMAN SERVICES DEPARTMENT[441]

Department organization and general definitions; department procedure for rulemaking; petitions for rulemaking; declaratory orders; appeals and hearings; public records and fair information practices; notices, chs 1, 3 to 5, 7, 9, 16 Filed **ARC 8045C** 5/29/24

INSPECTIONS AND APPEALS DEPARTMENT[481]

Military service, veteran reciprocity, and spouses of active-duty service members, ch 7
Filed **ARC 8036C** 5/29/24

LABOR SERVICES DIVISION[875]
WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Posting, inspections, citations, and proposed penalties, ch 3 Notice **ARC 7940C** 5/15/24
Recording and reporting occupational injuries and illnesses, ch 4 Notice **ARC 7941C** 5/15/24

NURSING BOARD[655]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Certified professional midwives, ch 16 Notice **ARC 7935C** 5/15/24

PHARMACY BOARD[657]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Controlled substances, 10.39(11) Notice **ARC 8028C** 5/29/24
Temporary designation of controlled substances, 10.39(1) Filed **ARC 8037C** 5/29/24

PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure of chiropractic physicians, ch 41 Filed **ARC 7966C** 5/15/24
Colleges for chiropractic physicians, ch 42 Filed **ARC 7967C** 5/15/24
Practice of chiropractic physicians, ch 43 Filed **ARC 7968C** 5/15/24
Continuing education for chiropractic physicians, ch 44 Filed **ARC 7969C** 5/15/24
Discipline for chiropractic physicians, ch 45 Filed **ARC 7970C** 5/15/24
Licensure of nursing home administrators, ch 141 Filed **ARC 7971C** 5/15/24
Continuing education for nursing home administration, ch 143 Filed **ARC 7972C** 5/15/24
Discipline for nursing home administrators, ch 144 Filed **ARC 7973C** 5/15/24
Licensure of optometrists, ch 180 Filed **ARC 7974C** 5/15/24
Continuing education for optometrists, ch 181 Filed **ARC 7975C** 5/15/24
Practice of optometrists, ch 182 Filed **ARC 7976C** 5/15/24
Discipline for optometrists, ch 183 Filed **ARC 7977C** 5/15/24
Licensure of physical therapists and physical therapist assistants, ch 200 Filed **ARC 7978C** 5/15/24
Practice of physical therapists and physical therapist assistants, ch 201 Filed **ARC 7979C** 5/15/24
Discipline for physical therapists and physical therapist assistants, ch 202 Filed **ARC 7980C** 5/15/24
Continuing education for physical therapists and physical therapist assistants, ch 203
Filed **ARC 7981C** 5/15/24
Licensure of occupational therapists and occupational therapy assistants, ch 206 Filed **ARC 7982C** 5/15/24
Continuing education for occupational therapists and occupational therapy assistants, ch 207
Filed **ARC 7983C** 5/15/24
Practice of occupational therapists and occupational therapy assistants, ch 208 Filed **ARC 7984C** 5/15/24
Discipline for occupational therapists and occupational therapy assistants, ch 209 Filed **ARC 7985C** 5/15/24
Licensure of podiatrists, ch 220 Filed **ARC 7986C** 5/15/24
Licensure of orthotists, prosthetists, and pedorthists, ch 221 Filed **ARC 7987C** 5/15/24
Continuing education for podiatrists, ch 222 Filed **ARC 7988C** 5/15/24
Practice of podiatry, ch 223 Filed **ARC 7989C** 5/15/24
Discipline for podiatrists, orthotists, prosthetists, and pedorthists, ch 224 Filed **ARC 7990C** 5/15/24
Continuing education for orthotists, prosthetists, and pedorthists, ch 225 Filed **ARC 7991C** 5/15/24
Physician assistants—practice of physician assistants, ch 327 Filed **ARC 8038C** 5/29/24
Physician assistants—continuing education for physician assistants, ch 328 Filed **ARC 8039C** 5/29/24
Physician assistants—discipline for physician assistants, ch 329 Filed **ARC 8040C** 5/29/24

PUBLIC HEALTH DEPARTMENT[641]

Immunization and immunization education: persons attending elementary or secondary schools, licensed child care centers or institutions of higher education, ch 7 Filed **ARC 8041C** 5/29/24
Plumbing and mechanical systems board—licensee practice, ch 23 Filed **ARC 7992C** 5/15/24
Private well testing, reconstruction, and plugging—Iowa private well grants, ch 24 Filed **ARC 8042C** 5/29/24
Plumbing and mechanical systems board—administrative and regulatory authority, ch 27
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Plumbing and mechanical systems board—licensure fees, ch 28 Filed **ARC 7994C** 5/15/24
Plumbing and mechanical systems board—application, licensure, and examination, ch 29
Filed **ARC 7995C** 5/15/24
Continuing education for plumbing and mechanical systems professionals, ch 30 Filed **ARC 7996C** 5/15/24
Plumbing and mechanical systems board—waivers from administrative rules, rescind ch 31
Filed **ARC 7997C** 5/15/24
Plumbing and mechanical systems board—licensee discipline, ch 32 Filed **ARC 7998C** 5/15/24
Plumbing and mechanical systems board—contested cases, ch 33 Filed **ARC 7999C** 5/15/24
Plumbing and mechanical systems board—complaints and investigations, ch 34 Filed **ARC 8000C** 5/15/24
Plumbing and mechanical systems board—alternative licensure pathways, ch 35 Filed **ARC 8001C** 5/15/24

Plumbing and mechanical systems board—petitions for rule making, rescind ch 36 Filed **ARC 8002C** 5/15/24
Plumbing and mechanical systems board—declaratory orders, rescind ch 57 Filed **ARC 8003C** 5/15/24
Plumbing and mechanical systems board—agency procedure for rule making, rescind ch 58
Filed **ARC 8004C** 5/15/24
Plumbing and mechanical systems board—fair information practices and public records,
rescind ch 59 Filed **ARC 8005C** 5/15/24
Plumbing and mechanical systems board—noncompliance regarding child support,
nonpayment of state debt, and noncompliance regarding student loan repayment, rescind
ch 60 Filed **ARC 8006C** 5/15/24
Plumbing and mechanical systems board—military service, veteran reciprocity, and spouses
of active duty service members, rescind ch 62 Filed **ARC 8007C** 5/15/24
Establishment of new certificate of live birth following adoption, 95.6(1)"b," 99.14 Filed **ARC 8043C** 5/29/24
Health data, ch 177 Filed **ARC 8044C** 5/29/24

PUBLIC SAFETY DEPARTMENT[661]
Motor carrier safety, hazardous materials—adoption by reference of federal regulations,
22.1(1) Filed **ARC 8008C** 5/15/24

SECRETARY OF STATE[721]
Proposed constitutional amendments, 21.200 Notice **ARC 8027C** 5/29/24

UTILITIES DIVISION[199]
Practice and procedure, ch 7 Notice **ARC 7939C** 5/15/24
Assessments, ch 17 Notice **ARC 7938C** 5/15/24
Management efficiency evaluation, ch 29 Notice **ARC 8030C** 5/29/24
Access to affiliate records, requirements for annual filings, and service and asset transfer
costing standards, ch 31 Filed **ARC 8009C** 5/15/24
Competitive bidding process, rescind ch 40 Notice **ARC 8029C** 5/29/24

VETERINARY MEDICINE BOARD[811]
Description of organization and definitions, ch 1 Filed **ARC 8010C** 5/15/24
Petitions for rulemaking, ch 2 Filed **ARC 8011C** 5/15/24
Declaratory orders, ch 3 Filed **ARC 8012C** 5/15/24
Agency procedure for rulemaking, ch 4 Filed **ARC 8013C** 5/15/24
Public records and fair information practices, ch 5 Filed **ARC 8014C** 5/15/24
Application for veterinary licensure, ch 6 Filed **ARC 8015C** 5/15/24
Veterinary examinations, ch 7 Filed **ARC 8016C** 5/15/24
Auxiliary personnel, ch 8 Filed **ARC 8017C** 5/15/24
Temporary veterinary permits, ch 9 Filed **ARC 8018C** 5/15/24
Discipline, ch 10 Filed **ARC 8019C** 5/15/24
Continuing education, ch 11 Filed **ARC 8020C** 5/15/24
Standards of practice, ch 12 Filed **ARC 8021C** 5/15/24
Collection procedures, ch 13 Filed **ARC 8022C** 5/15/24
Waiver of rules, ch 14 Filed **ARC 8023C** 5/15/24
Contested cases, ch 16 Filed **ARC 8024C** 5/15/24

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mike Klimesh
Chair
Senate District 32

Senator Nate Boulton
Senate District 20

Senator Mike Bousselot
Senate District 21

Senator Waylon Brown
Senate District 30

Senator Cindy Winckler
Senate District 49

Representative Michael Bergan
Vice Chair
House District 63

Representative Amy Nielsen
House District 85

Representative Rick Olson
House District 39

Representative Mike Sexton
House District 7

Representative David Young
House District 28

Jack Ewing
Administrative Code Editor
Capitol
Des Moines, Iowa 50319
Telephone: 515.281.6048
Fax: 515.281.8451
Email: jack.ewing@legis.iowa.gov

Nate Ristow
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone: 515.281.5211

ECONOMIC DEVELOPMENT AUTHORITY[261]

Enterprise zone (EZ) program; entrepreneurial ventures assistance (EVA) program; high quality jobs program (HQJP); environmental law compliance; violations of law; standard definitions; wage, benefit, and investment requirements; contracting; contract compliance and job counting; annual reporting, rescind chs 59, 60, 172 to 175, 187 to 189; adopt ch 68 IAB 5/15/24 **ARC 7937C**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at: www.iowaeda.com/red-tape-review/	June 4, 2024 11:15 to 11:30 a.m. June 6, 2024 1:15 to 1:30 p.m.
Iowa targeted small business certification program, ch 52 IAB 5/15/24 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa	June 6, 2024 1:30 to 1:45 p.m.
Targeted small business financial assistance program, ch 55 IAB 5/15/24 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa	June 6, 2024 1:45 to 2 p.m.

IOWA FINANCE AUTHORITY[265]

Home- and community-based services rent subsidy program, ch 24 IAB 5/29/24 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa	June 18, 2024 1:30 to 1:45 p.m.

LABOR SERVICES DIVISION[875]

Posting, inspections, citations, and proposed penalties, ch 3 IAB 5/15/24 **ARC 7940C**	Suite 100 6200 Park Avenue Des Moines, Iowa	June 4, 2024 9 to 9:15 a.m. June 5, 2024 9 to 9:15 a.m.
Recording and reporting occupational injuries and illnesses, ch 4 IAB 5/15/24 **ARC 7941C**	Suite 100 6200 Park Avenue Des Moines, Iowa	June 4, 2024 9:15 to 9:30 a.m. June 5, 2024 9:15 to 9:30 a.m.

NURSING BOARD[655]

Certified professional midwives, ch 16 IAB 5/15/24 **ARC 7935C**	6200 Park Avenue Des Moines, Iowa	June 4, 2024 10 to 10:30 a.m. June 5, 2024 10 to 10:30 a.m.

PAROLE BOARD[205]

Organization and general administration, ch 1; fair information practices, ch 5; public communications and records, ch 6; victim notification, ch 7; parole and work release considerations, ch 8; certificates of employability, ch 9; parole and work release supervision, ch 10; parole revocation, ch 11; parole discharge, ch 12; executive clemency, ch 13; appeal of decisions, ch 14; waivers, ch 15 IAB 5/29/24 **Regulatory Analysis**	Via videoconference: meet.google.com/pvt-bsxs-urf	June 18, 2024 3:30 p.m.

SECRETARY OF STATE[721]

Proposed constitutional amendments, 21.200 IAB 5/29/24 **ARC 8027C**	Room 19 Iowa Capitol Building Des Moines, Iowa	July 1, 2024 10 to 11 a.m. (If requested)

UTILITIES DIVISION[199]

Practice and procedure, ch 7 IAB 5/15/24 **ARC 7939C**	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa	June 12, 2024 9 to 10 a.m. June 27, 2024 9 to 10 a.m.
Assessments, ch 17 IAB 5/15/24 **ARC 7938C**	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa	June 12, 2024 9 a.m. to 12 noon June 27, 2024 9 a.m. to 12 noon
Regulation of telecommunications service, ch 22; local exchange competition, ch 38; universal service, ch 39; certificates of franchise authority for cable and video service, ch 44 IAB 5/1/24 **Regulatory Analyses**	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa	June 11, 2024 9 a.m.
Rate cases, tariffs, and rate regulation election practice and procedure, ch 26 IAB 5/15/24 **Regulatory Analysis**	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa	June 4, 2024 9 a.m.
Management efficiency evaluation, ch 29 IAB 5/29/24 **ARC 8030C**	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa	June 18, 2024 9 to 11 a.m. July 2, 2024 9 to 11 a.m.

UTILITIES DIVISION[199](cont'd)

Competitive bidding process, rescind ch 40 IAB 5/29/24 **ARC 8029C**	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa	July 16, 2024 9 to 10 a.m. July 30, 2024 9 to 10 a.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Administration, ch 1 IAB 5/29/24 **Regulatory Analysis**	1000 East Grand Avenue Des Moines, Iowa	June 18, 2024 10 a.m.
Customer and administrative services division, rescind ch 2 IAB 5/29/24 **Regulatory Analysis**	1000 East Grand Avenue Des Moines, Iowa	June 18, 2024 10:30 a.m.
New employment opportunities fund, rescind ch 13 IAB 5/29/24 **Regulatory Analysis**	1000 East Grand Avenue Des Moines, Iowa	June 18, 2024 11 a.m.
New Iowan centers, rescind ch 14 IAB 5/29/24 **Regulatory Analysis**	1000 East Grand Avenue Des Moines, Iowa	June 18, 2024 11:30 a.m.
Employer innovation fund, rescind ch 16 IAB 5/29/24 **Regulatory Analysis**	1000 East Grand Avenue Des Moines, Iowa	June 18, 2024 8:30 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.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
  Soil Conservation and Water Quality Division[27]
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OMBUDSMAN[141]
CIVIL RIGHTS COMMISSION[161]
INSURANCE AND FINANCIAL SERVICES DEPARTMENT[181]
  Alcoholic Beverages Division[185]
  Banking Division[187]
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  Professional Licensing and Regulation Bureau[193]
    Accountancy Examining Board[193A]
    Architectural Examining Board[193B]
    Engineering and Land Surveying Examining Board[193C]
    Landscape Architectural Examining Board[193D]
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    Real Estate Appraiser Examining Board[193F]
    Interior Design Examining Board[193G]
UTILITIES DIVISION[199]
CORRECTIONS DEPARTMENT[201]
  Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
  Historical Division[223]
ECONOMIC DEVELOPMENT AUTHORITY[261]
  City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
  Educational Examiners Board[282]
  College Student Aid Commission[283]
  Higher Education Loan Authority[284]
  Libraries and Information Services Division[286]
  Public Broadcasting Division[288]
  School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
  Employment Appeal Board[486]
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  Racing and Gaming Commission[491]
  State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]

MANAGEMENT DEPARTMENT[541]
- Appeal Board, State[543]
- City Finance Committee[545]
- County Finance Committee[547]

NATURAL RESOURCES DEPARTMENT[561]
- Environmental Protection Commission[567]
- Natural Resource Commission[571]
- Preserves, State Advisory Board for[575]

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
- Professional Licensure Division[645]
- Dental Board[650]
- Medicine Board[653]
- Nursing Board[655]
- Pharmacy Board[657]

PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
- Archaeologist[685]

REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
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Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 265—Chapter 24
"Home- and Community-Based Services Rent Subsidy Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.5
State or federal law(s) implemented by the rulemaking: Iowa Code section 16.55

Public Hearing

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

June 18, 2024
1:30 to 1:45 p.m.

1963 Bell Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Finance Authority (Authority) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 24 and adopt a new chapter in lieu thereof. The proposed chapter describes the Home- and Community-Based Services Rent Subsidy Program. The program is designed to provide rent assistance to help participants in certain other programs live in the community.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Persons who apply and are approved for participation in the program bear the costs of the program requirements described in the chapter.

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

Persons who apply for and are approved for participation in the program will benefit from improved clarity and streamlining of the rules.

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:

Applicants for the program could possibly incur minimal costs to document their eligibility but most likely would have such documentation readily available.

- Qualitative description of impact:

Persons who apply and are approved for participation in the program will benefit from improved clarity and streamlining of the rules.

3. Costs to the State:

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

Authority staff time is required to review and approve applications, disburse funds, and communicate with program participants.

- Anticipated effect on state revenues:

The chapter has no anticipated fiscal impact. The Authority is directed to administer the program by Iowa Code section 16.55. The General Assembly appropriated $873,000 to the program for fiscal year 2024 (2023 Iowa Acts, Senate File 559).

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

The program requirements are no more than necessary to document initial and continuing eligibility of applicants and to effectively distribute funds. The proposed chapter does not impose any additional costs on applicants for or recipients of the program compared to the current chapter.

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

The Authority has not identified less costly methods or less intrusive methods of administering the program.

6. Alternative methods considered by the agency:

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

The Authority did not consider any other methods.

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

The Authority did not consider any other methods.

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?

The rules do not have any impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 24 and adopt the following **new** chapter in lieu thereof:

CHAPTER 24
HOME- AND COMMUNITY-BASED SERVICES RENT SUBSIDY PROGRAM

265—24.1(16) Definitions.

"Applicant" means a person aged 18 or over who participates in one of the home- and community-based services waiver programs, habilitation services, or Money Follows the Person.

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Habilitation services" means an Iowa Medicaid program designed to provide home- and community-based services to Iowans with the functional impairments typically associated with chronic mental illnesses.

"Home- and community-based services waiver program" means any of the waiver programs administered by the department of health and human services under the provisions set forth in 441—Chapter 83, the habilitation services waiver, or Money Follows the Person.

"Housing Choice Voucher program" or *"HCV program"* means the federal government's program created in the Housing and Community Development Act of 1974, 42 U.S.C. Ch. 69, §5301 et seq. (1974).

"HUD" means the U.S. Department of Housing and Urban Development.

"Legal guardian" means a person lawfully invested with the power, and charged with the obligation, of taking care of and managing the property and rights of a recipient who, because of age, understanding, or self-control, is considered incapable of administering the recipient's own affairs.

"Money Follows the Person" or *"MFP"* means Iowa's Money Follows the Person partnership for community integration program.

"Program" means the home- and community-based rent subsidy program as defined and structured under this chapter.

"Qualified dependent" means the applicant's child who is claimed as a dependent of the applicant for federal income tax purposes.

"Qualified rental unit" means a housing unit subject to the provisions of Iowa Code chapter 562A and for which a signed written rental agreement exists.

"Recipient" means an applicant approved for and receiving rent subsidy payments under the program.

"Representative payee" means a person who is appointed for a recipient unable to receive and manage the recipient's own benefits due to mental or physical impairments. The representative payee is to use the benefits in the recipient's best interest and is personally liable for misuse of funds.

265—24.2(16) Eligibility requirements.

24.2(1) *Demonstrated need.* An eligible applicant will demonstrate need for rent subsidy by meeting all of the following requirements:

a. The applicant will provide a copy of an executed rental agreement showing the applicant as a tenant, with signatures by the landlord and the applicant or the applicant's legal guardian;

b. The applicant will provide evidence that the applicant pays more than 30 percent of the applicant's gross income for rent, with a minimum contribution of $25 per month;

c. The applicant will not receive any other rental assistance while receiving rent subsidy payments under the program;

d. The applicant will not use this program to substitute for any other ongoing rent subsidy being received at the time of application to this program; and

e. The applicant's rental unit must be a qualified rental unit and must not be owned by someone who lives in the unit.

24.2(2) *Ineligible for other rent subsidies.* An eligible applicant for rent subsidy payments under this program will have been determined ineligible for the HCV program, be on the HCV program waiting list, or document that the HCV program waiting list is closed. If the HCV waiting list is currently closed, the applicant is responsible for monitoring the status of the waiting list application period and must apply at the first available opportunity and provide documentation of an HCV application submission to the local public housing authority. If the authority determines an applicant failed to apply for HCV at the first available opportunity, the authority may remove the applicant from the program or the program waiting list.

265—24.3(16) Application. Applications for the program may be obtained on the authority's website. An applicant shall complete the application and provide all required documentation. For the purposes of this rule, the application date means the date the completed application, including all required documentation, is received by the authority.

24.3(1) The authority will review each completed application and determine whether the applicant is eligible for the program. The applicant may elect to have any of the following notified: legal guardian, case manager or representative payee.

24.3(2) The authority will maintain and administer a statewide waiting list for the program. When an application is received, the applicant will be placed on the waiting list according to the application date unless the provisions of Iowa Code section 16.55 apply.

24.3(3) When funding allows additional applicants to be added to the program, the authority will request updated documentation from the next applicant on the waiting list, and each applicant's eligibility will be determined based upon the updated documentation. If the completed application is not received by the deadline specified by the authority, the applicant may be removed from the waiting list. If the authority determines an applicant is eligible for the program, the authority will notify the applicant of the amount of monthly rent subsidy within 30 days of making the determination.

265—24.4(16) Rent subsidy.

24.4(1) *Use of subsidy.* Assistance shall be used for rental expense.

24.4(2) *Maximum monthly payment for rent.* Assistance for rent will be equal to the lesser of the rent paid by the recipient or the current applicable fair market rent as published by HUD for the area where the recipient's residence is located, less 30 percent of the recipient's gross monthly income. The fair market rent used will be that for a one-bedroom unit or a proportionate share of the fair market rent in living units containing more than one bedroom. When the recipient resides with one or more qualified dependents, the proportionate share may consist of additional bedrooms, applying the same maximum monthly payment standard.

24.4(3) *Monthly payment.* Recipients approved for rent subsidy payments will receive an ongoing monthly payment equal to the amount determined pursuant to subrule 24.4(2). Payments may be made on behalf of a recipient directly to the recipient's landlord.

265—24.5(16) Redetermination of eligibility.

24.5(1) *Time of completion.* A redetermination of eligibility for rent subsidy payments will be completed annually unless one of the following conditions occurs:

a. A change in circumstances that affects eligibility in accordance with rule 265—24.2(16).

b. The recipient moves from the residence stated on the approved application.

c. There is a change greater than $100 in the recipient's gross monthly income.

24.5(2) *Renewal notice.* The authority will send a renewal notice to the recipient and, if applicable, the recipient's legal guardian, case manager or representative payee at least 30 days before the annual redetermination deadline. The renewal notice will specify the annual redetermination deadline and the documentation that must be submitted to the authority.

a. The recipient shall submit the completed application and required documents to the authority as directed on the application.

b. If the authority does not receive the completed application and required documents by the annual redetermination deadline, the recipient's rent subsidy will be terminated.

265—24.6(16) Termination of rent subsidy payments.

24.6(1) *Reasons for termination.* The authority may terminate the rent subsidy at the end of a month in which any of the following occur:

a. The recipient does not meet one or more of the eligibility criteria listed in rule 265—24.2(16).

b. The recipient fails to submit documentation required pursuant to subrule 24.5(2) by the deadline established by the authority.

c. Rent subsidy program funds are exhausted for the fiscal year.

d. The recipient, case manager, legal guardian or representative payee threatens physical violence or injury toward authority staff.

e. The recipient provides false information.

f. The recipient, legal guardian or representative payee misuses rent subsidy payments for purposes other than rent assistance.

g. The recipient is not in compliance with any other programs offered or administered by the authority while receiving rent subsidy payments.

24.6(2) *Notification to recipient.* If the authority terminates a recipient's rent subsidy, the authority will notify the recipient in writing.

24.6(3) *Reporting of changes.* The recipient or the recipient's legal guardian or representative payee, as applicable, is required to report to the authority any changes that may affect eligibility within ten business days of the occurrence of the change, including changes in circumstance listed under subrule 24.5(1). Failure to do so may result in the recipient's responsibility to repay rent subsidy funds dating back to the recipient's failure to report the change and termination of the rent subsidy.

These rules are intended to implement Iowa Code section 16.55.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 1
"Organization and General Administration"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, and 906
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 1 provides information to the public about the Board's organization and responsibilities as well as how to contact the Board's business office.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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. The chapter revisions reflect the statutory changes implemented by 2023 Iowa Acts, Senate File 514. The Final Fiscal Note for that legislation was published on May 16, 2023, and set out expected additional costs. There is no expected additional impact created by the revisions to the chapter.

- Qualitative description of impact:

Not applicable.

3. Costs to the State:

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

The revisions to the chapter reflect the statutory changes implemented by Senate File 514. The Final Fiscal Note for that legislation was published May 16, 2023, and set out expected additional costs. There is no expected additional impact created by the revisions to this chapter.

- Anticipated effect on state revenues:

No expected additional costs are created by the revisions to this chapter.

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:

The chapter sets out the structure and organization that is mandated by 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 205—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION AND GENERAL ADMINISTRATION

205—1.1(904A) Board description.

1.1(1) The board of parole is established by Iowa Code chapter 904A and consists of five members, including a chairperson and vice chairperson.

1.1(2) Requirements for the composition of the board and the selection of a chairperson, a vice chairperson, and board members are set out in Iowa Code chapter 904A.

1.1(3) As used in the rules of the board of parole, the term "board" means the Iowa board of parole.

205—1.2(904A) Board responsibilities. The statutory responsibilities of the board are set out in Iowa Code chapter 904A.

205—1.3(904A) Business location and hours. The board's business office address is Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319; telephone 515.725.5757. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

205—1.4(904A) Board meetings.

1.4(1) *Meetings.* The board may conduct the following meetings:

a. Business meeting. The board may meet each month to consider rules, procedures and other matters.

b. Public hearing. The board may conduct a public hearing to solicit input and comment on parole and work release procedures.

c. Board session. Board sessions will be held each month at any location designated by the chairperson. A board session may include:

(1) Parole and work release case reviews;
(2) Parole and work release interviews;
(3) Parole rescission;
(4) Parole discharge reviews; and
(5) Executive clemency reviews.

1.4(2) *Quorum.*

a. A majority of the members of the board constitutes a quorum.

b. The chairperson designates panels composed of at least three board members to conduct board sessions except as provided herein.

1.4(3) *Majority vote.* All questions are decided by a majority vote of the members.

1.4(4) *Minutes.* The board keeps copies of the minutes of board meetings on file at the business office. The list of individuals considered by the board for action constitutes the minutes of a board session.

1.4(5) *Public notice and agenda.* The board establishes the date, time, and location of all meetings. The board gives public notice of all meetings pursuant to Iowa Code chapter 21. The board mails copies of, or provides by electronic means, notices of public meetings and a tentative agenda to news media that have so requested. When it is determined that an emergency meeting is required, the board notifies any news media that have requested notification as soon as the need for an emergency meeting has been decided. The nature of the emergency will be stated in the minutes.

1.4(6) *Public access to meetings.* Members of the public have access to board meetings as provided in Iowa Code chapter 21. Persons wishing to appear before the board will submit their requests to the business office not less than three days prior to the business meeting. Members of the public wishing to attend board meetings conducted in department of corrections penal institutions should consult, in advance, department of corrections administrative rules relating to visitation and public access.

1.4(7) *Electronic meetings.* The board may conduct a meeting by electronic means as provided in Iowa Code section 21.8.

These rules are intended to implement Iowa Code chapter 904A.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 5
"Fair Information Practices"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 22, 904A, and 906
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking contains revisions of administrative rules based on requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 5 provides information to the public on how to request public records. It also provides information about confidential records that would not be subject to a public record request.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 is no expected additional cost 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 are no expected additional costs.

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 205—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
FAIR INFORMATION PRACTICES

The board of parole hereby adopts, with the following exceptions and amendments, the uniform rules on agency procedure relating to fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

205—5.1(17A,22) Definitions. As used in this chapter:

"Agency" means the board of parole.

"Confidential records" means records as defined under Iowa Code sections 22.7, 22.8, 904.601, 904.602, and 904.603.

"Open records" means those records that are defined by Iowa Code section 22.7, 22.8, 904.601, or 904.602 or any other provision of the law.

205—5.2(17A,22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22. Agency staff will cooperate with members of the public in implementing the provisions of that chapter.

205—5.3(17A,22) Requests for access to records.

5.3(1) *Location of record.* A request for access to a record should be directed to the office where the record is kept. Records of current inmates, work releasees, and parolees are maintained in the office of the Board of Parole, Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319; telephone 515.725.5757.

5.3(2) *Office hours.* Open records will be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

5.3(3) *Request for access.* Requests for access to records may be made in writing, in person, by telephone, or by electronic means if the request is for open record information. Requests should identify the particular records sought by name or description in order to facilitate the location of the record. Mail requests should include the name, address, and telephone number of the person requesting the information. A person is not required to give a reason for requesting an open record.

5.3(4) *Response to requests.* The custodian is authorized to grant or deny access to the record according to the provisions of Iowa Code chapter 22 and sections 904.601, 904.602, and 904.603 and this chapter. The decision to grant or deny access may be delegated to one or more designated employees. Unless the size or nature of the request requires time for compliance, the agency should comply with the request as soon as practicable. However, access to such a record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4) or for good cause. The agency should promptly inform the requester of the reason for the delay. A request to review a confidential record should be in writing and enumerate the specific grounds justifying access to the confidential record and should provide any proof necessary to establish relevant facts prior to receiving access to the record.

5.3(7) *Fees.*

c. Hourly fee. A reasonable hourly fee may be charged for actual agency expenses in providing requested records when the time required is in excess of 30 minutes. That hourly fee will not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform this function. Reasonable costs may also be assessed for copying and providing records through means other than electronic mail.

205—5.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination.

5.5(5) *Request granted or deferred.* If a request for confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be placed in the agency's public file in lieu of the original record. If the agency subsequently receives a request for access to the original record, the agency will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record.

205—5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is the subject of such a record to alter the original copy of that record or to expand the official record

of any agency proceeding. Requesters should send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the Board of Parole, Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by the requester, and should include the current address and telephone number of the requester or the requester's representative.

205—5.7(17A,22) Consensual disclosure of confidential records.

5.7(1) *Consent to disclose by a subject individual.* To the extent allowed by law, the subject may consent in writing to agency disclosure of confidential records.

5.7(2) *Complaints to public officials.* A letter from a 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.

5.7(3) *Obtaining information from a third party.* The board is required to obtain information to assist in making decisions regarding classification, programming, security, and administrative management. Requests to third parties for this information may involve the release of confidential information about individuals. Except as provided by law, the board may make these requests only when the individual has authorized the release.

205—5.8(17A,22) Routine use. To the extent allowed by law, the following uses are considered routine uses of all agency records:

5.8(1) 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.

5.8(2) 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.

5.8(3) Disclosure to the department of inspections, appeals, and licensing for matters in which it is performing services or functions on behalf of the agency.

5.8(4) Transfers of information within the agency, to other state agencies, or to units of local government as appropriate to administer the program for which the information is collected.

5.8(5) 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.

5.8(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

205—5.9(17A,22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Below are instances when disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as permitted by law and in the 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 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 agency specifying the record desired and the law enforcement activity for which the record is sought.

d. 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.

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

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

h. In the course of ordinary deliberations during an open meeting.

205—5.10(17A,22) Release to subject.

5.10(1) The subject of a confidential record may file a written request to review confidential records about that person. However, the board 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 sections 22.7(18) and 904.602.

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.

d. Other records as otherwise authorized by law need not be released.

5.10(2) When a record has multiple subjects with interest in the confidentiality of the record, the board may take reasonable steps to protect confidential information relating to another subject.

205—5.11(17A,22) Availability of records.

5.11(1) *Open records.* Board records are open for public inspection and copying unless otherwise prohibited by current rule or law.

5.11(2) *Confidential records.* Public records as identified in Iowa Code section 22.7 may be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information.

205—5.12(17A,22) Personally identifiable information.

5.12(1) *Personally identifiable information.* This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in this rule. For each record system, this rule:

a. Describes the legal authority for the collection of that information and the means of storage of that information; and

b. Indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

5.12(2) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney 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 requesting copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court that maintains the official copy.

5.12(3) *Personnel files.* The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, and tax withholding information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

205—5.13(17A,22) Other groups of records available for public inspection—policies and procedures (excluding security), meeting minutes. This rule describes groups of records maintained by the board other than record systems as previously defined. These records are routinely available to the public. However, the board's files of these records may contain confidential information, as discussed in rule 205—5.11(17A,22). The following records are available.

5.13(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.

5.13(2) *Board meeting records.* Agendas, minutes, and materials presented to the board are available from the board's business office, 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. Board 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 an individual identifier.

5.13(3) *Publications.* News releases, annual reports, project reports, and related documents are available from the board office. Board news releases, annual reports, and project reports may contain information about individuals, including board staff or members of the board councils or committees. This information is not retrieved by an individual identifier.

5.13(4) *Statistical reports.* Periodic reports of the board for various board programs are available from the board office. Statistical reports do not contain personally identifiable information.

5.13(5) *Grants.* Records on persons receiving grants for various projects or programs are available through the board's business office. These records may contain information about employees or a grantee. This information is not retrieved by an individual identifier and is not stored on an automated data processing system. The information is collected under the authority of Iowa Code chapter 904.

5.13(6) *Published materials.* The board 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.

5.13(7) *Policy manuals.* The board employees' manual, containing procedures describing the board's regulations and practices, is available. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to the board office. Policy manuals do not contain information about individuals.

5.13(8) *Other records.* All other records that are not exempt from disclosure by law are available from the board office.

205—5.14(17A,22) Applicability. This chapter does not:

5.14(1) Require the agency to index or retrieve records that contain information about an individual by that person's name or other personal identifier.

5.14(2) Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

5.14(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency that are governed by the regulations of another agency.

5.14(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5.14(5) Make available records compiled by the agency 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 are governed by applicable legal and constitutional principles, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11 and chapter 17A.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 6
"Public Communication and Records"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, and 906
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024 3:30 p.m.	Via videoconference: meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking contains revisions to administrative rules based on the requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 6 provides information to the public on how to obtain public information and how to make submissions to the Board. It provides the public with the Iowa Code sections that specify what information is public and what is confidential concerning inmates and parolees.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 are no expected additional costs.

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 seriously considered.

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

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 205—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
PUBLIC COMMUNICATIONS AND RECORDS

205—6.1(22) General. The public may obtain information or make submissions to the board through the board's business office.

205—6.2(22) Communications from persons other than victims.

6.2(1) *Written communication.* Communications by a person other than a victim, as defined in Iowa Code section 915.10, concerning an inmate, parolee, or work releasee should be in writing so that the communication may readily be made a permanent part of the case file. Oral communications concerning

an inmate, parolee, or work releasee by a person other than a victim will be heard only with the consent of the board.

6.2(2) *Disclosure to inmate.* The board will place a written communication concerning an inmate, parolee, or work releasee in the case file.

205—6.3(22) Examination of board records.

6.3(1) *General.* The public may examine and copy public records belonging to the board pursuant to Iowa Code chapter 22 at the board's business office. An individual wishing to examine or copy a record in person should schedule an appointment with the board's business office a minimum of three working days prior to the date on which the individual will review the information in question. When making the appointment, the requesting party should specifically indicate the information desired. Complete inmate files will not be released except by court order. When photocopies of documents or copies of audiotapes or videotapes are provided, the board may require the requester to pay the cost of the copies plus a reasonable charge for copying pursuant to 205—subrule 5.3(7). The board may refer anyone requesting information that has been generated by a source outside the board to the agency or individual that generated the information.

6.3(2) *Lawful custodian.* The chairperson or the chairperson's designee as the lawful custodian of the records will be responsible for implementing the board's rules regarding disclosure of public records and coordination of staff in this regard and generally ensuring compliance by the staff with public records disclosure requirements.

205—6.4(904) Disclosure of information regarding inmates and parolees.

6.4(1) *Public information.* Iowa Code section 904.602(1) defines what information regarding individuals receiving services from the department of corrections may be disclosed by the board to anyone who requests such information.

6.4(2) *Confidential information regarding inmates and parolees.* Iowa Code section 904.602(2) defines information regarding individuals receiving services from the department of corrections that is confidential and will not be disclosed to the public.

a. Correspondence of a personal or confidential nature as determined by the board or the department directed to the board or the department of corrections from an individual's family, victims, or employers is confidential.

b. Communications to the board by members of the public other than public officials to the extent that the board believes that those members of the public would be discouraged from making the communications if the communications were available for general public examination is confidential.

c. Victim registrations pursuant to 205—Chapter 7. A record containing information that is both public and confidential that is reasonably segregable is not confidential after deletion of the confidential information.

6.4(3) *Exceptions.* The board may disclose confidential information described in subrule 6.4(2) as follows:

a. The board may release statistical information that does not identify particular individuals.

b. The board may disclose information to the department of corrections; public officials for use in connection with their duties relating to law enforcement, audits, and other purposes directly connected with the administration of their programs; and public and private agencies providing services to individuals. Those receiving information are subject to the same standards as the board in dissemination and redissemination of information.

c. The board may disclose information when necessary for civil or criminal court proceedings pursuant to court order. The board may seek to have the court limit disclosure of confidential information.

d. The board will give a supervised individual or former supervised individual access to the individual's own records in the custody of the board, except for those records that could result in physical or psychological harm to the individual or others, and disciplinary reports. Upon written authorization by a supervised individual or former supervised individual, the board may release

information to any party included in the written release. This information is restricted to that which the individual can obtain.

These rules are intended to implement Iowa Code chapter 22 and sections 904.601, 904.602, and 904A.4.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 7
"Victim Notification"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, 906, and 915
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 7 provides information to the public in general, and victims of crime specifically, of the rights they have to appear or make statements, or both, to the Board regarding releasing decisions.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 is no expected additional economic cost 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. There are no changes to the substance of this chapter but rather to the language used.

- Anticipated effect on state revenues:

There are no expected additional costs.

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:

None were considered.

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

Revising the rules involved removing duplicative statutory language.

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 205—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
VICTIM NOTIFICATION

205—7.1(915) Definitions. The definitions for "notification," "registered," "victim," and "violent crime" are set forth in Iowa Code section 915.10 and are incorporated herein.

"Parole interview" means an interview conducted by the board to consider an inmate's prospects for parole pursuant to Iowa Code section 906.5.

205—7.2(915) Victim registration. A victim may register by filing a written request-for-registration form with the county attorney. The procedures are set out in Iowa Code section 915.12.

205—7.3(915) Victim notification. The board will notify a registered victim of a violent crime not less than 20 days prior to conducting an interview with the inmate and will inform the victim that the victim may submit an opinion concerning the release of the inmate in writing prior to the interview or may appear personally or by counsel at the interview to express an opinion concerning the inmate's release.

205—7.4(915) Notification of decision. Whether or not the victim appears at the interview or expresses an opinion concerning the offender's release on parole, the board will notify the victim of the board's decision regarding release of the offender.

205—7.5(915) Written opinions concerning release. A registered victim may submit a written opinion concerning the release of the inmate to the board's business office prior to the parole interview. The written opinion will be made a permanent part of the inmate's file and shall be reviewed when the board considers the inmate's prospects for parole.

205—7.6(915) Appearances at parole interviews.

7.6(1) A registered victim of a violent crime may appear in person, personally or by counsel, at a parole interview to express an opinion concerning the release of the inmate.

7.6(2) Parole interviews are generally conducted by electronic means and governed by Iowa Code chapter 21.

7.6(3) A registered victim of a violent crime should contact the board's business office or victim liaison at least three days prior to the start of the parole interview to ensure that the board has the proper information to allow the victim to participate in the meeting.

7.6(4) During the parole interview, the board will permit the victim or victim's counsel to express an opinion concerning the release of the inmate.

205—7.7(915,22) Disclosure of victim information. Information regarding a registered victim, as well as the existence of a registered victim in a particular case, is confidential and will not be disclosed to the public. A victim's registration, and the substance of any opinion submitted by the victim regarding the inmate's release, will not be disclosed to the inmate.

These rules are intended to implement Iowa Code chapter 915.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 8
"Parole and Work Release Considerations"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904, 904A, and 906
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking contains revisions of administrative rules based on the requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 8 provides information to the public about who may be considered for parole and work release, as well as what factors the Board considers, and sets out the notification procedures.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 is no expected additional cost 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 are no expected additional costs.

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:

The Board reviewed other agencies' administrative rules regarding conduct at meetings.

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

The revisions to this chapter mirror the language utilized by most other agencies and eliminate excessively restrictive conditions.

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 205—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
PAROLE AND WORK RELEASE CONSIDERATIONS

205—8.1(906) Purpose of parole and work release considerations. The board shall determine whether there is reasonable probability that an inmate committed to the custody of the department of corrections who is eligible for parole or work release can be released without detriment to the community or the inmate. The board considers the best interests of society, and parole or work release is not granted as an award of clemency.

205—8.2(904,906) Parole and work release eligibility.

8.2(1) *Mandatory sentences.* The board will not grant parole to an inmate serving a mandatory minimum sentence. The board will not grant work release to an inmate serving a mandatory minimum

sentence unless the inmate is within six months of completing the mandatory minimum portion of the sentence. A parole or work release granted contrary to this rule will be rescinded. Mandatory minimum sentences are set out in the Iowa Code and are incorporated herein.

8.2(2) *Release to residential facility first.* A person on parole or work release who is serving a sentence under Iowa Code section 902.12 shall begin parole or work release in a residential facility operated by the department of correctional services.

8.2(3) *Parole to detainer.* The board may grant parole to an inmate against whom a detainer has been placed by another jurisdiction. A person paroled who has a detainer lodged against the person under the provisions of Iowa Code chapter 821 may be paroled directly to the receiving state rather than to a residential facility operated by the department of correctional services.

8.2(4) *Parole to other states.* The board may grant parole to another state pursuant to the provisions of the interstate compact for adult offender supervision set forth in Iowa Code chapter 907B.

205—8.3(904A) Risk assessment. The board will assess the risk of an inmate committed to the custody of the department of corrections. The board will review a risk assessment instrument approved by the board.

205—8.4(906) Parole and work release considerations.

8.4(1) *Case reviews.* The board may review the records of an inmate committed to the custody of the department of corrections and consider the inmate's prospects for parole or work release at any time. The board will notify an inmate only if the inmate is granted parole or work release, except as provided in subrule 8.14(3).

8.4(2) *Interviews.* The board may, in its discretion, interview an inmate committed to the custody of the department of corrections at any time.

8.4(3) *Frequency of inmate review.* The board will review the status of each inmate who is eligible for parole annually as directed by the Iowa Code and shall provide the inmate with notice of its parole or work release decision. The board will not place an inmate on work release for longer than 6 months in any 12-month period unless approval is given by a majority of the full board.

8.4(4) *Annual review not required.* Inmates who are not currently eligible for parole because of Iowa Code section 906.5(1)*"a"* are excepted from the annual review requirement of subrule 8.4(3).

8.4(5) *Department initiated review.* The department of corrections may recommend an inmate for parole or work release consideration at any time.

205—8.5(906) Parole and work release information. The board will notify the department of corrections when an inmate is to be considered for parole or work release. The receipt of notice by the department of corrections constitutes a request for updated information on the inmate. The board will request information required for parole or work release decision making. The department of corrections will furnish updated information to the board.

205—8.6(906) Interview notice. The board or the board's designee will notify an inmate to be interviewed for parole or work release consideration of the time and purpose of the interview. Notice given to the department of corrections is considered notice to the inmate. Not less than 20 days prior to the interview, the board will also notify the department of corrections of the scheduling of the interview, and the department shall make the inmate available to the board for the interview. The interview may be conducted electronically by videoconference. However, if health, safety, or security conditions require moving the inmate to another institution or facility prior to the scheduled interview, the department of corrections will notify the board.

205—8.7(906) Continuance. The board may reschedule or continue a parole or work release interview upon its own motion or upon a showing of good cause, as determined by the board.

205—8.8(906) Factors considered in parole and work release decisions.

8.8(1) *Release considerations.* The board may consider the following factors and others deemed relevant to the parole and work release decisions:

a. Previous criminal record;
b. Nature and circumstances of the offense;
c. Recidivism record;
d. Convictions or behavior indicating a propensity for violence;
e. Participation in institutional programs, including academic and vocational training;
f. Psychiatric and psychological evaluations;
g. Length of time served;
h. Evidence of serious or habitual institutional misconduct;
i. Success or failure while on probation;
j. Prior parole or work release history;
k. Prior refusal to accept parole or work release;
l. History of drug or alcohol use;
m. A parole plan formulated by the inmate;
n. General attitude and behavior while incarcerated;
o. Risk assessment.

8.8(2) *Psychological and psychiatric evaluations.* The board may request a complete psychiatric or psychological evaluation of an inmate whenever, in the opinion of the board, it would be beneficial to the board's decision. The board may routinely request an evaluation of an inmate convicted of a crime involving sexual abuse or personal violence or of an inmate who has committed assaults or violent acts while incarcerated.

205—8.9(906) Information disclosure to inmate. The board normally considers only information that has been reviewed by the inmate, except when the board deems such review not feasible. The information is considered only if the following safeguards are followed:

8.9(1) The staff of the department of corrections discusses the information with the inmate and discloses to the inmate any factual allegations if the disclosure can be done in a manner that protects confidential sources.

Factual allegations include but are not limited to:

a. Any statements attributed to the inmate;
b. Any allegations of criminal or antisocial behavior with or without court conviction from within or without the institution;
c. Any allegations of threats made by the inmate;
d. Any allegations of drug addiction or alcoholism;
e. Any allegations regarding family history, employment or education;
f. The inmate's disciplinary record at the institution.

8.9(2) If any information from outside institutions under the supervision of the department of corrections is to be considered by the board, and it is necessary to protect the source, the inmate will be informed of at least the following:

a. The general substance of the information;
b. The number of communications;
c. The type of communications.

The inmate will be given the opportunity to respond to the information.

8.9(3) The inmate's reports from institutions under the supervision of the department of corrections, including reception reports, progress reports, medical reports, and social information or reports, should, to the extent possible, be structured so as to separate opinion from factual information. The factual information will be made available for review by the inmate; opinion information shall be confidential. Psychiatric or psychological test results or diagnoses may be deemed confidential.

205—8.10(906) Interview procedure. The board may, in its discretion, interview the inmate and consider the inmate's records with respect to history, current situation, parole and work release

prospects, and other pertinent matters. If the inmate is interviewed, the board or board panel will give the inmate ample opportunity to express views and present materials.

205—8.11(906) Case review procedure. The board or board panel may consider the inmate's records and other information with respect to history, current situation, parole and work release prospects, and other pertinent matters. A case review may take place at any time and is in addition to any other required review.

205—8.12(906) Conduct at parole proceedings.

8.12(1) Parole interview proceedings are open meetings and generally conducted by electronic means and governed by Iowa Code chapter 21.

8.12(2) The board panel or panel's designee will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

8.12(3) Parole interviews are conducted electronically via videoconference. All interested persons should contact the board's business office prior to the start of the hearing to ensure that the persons have the proper information to allow the persons to view the proceedings online. Such information will also be maintained on the board's website: bop.iowa.gov.

8.12(4) Spectators, other than registered victims, do not participate in the parole proceedings.

205—8.13(904,906) Parole authorized following work release.

8.13(1) The board grants parole to an inmate on work release status if at least three members of the board agree that the inmate can be released without detriment to the community or to the inmate. If three members do not agree, the board will deny parole.

8.13(2) The board grants parole or work release to an inmate if at least three members of the board agree that the inmate can be released without detriment to the community or to the inmate. If three members do not agree, the board will deny parole or work release.

8.13(3) The board may determine if an inmate is required to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release. The board considers the deterrent effect of DNA profiling, the likelihood of repeated violations by the offender, and the seriousness of the offense. When funds have been allocated from the general fund of the state, or funds have been provided by other public or private sources, the board will order DNA profiling, if appropriate.

205—8.14(906) Notice of parole and work release decisions.

8.14(1) The board will give notice of a decision to grant parole by issuing an order for parole to the facility where the inmate in question is incarcerated.

8.14(2) The board will give notice of a decision to grant work release by issuing an order for work release to the facility where the inmate in question is incarcerated.

8.14(3) The board will give notice of a decision to deny parole or work release by issuing a notice of parole or work release denial to the facility where the inmate in question is incarcerated.

8.14(4) The board need not disclose a decision to grant or deny parole or work release to anyone other than the inmate in question and the facility where the inmate is incarcerated until at least two working days have elapsed from the date of the decision.

205—8.15(906) Parole authorized following work release.

8.15(1) The board may, at the time of granting work release, grant an offender parole contingent upon successful completion of work release. Whenever the board grants parole contingent upon successful completion of work release, it will indicate in the offender's file any special conditions for parole and that parole is contingent upon successful completion of work release.

8.15(2) The residential manager makes a determination whether the offender has successfully completed the work release. For the purpose of this rule, successful completion of work release means, at a minimum, the absence of any violent acts or threats of violence by the offender from the time the work release was authorized and either (1) the offender has completed all board-recommended programs or (2) the offender has enrolled in all recommended programs not completed and is making

satisfactory progress toward completion and the facility is able to arrange for continued program participation while the offender is on parole. When an offender successfully completes the work release program, the residential manager shall certify that fact to the board in a written or electronic certification. Upon receipt of the certification, the chairperson or the chairperson's designee will cause a parole order to be issued and forwarded to the residential facility where a parole agreement will be executed by the offender with such parole conditions as the board may require in its original release decision. Parole is effective only upon execution of the parole order and agreement by the parole officer and the parolee. No further action is required by the parole board for said parole. Before the parole becomes effective, the chairperson or the chairperson's designee may refer the case back to the board for further consideration. Nothing in this rule shall prevent the parole board from considering revocations of work release or parole for violations of the parole order, agreement, or any other provision of law, as otherwise provided in the board's administrative rules.

8.15(3) If the residential manager does not certify that an offender has successfully completed work release within the six-month limit established in Iowa Code section 904.904, and if the offender's work release has not otherwise been revoked, the offender's case will be reviewed by the board. The board may grant parole, extend work release, refer the offender back to prison, or take any other action authorized by law.

8.15(4) The grant of parole contingent upon successful completion of work release will comply with subrules 8.13(1) and 8.13(2).

8.15(5) An offender who has been granted parole contingent upon successful completion of work release and who fails to successfully complete work release for whatever reason will be reviewed for further release consideration according to the board's administrative rules.

8.15(6) Parole granted under this rule is administered and supervised according to the board's administrative rules, 205—Chapters 10 and 11.

These rules are intended to implement Iowa Code chapters 904, 904A, and 906.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 9
"Certificates of Employability"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, 906, 908, 914 and 915
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 9 provides the public with information about certificates of employability that can be earned by inmates while in prison.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 are no expected additional costs.

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:

None 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 205—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
CERTIFICATES OF EMPLOYABILITY

205—9.1(906) Definitions. As used in this chapter:

"Direct relationship" means that the nature of criminal conduct for which the eligible offender was convicted has a direct bearing on the offender's fitness or ability to perform one or more of the duties or responsibilities necessarily related to the certificate of employability sought.

"Eligible offender" means a person who has been convicted of one or more eligible crimes and has been sentenced to the custody of the director of the department of corrections. Persons required to register under Iowa Code chapter 692A are ineligible for the certificate of employability program.

"Employment" means any occupation, vocation, or employment or any form of vocational or educational training. For the purposes of this chapter, "employment" shall not include membership in any law enforcement agency.

"Private employer" means any person, company, corporation, labor organization or association.

"Public agency" means the state or any local subdivision thereof or any state or local department, agency, board or commission.

205—9.2(906) Certificates of employability.

9.2(1) The provisions of this chapter apply to any application by an eligible offender to any public agency or private employer for employment, except where a mandatory forfeiture, disability or bar to employment is imposed by law and has not been removed by an executive pardon. The provisions of this chapter also apply to an application to a licensing agency by an eligible offender to obtain licensure required for employment.

9.2(2) When a certificate of employability is presented to a public agency, the licensing agency cannot deny a license based on the felony conviction or based on a lack of good moral character unless the agency makes a determination that there is a direct relationship between the offense and the license sought or that the issuance of the license involves unreasonable risk to property or the safety and welfare of specific individuals or the general public.

9.2(3) A certificate of employability does not prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified therein as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege in accordance with the provisions set out in this chapter.

205—9.3(906) Issuance of a certificate of employability. The department of corrections issues a certificate of employability at the time of release to an eligible offender who:

9.3(1) Receives a parole, work release, or early discharge from the board; and

9.3(2) Successfully completes one of the following:

a. Department of corrections registered apprenticeship program; or

b. National Career Readiness Certificate and the life skills program.

205—9.4(906) Certificate not to be deemed a pardon. Nothing contained in this chapter is deemed to alter, limit, or affect the manner of applying for pardons to the governor, and no certificate issued hereunder is deemed or construed to be a pardon.

These rules are intended to implement Iowa Code section 906.19.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 10
"Parole and Work Release Supervision"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, and 906
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking contains revisions to administrative rules based on the requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 10 provides the public with information regarding supervision requirements.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 are no expected additional costs.

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:

None were considered.

- 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 expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 205—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
PAROLE AND WORK RELEASE SUPERVISION

205—10.1(906) Release processing. Following the issuance of an order for parole or work release by the board, the inmate will be processed for release pursuant to the rules and procedures of the department of corrections.

205—10.2(906) Parole supervision. An inmate granted parole or work release is under the supervision of the department of corrections or a receiving state pursuant to the interstate compact for adult offender supervision. Parole supervision continues until the expiration of the maximum sentence, subject to early discharge by the board or the district department.

205—10.3(906) Parole or work release agreement. A parole or work release agreement containing standard and special conditions of parole or work release will be prepared without unreasonable delay

following the board's issuance of the order for parole or work release. The board may change these standard conditions from time to time. Special conditions of parole may be imposed at any time in accordance with the needs of the parolee as determined by the board and the department of corrections. The parole or work release agreement may provide for a search process and procedure of the parolee or work releasee. The parole or work release does not commence until the inmate has signed the agreement unless as otherwise prescribed by law. If the inmate is on work release status at the time parole is granted, the inmate remains on work release status until the parole agreement is signed by the parole officer and the inmate.

These rules are intended to implement Iowa Code chapters 906 and 907B.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 11
"Parole Revocation"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, 906, and 908
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking includes revisions of administrative rules based on requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 11 provides information to the public regarding the parole revocation process.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 is no expected additional cost to the State or individuals. The Board's liaison will assume some duties that had previously been the responsibility of the supervising parole officer.

- 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 are no expected additional costs.

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:

None were considered.

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

No viable alternatives were 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 205—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
PAROLE REVOCATION

205—11.1(906) Voluntary termination of parole. Any voluntary termination of parole should be executed in writing by the parolee, reviewed by the parole officer, and approved by an administrative parole judge at a hearing. Upon the execution of the voluntary termination of parole, the parole officer files preliminary parole violation information. If a parolee's parole is terminated, the parolee shall be returned to the custody of the department of corrections as soon as practicable. The parolee will receive credit for the time spent on parole prior to the voluntary termination of parole as determined by the administrative parole judge.

205—11.2(908) Work release day reporting revocation. When a work release day reporting inmate is subject to revocation of day reporting status, the work release day reporting inmate is entitled to all

procedural protections afforded parolees pursuant to Iowa Code chapter 908 and rules 205—11.3(908) through 205—11.11(908).

205—11.3(908) Revocation initiated. Parole revocation procedures are initiated only as provided by Iowa Code chapter 908, which this rule is intended to implement.

205—11.4(908) Revocation of parole. The board or its administrative parole judge, for good cause shown, may revoke any parole previously granted. Good cause for revocation of parole includes the violation of a condition or conditions of the parole agreement or parole plan. Parole revocation procedures, including the parole revocation hearing, are governed by Iowa Code chapter 17A.

205—11.5(908) Parole violations.

11.5(1) The parole officer should report to the board any parolee who is reasonably believed to have engaged in any of the following types of behavior:

a. Violation of any federal or state laws that would be a felony or aggravated misdemeanor in the state of Iowa.

b. Any violent, assaultive, or threatening conduct.

c. Possession, control or use of any firearms, imitation firearms, explosives or dangerous weapons as defined in federal or state statutes.

d. Any unapproved contact with victims or victims' family or with minors.

e. A parolee whose whereabouts are unknown and who has been unavailable for contact for 30 days, or about whom reliable information has been received indicating that the parolee is taking flight or absconding.

11.5(2) The parole officer or supervisor is authorized to report any other parolee misconduct or pattern of misconduct not required to be reported above.

205—11.6(908) Parole violation report. The parole violation report is a document prepared by the parole officer on a form or medium provided by the board specifying the parole violation charges against a parolee and containing or referring to information known to the parole officer relevant to the charges.

11.6(1) *Violation report update.* A violation report update may be submitted to report sufficient new information or evidence that proves or disproves violations previously charged; report new violations; note court action on charges that are being prosecuted in a criminal proceeding; expand, clarify, or correct information in an earlier report; provide the board with information not related to the violation but that may affect the board's decision regarding the appropriate disposition; provide additional requested information to the board at any time; or change the parole officer's recommendation. The parole officer files a violation report update upon the apprehension of a parolee on absconder status. The violation report update is served in accordance with subrule 11.7(1).

11.6(2) *Recommendations.* The parole officer will review the information available and, upon consultation of policy and with the supervisor or designee, make evidence-based, informed recommendations as to the appropriate action necessary to deal with the alleged violation.

11.6(3) *District review.*

a. Parole officer's responsibility. After discovery of information indicating a possible violation(s) of parole and determination by the parole officer that the violation(s) must be reported to the board, the parole officer prepares a parole violation report.

b. Parole supervisor review. After the preparation of a parole violation report, the supervisor reviews the report.

205—11.7(908) Parole revocation hearing. Following submission of a parole officer's request for a parole revocation hearing, the parole officer schedules the parole revocation hearing and creates the notice of parole revocation hearing. The parole revocation hearing is held in any county in the same judicial district as that in which the alleged parole violator had the initial appearance, or in the county from which the warrant for the arrest of the alleged parole violator was issued, unless proper venue is waived by the parolee.

11.7(1) *Parole revocation hearing notice.* The parole officer or board's designated officer serves the written notice to the parolee and parolee's attorney, if applicable, of the date, time, and place of the parole revocation hearing, which:

a. Includes a complete copy of the report of violations, and updated report if applicable, including all documents referred to therein except confidential material defined in 205—subrule 6.4(2).

b. Is served upon the parolee by personal service. The notice may be served by any person 18 years of age or older at least seven days prior to the parole revocation hearing unless the parolee waives the right to seven days' advance notice.

c. Informs the parolee of the purpose of the hearing, the violations of parole conditions alleged, the circumstances of the alleged violations, the possible action that may be taken as a result of the revocation proceedings, and the following rights to which the parolee is entitled at the parole revocation hearing:

(1) To appear and speak on the parolee's own behalf and to be aided by an interpreter if aid is determined to be necessary by the administrative parole judge.

(2) To be represented by an attorney or, if the parolee is indigent, the right to be represented by an attorney pursuant to Iowa Rule of Criminal Procedure 2.28 and Iowa Code section 908.2A.

(3) To remain silent.

(4) To present witnesses to testify on the parolee's behalf as to matters relevant to the alleged violation of parole.

(5) To confront and cross-examine adverse witnesses unless the administrative parole judge determines that such witnesses would be subjected to risk of harm.

(6) To present documentary evidence and any relevant material or information.

11.7(2) *Testimony at parole revocation hearing.* All testimony is under oath.

11.7(3) *Parole revocation hearing recorded.* Parole revocation hearings are electronically recorded. The recording or transcription thereof is filed and maintained by the board for at least five years from the date of the parole revocation hearing.

11.7(4) *Witnesses segregated.* The administrative parole judge on the judge's own motion or on the request of the parolee, parolee's counsel, or any representative of the state may order witnesses to be segregated except that the parole officer, parolee, and counsel may be present at all times at the hearing.

11.7(5) *Parole revocation hearing evidence.* The admissibility of evidence at parole revocation proceedings is governed by Iowa Code section 17A.14.

a. Documentary evidence. The parole officer ensures that all relevant documentary evidence is available at the hearing and has been made available to the parolee and the parolee's attorney prior to the hearing unless designated confidential. This evidence includes the violation report and statements of witnesses. When relevant documentary evidence is not available, the parole officer shall specify what evidence is unavailable and why.

b. Physical evidence. Physical evidence is ordinarily not required at the hearing. The parole officer may bring physical evidence to the hearing if the parolee has requested it or it appears necessary for the hearing, security is not endangered, and there is no other means of presenting the information.

11.7(6) *Witnesses.*

a. Parolee request. A parolee may request either friendly or adverse witnesses. If a witness is requested by the parolee or the parolee's attorney, the parolee or the parolee's attorney shall notify the parole officer prior to the hearing.

b. Parole officer request. If, in preparing the case prior to the hearing, the parole officer requires a particular witness to demonstrate essential facts of violation, attendance of that witness may be requested by the officer even though the parolee has not requested that witness. If a witness is requested by the parole officer, the officer will notify the parolee or the parolee's attorney.

c. Witnesses' transportation. All witnesses provide their own transportation.

d. Fearful witnesses. All witnesses who refuse to attend the hearing either because they would be subjected to risk of harm if their identities were disclosed or who, even if their identities were known, fear for their safety should they attend the hearing will be interviewed by the parole officer prior to the hearing, and their information and the reasons for their fear will be documented in writing or on the record. The officer assesses whether this testimony is necessary to proceed with prosecution of parole

violations. If there are other alleged violations that merit a recommendation of revocation, this testimony may not be necessary. The administrative parole judge determines whether good cause exists to excuse a witness's attendance and documents the decision, including the reasons.

e. Interviewing witnesses. A parolee or the parolee's attorney has the right to speak to possible witnesses, but it is completely within the discretion of an individual witness whether to speak to or disclose the witness's whereabouts to a parolee or the parolee's attorney. The parole board staff will not attempt to influence the witness's decision.

11.7(7) *Subpoenas—general.* Subpoenas may be issued by the board to require the attendance of witnesses or the production of documents at parole revocation hearings.

a. Who may request. The parolee, the parolee's attorney, parole officer, or board staff may request that a subpoena be issued. The requested witness(es) should be contacted prior to issuance of the requested subpoena. If the parolee is pro se, the parole officer may need to make contact.

b. To whom made. Requests may be made directly to the administrative parole judge, the board's designated officer, or the parole officer, as appropriate. The parole officer provides the necessary information to the board in order to process the request.

c. When made. The request will be made prior to the scheduled hearing.

d. Subpoena duces tecum. The request for a subpoena duces tecum includes a declaration in support of the request. The declaration includes good cause for production of documentary evidence and specifies precisely the documentary evidence to be produced, the relevance and materiality of that evidence to the hearing, and verification that the requested witness has possession or control of the documentary evidence.

e. Costs. The board does not pay subpoena service fees, witness fees, or witness transportation expenses.

11.7(8) *Continuances.*

a. A hearing may be continued by the presiding administrative parole judge for good cause shown, either upon the presiding judge's own motion or upon the request of a party. A party's request for continuance will be made in writing to the administrative parole judge prior to the hearing. Each party may be granted a continuance. Further continuance may be granted for good cause.

b. If, because of an emergency or other good cause, a party having received timely notice is unable to attend the hearing or to request continuance within the allotted time, the presiding administrative parole judge may continue the hearing and schedule another hearing with notice to all interested parties.

c. Notice of continuance may be served upon the parolee's attorney of record for the parole revocation proceeding, in lieu of personal service upon the parolee.

d. If the notice of continuance includes allegations of violations beyond those contained in the original notice of hearing, it must be served upon the parolee or the parolee's attorney of record in accordance with subrule 11.7(1).

11.7(9) *Areas of responsibility.* The following areas of responsibility will apply for a parole revocation hearing.

a. The parole officer is responsible for the following:

(1) Coordinating and scheduling location, security, and control of the parole revocation hearing;

(2) Preparing notice of hearing forms and causing the notices to be served;

(3) Notifying the parolee's attorney of record of the hearing date, time, and place;

(4) Notifying all necessary state witnesses of the hearing date, time, and place;

(5) Processing any required subpoenas on behalf of the state;

(6) Ensuring that all relevant state documents, forms, and materials are available at the hearing;

(7) Attending the hearing;

(8) Arranging security for posthearing transfer of the parolee in the event incarceration is ordered;

(9) Ensuring that a copy of the hearing summary and order is forwarded to the county jail, or other institution, housing the parolee, if applicable.

b. The administrative parole judge or the board's designated officer is responsible for maintaining records on all hearings and filing final orders in the electronic document management system (EDMS).

11.7(10) *Parole revocation hearing.*

a. At the conclusion of the adjudication stage of the hearing, the administrative parole judge determines whether the parolee has violated the conditions of parole and verbally advises the parolee of the decision.

b. If the administrative parole judge determines that the parolee has not violated the conditions of parole, the judge orders the parolee released from custody and continued on parole.

c. If the administrative parole judge finds that the parolee has violated a condition or conditions of parole, the judge makes one of the following dispositions at the parole revocation hearing:

(1) Revocation of parole;

(2) Revocation of parole with the parolee placed on work release;

(3) Reinstatement of parole with the previous parole conditions;

(4) Reinstatement of parole with a modification of the parole conditions;

(5) Continuation of the dispositional portion of the hearing.

d. The administrative parole judge determines from the record established at the revocation hearing the date(s) of violation of parole. The judge also determines the number of days of parole that are not counted toward the discharge of the parolee's sentence. This number includes any of the days after the date of first violation during which the parolee was not incarcerated.

11.7(11) *Parole revocation—hearing summary and order.* The administrative parole judge or the board's designated officer shall forward a copy of the hearing summary and order to the parolee officer and the parolee's attorney, if applicable, as soon as reasonably feasible following the parole revocation hearing. The parole officer or the parolee's attorney, or both, ensures that the parolee receives a copy of the hearing summary and order. The summary of the parole revocation shall consist of a summary of the proceeding and shall contain the judge's findings of fact, conclusions of law and disposition of the matter.

11.7(12) *Motions and requests.* Any motion or request shall be submitted to the administrative parole judge or the board's designated officer, with copies to all parties, prior to the hearing. The parolee or parolee's attorney may submit any motion or request directly to the administrative parole judge, or designee, or through the parole officer. The board is not a designated party in EDMS and does not receive EDMS notifications.

205—11.8(908) Appeal or review.

11.8(1) The order of the administrative parole judge shall become the final decision of the board unless, within ten days of the date of the decision, the parole violator appeals the decision or a panel of the board reviews the decision on its own motion.

11.8(2) On appeal or review of the judge's decision, the chairperson or board panel's designee has all the power that the administrative parole judge would have in initially making the revocation hearing decision. The record on appeal or review shall be the record made at the parole revocation hearing conducted by the administrative parole judge. Appeals must be received at the parole business office or postmarked by the applicable date or they will not be considered. An order continuing disposition or an order finding probable cause to believe an interstate compact parolee violated parole conditions is not a final order and therefore is not appealable. The board shall give notice of its decision to the parolee. The process for filing an appeal of an order of the administrative parole judge is set out in 205—Chapter 14.

205—11.9(908) Interstate compact parole revocation probable cause hearings. The board of parole may conduct interstate compact parole probable cause hearings under the same procedures as the Iowa parole revocation hearings.

11.9(1) *Interstate compact parole revocation probable cause hearings.* The board of parole, or an administrative parole judge, may conduct a probable cause hearing for a parolee from another state who is on parole in Iowa under the terms of the interstate compact on probation and parole according to the same procedures that govern parole revocation hearings for Iowa parolees who are on parole in Iowa.

11.9(2) *Interstate compact parole revocation hearings.* If an Iowa parolee was on parole outside the state of Iowa through the interstate compact on probation and parole and has been returned to Iowa following a finding of probable cause in the receiving state, a parole revocation hearing is conducted for

the parolee at the Iowa facility where the parolee is incarcerated. This hearing is conducted according to the same procedures as those specified for hearings conducted for Iowa parolees who are on parole in the state of Iowa.

205—11.10(908) Parolee convicted of new offenses. A parolee who is found guilty of a new offense or who pleads guilty to a new offense, including a simple misdemeanor, has no right to the adjudication stage of the parole revocation hearing with regard to the new offense.

205—11.11(908) Waivers.

11.11(1) The parole officer informs the parolee of the parolee's rights at a revocation hearing if the parolee does not have an attorney.

11.11(2) The parole officer also informs the parolee of the opportunity to waive the parolee's right to personal appearance and consent to a parole revocation hearing that is conducted over the telephone if the parolee does not have an attorney.

11.11(3) If the parolee executes a waiver of the right to personal appearance and consent to parole revocation hearing to be conducted over the telephone, the parole revocation hearing is scheduled and conducted as a routine parole revocation hearing. If the parolee does not execute a waiver of the right to personal appearance and consent to parole revocation hearing to be conducted over the telephone, then the hearing is scheduled and may, at the discretion of the administrative parole judge, be conducted electronically by videoconference.

205—11.12(908) Conviction of a felony or aggravated misdemeanor while on parole. When a parolee is convicted and sentenced to incarceration in Iowa for a felony or aggravated misdemeanor committed while on parole, or is convicted and sentenced to incarceration in any other state of the United States or a foreign country for an offense committed while on parole and that if committed in Iowa would be a felony or aggravated misdemeanor, the parolee's parole shall be deemed revoked as of the date of the commission of the offense. The definition and requirements for an automatic revocation of parole are set out in Iowa Code sections 908.10 and 908.10A. The administrative parole judge determines the date of commission of the felony or aggravated misdemeanor offense and the date of subsequent incarceration in a state institution. Time loss will be the time between these two dates, except that the parolee receives credit for any time the parolee was incarcerated between these two dates.

These rules are intended to implement Iowa Code chapters 906 and 908.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 12
"Parole Discharge"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, 906, 908, 914, and 915
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking contains revisions to administrative rules based on the requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 12 provides information to the public regarding when someone may be discharged from parole supervision.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 is no expected additional cost 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 are no expected additional costs.

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:

None 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 205—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
PAROLE DISCHARGE

205—12.1(906) Discharge from parole supervision.

12.1(1) *Statutory discharge.* The board discharges a parolee from parole supervision when the term of the parolee's sentence expires.

12.1(2) *Early discharge.* The board or the supervising district department may discharge a parolee from parole supervision prior to the expiration of the term of the parolee's sentence when the board or district department determines that the parolee is able and willing to fulfill the obligations of a law-abiding citizen without further supervision.

205—12.2(906) Persons not eligible. A parolee convicted of a violation of Iowa Code section 709.3, 709.4, or 709.8 committed on or with a child or a person serving a sentence under Iowa Code section

902.12 is not eligible to be discharged from parole until the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement.

These rules are intended to implement Iowa Code section 906.15.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 13
"Executive Clemency"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, 906, 908, 914, and 915
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking contains revisions to administrative rules based on the requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 13 provides the public with information regarding the process for applying for executive clemency.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 is no expected additional cost 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 are no expected additional costs.

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:

None 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 205—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
EXECUTIVE CLEMENCY

205—13.1(902) Interviews of inmates serving life terms without the possibility of parole. The board will not grant a parole or work release to a class "A" felon serving a life term without the possibility of parole unless the governor commutes the sentence to a term of years. Administrative rules relating to the parole and work release consideration of an inmate sentenced to an indeterminate term do not apply to an inmate sentenced to a life term without the possibility of parole.

205—13.2(902) Review of inmates serving life terms. The board may, at its discretion, review the record of a class "A" felon serving a life term.

205—13.3(914) Executive clemency applications.

13.3(1) *Applications to the board.*

a. A person convicted of a criminal offense may apply to the board for a recommendation to the governor for a reprieve, pardon, commutation of sentence, or remission of fines and forfeitures at any time following the person's conviction.

b. An application for a pardon or commutation of sentence should be on the form provided by the board. The form may be obtained by contacting the board's business office or the office of the governor.

c. An application for a reprieve or remission of fines and forfeitures should be in writing.

d. The applicant will submit the executive clemency application to the board's business office.

13.3(2) *Applications to the governor.* Upon the request of the governor, the board will take charge of all correspondence in reference to an executive clemency application filed with the governor and will provide the governor with the board's advice and recommendation.

13.3(3) *Restoration of citizenship.*

a. A person convicted of a criminal offense may apply for restoration of citizenship at any time following the discharge of the person's sentence.

b. A person applying for restoration of citizenship will submit the form to the governor. This form may be obtained from the governor's office or from the board.

205—13.4(914,902) Board investigation. The board may investigate an application with respect to history, current situation, parole prospects and other pertinent matters. The board may consider the application or recommendation, transcripts of judicial proceedings and all documents submitted with the application, and other documents as the board determines is appropriate, and may interview, directly or through the board's agent, public officials, victims, and witnesses and other individuals as the board determines is appropriate.

205—13.5(914,902) Executive clemency recommendations.

13.5(1) *Decision.*

a. The board may recommend that the governor grant commutation of sentence to a class "A" felon serving a life term when the board agrees that the inmate should be considered for release on parole.

b. The board shall recommend that the governor grant executive clemency to a person other than a class "A" felon serving a life term when the board agrees that the person has demonstrated that the person will become or continue to be a law-abiding citizen.

c. The board may utilize the resources of the department of public safety for assistance with any part of the board's investigation.

13.5(2) *Notice of board recommendation.* The board will give notice of an executive clemency recommendation to the office of the governor and, if requested, to the inmate or applicant.

13.5(3) *Board consideration following commutation.* The board will consider the parole and work release prospects of an inmate whose sentence has been commuted by the governor.

13.5(4) *Executive clemency reconsiderations.*

a. The board may reconsider a positive or negative recommendation prior to the governor's decision when previously unknown and material information comes to light, material actions or events relevant to the application occur, the governor directs the board to further investigate the application, or good cause is otherwise shown. The procedures for reviewing an executive clemency application shall apply to the reconsideration of a recommendation.

b. The board may amend its recommendation as deemed appropriate.

205—13.6(902,915) Commutation procedure for class "A" felons.

13.6(1) *Initial review.* The board, or its designee, will initially review an application for commutation to determine whether the inmate is eligible to apply for commutation pursuant to Iowa Code section 902.2. If the inmate is not eligible to apply for commutation, the board will return the application to the applicant.

13.6(2) *Parole board commutation investigation process.*

a. If the applicant is eligible to apply for commutation, the board will conduct an investigation pursuant to subrule 13.6(2).

b. The board may consider any documents the board deems appropriate, including but not limited to the application and attached documents; transcripts of judicial proceedings; corrections information; and written recommendations, statements, and interviews of the offender, public officials, victims, and witnesses.

c. The board may interview the applicant prior to submitting the board's recommendation to the governor. The board may interview any other person the board deems appropriate, including but not limited to public officials, victims, and witnesses.

d. The board will attempt to provide notice of the commutation interview to any individual who would qualify as a victim under Iowa's victim notification law. Notice will be by regular mail to the last-known address or by electronic mail. The notice will provide a specified amount of time for the victim to provide a statement to the board regarding the application for commutation.

e. The board may hold a public hearing to receive comments from the general public on an application for commutation. The determination to hold a public hearing to receive public comments is solely at the discretion of the board.

13.6(3) *Recommendation and report.*

a. Any decision to recommend commutation for a class "A" felon will be by majority vote. The board may continue the matter until such time as the board may determine by majority vote.

b. The board may consider any factor it deems appropriate when considering commutation, including but not limited to the nature and circumstances of the crime, the number of years the applicant has served, the applicant's previous criminal record, the applicant's conduct while confined, the impact on the victim, and the public interest.

c. The board will prepare a written report of its findings and recommendations and forward its report to the governor.

d. In making such a recommendation, the board will also indicate the existence of any registered victims and communicate any opinions expressed by those victims regarding release of the inmate.

13.6(4) *Board consideration following commutation.* The board will consider the parole and work release prospects of any inmate whose life sentence has been commuted by the governor. The grant of commutation does not require the board to grant parole or work release. The board will consider parole or work release pursuant to the standards in 205—Chapter 8.

These rules are intended to implement Iowa Code sections 902.2, 902.4, and 904A.4(7) and chapters 914 and 915.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 14
"Appeal of Decisions"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, 906, 908, 914, and 915
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking contains revisions to administrative rules based on the requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 14 provides information to the public about the procedures for appealing a decision by the Board or administrative parole judge.

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:

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 are no expected additional costs.

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:

None 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 205—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14
APPEAL OF DECISIONS

205—14.1(17A) General. An inmate, parolee, or work releasee may appeal any action of the board staff or board that affects that person except a decision to schedule a hearing or a work release transfer hearing decision, any commutation-related action, an appeal decision, or the decision to conduct an appearance by electronic means.

205—14.2(17A) Grounds. The general grounds for an appeal are claims that an action of the board staff or board was:

1. In violation of constitutional or statutory provisions;
2. In excess of the statutory authority of the board;
3. In violation of a board rule;

4. Made upon unlawful procedure;
5. Affected by other error of law;
6. Unsupported by evidence or based on incorrect or incomplete information that, if correct or complete, might have resulted in a different action; or
7. Unreasonable, arbitrary, or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of decision.

205—14.3(17A) Filing an appeal.

14.3(1) An appeal is to be filed in writing and is to include:

a. The nature of the board action that is the subject of the appeal.
b. The particular agency action that is the subject of the appeal.
c. The grounds on which relief is sought.
d. The relief sought.

14.3(2) All grounds should be included in the same appeal, and all necessary documents and information will be attached to the appeal.

14.3(3) The appeal is to be submitted to the business office. An appeal is to be received at the parole board office, or be postmarked, within ten days of the receipt of notice of the action appealed. The board is not required to consider untimely appeals.

205—14.4(17A) Board review and decision. The board of parole, a designee of the board or a panel of three or more members of the board will review the appeal. The chairperson, the chairperson's designee, or the panel may affirm, modify or reverse the action being appealed or may defer the action for further consideration, including granting the inmate, parolee, or work releasee an appearance before the board. The board will give notice to the inmate, parolee, or work releasee of the board's decision.

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

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 205—Chapter 15 "Waivers"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 904A, 906, 908, 914, and 915
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 514

Public Hearing

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

June 18, 2024	Via videoconference:
3:30 p.m.	meet.google.com/pvt-bsxs-urf

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Parole no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Marilee Mitchell
Board of Parole
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.725.5757
Email: bop.information@iowa.gov

Purpose and Summary

This proposed rulemaking contains revisions to administrative rules based on the requirements of Executive Order 10, as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 15 provides information to the public regarding the process for requesting a waiver from the Board.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no expected additional cost to the State or individuals.

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

Department of Corrections (DOC) inmates, parolees, registered victims, and the families of these groups, as well as Board and DOC staff, 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 are no expected additional costs.

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:

None 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 205—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
WAIVERS

205—15.1(17A) Definition. For purposes of this chapter, "waiver" means action by the board that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

205—15.2(17A) Scope. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

205—15.3(17A) Applicability. The board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The board may not waive requirements created or duties imposed by statute.

205—15.4(17A) Criteria for waiver. The criteria for granting a waiver are set out in Iowa Code section 17A.9A and are incorporated herein.

205—15.5(17A) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

15.5(1) *Contested cases.* If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

15.5(2) *Other.* If the petition does not relate to a pending contested case, the petition may be submitted to the board's chairperson.

205—15.6(17A) Content of petition. A petition for waiver includes the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person or entity for which a waiver is requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in Iowa Code section 17A.9A. This statement will 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.
5. A history of any prior contacts between the board and the petitioner relating to the regulated activity affected by the proposed waiver, including a description of any notices of violation, contested case hearings, or investigative reports relating to the regulated activity within the past five years.
6. Any information known to the requester regarding the board's treatment of similar cases.
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.
8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

205—15.7(17A) Additional information. Prior to issuing an order granting or denying a waiver, the board 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 board may, on its own motion or at the petitioner's request, schedule a telephonic, electronic, or in-person meeting between the petitioner and the board's chairperson, a committee of the board, or a quorum of the board.

205—15.8(17A) Notice. The board will acknowledge a petition upon receipt. The board ensures 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 board may give notice to other persons. To accomplish this notice provision, the board 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 board attesting that notice has been provided.

205—15.9(17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to any petition for a waiver filed within a contested case and

also apply to board proceedings for a waiver when the board so provides by rule or order or is required to do so by statute.

205—15.10(17A) Ruling. An order granting or denying a waiver will be in writing and 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 issued.

15.10(1) *Board discretion.* The final decision on whether the circumstances justify the granting of a waiver will be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver is evaluated by the board based on the unique, individual circumstances set out in the petition.

15.10(2) *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

15.10(3) *Narrowly tailored exception.* A waiver, if granted, will provide the narrowest exception possible to the provisions of a rule.

15.10(4) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the board balances the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

15.10(5) *Conditions.* The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

15.10(6) *Time period of waiver.* A waiver is not permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

15.10(7) *Time for ruling.* The board may grant or deny a petition for a waiver as soon as practicable but, in any event, will 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 board will grant or deny the petition no later than the time at which the final decision in that contested case is issued.

15.10(8) *When deemed denied.* Failure of the board to grant or deny a petition within the required time period will be deemed a denial of that petition by the board. However, the board remains responsible for issuing an order denying a waiver.

15.10(9) *Service of order.* Within seven days of its issuance, any order issued under this chapter will 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.

205—15.11(17A) Public availability. All orders granting or denying a waiver petition are indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying waiver petitions are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

205—15.12(17A) Submission of waiver information. Within 60 days of granting or denying a waiver, the board will make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission will identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the authority's actions on waiver requests. If practicable, the report will also detail the extent to which granting a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

205—15.13(17A) Cancellation of a waiver. A waiver issued by the board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

205—15.14(17A) Violations. Violation of a condition in a waiver order is treated as a violation of the particular rule for which the waiver was granted. As a result, 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.

205—15.15(17A) Defense. After the board 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.

205—15.16(17A) Judicial review. Judicial review of a board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

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

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 871—Chapter 1 "Administration"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 84A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 84A

Public Hearing

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

June 18, 2024
10 a.m.
1000 East Grand Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Workforce Development no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Rebecca Stonawski
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Email: rebecca.stonawski@iwd.iowa.gov

Purpose and Summary

Proposed Chapter 1 is the foundational administrative code chapter for the Department. It provides the mission and overall organizational structure for the organization.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

The general public will bear the costs of the proposed rulemaking.

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

The general public will benefit from the proposed rulemaking.

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 is no quantitative impact.

- Qualitative description of impact:

There is no qualitative impact.

3. Costs to the State:

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

None.

- Anticipated effect on state revenues:

None.

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:

None.

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

Iowa Code chapter 84A sets the foundational structure of the Department of Workforce Development. Chapter 1 subsequently provides the necessary mission and general organization of the entity.

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?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind 871—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ADMINISTRATION

871—1.1(84A) Mission and overall organization.

1.1(1) *Mission.* We power Iowa's possibilities by connecting workers to opportunities and employers to workforce solutions.

1.1(2) *Vision.* To create, enable and sustain the most future ready workforce in the nation.

1.1(3) *Overall organization.* The chief executive officer of the department is the director of the department of workforce development who shall be appointed by the governor with the approval of two-thirds of the members of the senate and is responsible directly to the governor.

This rule is intended to implement Iowa Code chapter 84A.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 871—Chapter 2
"Customer and Administrative Services Division"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 84A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 84A

Public Hearing

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

June 18, 2024
10:30 a.m.

1000 East Grand Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Workforce Development no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Rebecca Stonawski
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Email: rebecca.stonawski@iwd.iowa.gov

Purpose and Summary

Chapter 2 originally provided the mission and organizational structure for the Customer Services Bureau; the Financial Management Bureau; the Business Management Bureau; the Special Projects, Premises, and Forms Management Bureau; the Budget and Reporting Bureau; the Employee Services Bureau; and Planning and Information Services. Because this organizational structure has significantly changed and needs to be updated, Chapter 2 is being rescinded.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Not applicable.

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

The general public will benefit from the proposed rulemaking.

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 is no quantitative impact.

- Qualitative description of impact:

There is no qualitative impact.

3. Costs to the State:

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

None.

- Anticipated effect on state revenues:

None.

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:

Not applicable.

- 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?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **871—Chapter 2**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 871—Chapter 13
"New Employment Opportunities Fund"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 2000 Iowa Acts, Senate File 2428, section 20

State or federal law(s) implemented by the rulemaking: 2000 Iowa Acts, Senate File 2428, section 20

Public Hearing

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

June 18, 2024
11 a.m.

1000 East Grand Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Workforce Development no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Rebecca Stonawski
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Email: rebecca.stonawski@iwd.iowa.gov

Purpose and Summary

Chapter 13 was originally created to provide administrative rules for the New Employment Opportunities Fund. However, this fund no longer exists. This rulemaking proposes to remove Chapter 13 from the Department's rules.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Not applicable.

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

The general public will benefit from the proposed rulemaking.

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 is no quantitative impact.

- Qualitative description of impact:

There is no qualitative impact.

3. Costs to the State:

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

Not applicable.

- Anticipated effect on state revenues:

Not applicable.

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:

Not applicable.

- 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?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **871—Chapter 13**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 871—Chapter 14
"New Iowan Centers"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 2000 Iowa Acts, Senate File 2428, section 12, subsection 2.

State or federal law(s) implemented by the rulemaking: 2000 Iowa Acts, Senate File 2428, section 12, subsection 2.

Public Hearing

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

June 18, 2024	1000 East Grand Avenue
11:30 a.m.	Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Workforce Development no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Rebecca Stonawski
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Email: rebecca.stonawski@iwd.iowa.gov

Purpose and Summary

Chapter 14 was originally created to provide administrative rules for New Iowan Centers. However, this program no longer exists. This rulemaking proposes to remove Chapter 14 from the Department's rules.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Not applicable.

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

The general public will benefit from the proposed rulemaking.

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 is no quantitative impact.

- Qualitative description of impact:

There is no qualitative impact.

3. Costs to the State:

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

Not applicable.

- Anticipated effect on state revenues:

Not applicable.

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:

Not applicable.

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

Not applicable. This program no longer exists.

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?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **871—Chapter 14**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 871—Chapter 16
"Employer Innovation Fund"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 96 and 2018 Iowa Acts, chapter 1067

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 96 and 2018 Iowa Acts, chapter 1067

Public Hearing

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

June 18, 2024	1000 East Grand Avenue
8:30 a.m.	Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Workforce Development no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Rebecca Stonawski
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Email: rebecca.stonawski@iwd.iowa.gov

Purpose and Summary

Chapter 16 previously provided rules for the Employer Innovation Fund. However, this fund no longer exists. This rulemaking proposes to remove Chapter 16 from the Department's rules.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Not applicable.

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

The general public will benefit from the proposed rulemaking.

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 quantitative impacts.

- Qualitative description of impact:

There are no qualitative impacts.

3. Costs to the State:

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

Not applicable.

- Anticipated effect on state revenues:

Not applicable.

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:

Not applicable.

- 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 impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **871—Chapter 16**.

ARC 8025C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Proposing rulemaking related to highly pathogenic avian influenza and providing an opportunity for public comment

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 163.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 163.

Purpose and Summary

The proposed amendments move highly pathogenic avian influenza to an all-species reportable disease. It is currently listed as an avian-only reportable disease.

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 21—Chapter 8.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on June 18, 2024. Comments should be directed to:

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.518.7609
Email: colin.tadlock@iowaagriculture.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).

Emergency Rulemaking Adopted by Reference

This proposed rulemaking is also published herein as an Adopted and Filed Emergency rulemaking (see **ARC 8026C**, IAB 5/29/24). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rulemaking, whose subject matter is hereby adopted by reference.

ARC 8028C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rulemaking related to controlled substances and providing an opportunity for public comment

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

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 124.201.

Purpose and Summary

The purpose of this proposed rulemaking is to add one substance to Schedule I (opiates) of the Controlled Substances Act in response to similar scheduling action taken by the federal Drug Enforcement Administration.

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 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on June 18, 2024. Comments should be directed to:

PHARMACY BOARD[657](cont'd)

Sue Mears
Board of Pharmacy/Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: sue.mears@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. Adopt the following **new** subrule 10.39(11):

10.39(11) Amend Iowa Code section 124.204(2) by adding the following new paragraph:

cz. 1-(2-methyl-4-(3-phenylprop-2-en-1-yl)piperazin-1-yl)butan-1-one. Other name: 2-Methyl AP-237.

ARC 8027C

SECRETARY OF STATE[721]

Notice of Intended Action

Proposing rulemaking related to constitutional amendments and providing an opportunity for public comment

The Secretary of State hereby proposes to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 49.44.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2022 Iowa Acts, chapter 1155, and 2023 Iowa Acts, chapter 168.

Purpose and Summary

The purpose of the proposed subrules is to provide voters and other interested persons with the opportunity to review the summary to be printed on the ballot for the proposed constitutional amendments that are to be voted upon at the November 5, 2024, General Election. Because the only purpose for this Notice is to solicit public comments, following the comment period, the Notice will be terminated without adopting subrules.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

SECRETARY OF STATE[721](cont'd)

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

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Secretary of State no later than 4:30 p.m. on June 18, 2024. Comments should be directed to:

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

Public Hearing

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

July 1, 2024	Room 19
10 to 11 a.m.	Iowa Capitol Building
	Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Secretary of State 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. Adopt the following **new** subrule 21.200(4):

21.200(4) A proposed constitutional amendment was passed by the Eighty-Ninth General Assembly as Senate Joint Resolution 9 and by the Ninetieth General Assembly as Senate Joint Resolution 9. This proposed amendment will be voted upon at the general election to be held on November 5, 2024.

The summary that is proposed by the Secretary of State appears below:

Summary: Provides for only U.S. citizens aged 18 or older and meeting state and county residency requirements to vote in all elections. Further provides that 17-year-olds who will be 18 years old by the General Election are eligible to vote in the primary election, subject to the same citizenship and residency requirements.

SECRETARY OF STATE[721](cont'd)

ITEM 2. Adopt the following **new** subrule 21.200(5):

21.200(5) A proposed constitutional amendment was passed by the Eighty-Ninth General Assembly as House Joint Resolution 2005 and by the Ninetieth General Assembly as House Joint Resolution 3. This proposed amendment will be voted upon at the general election to be held on November 5, 2024.

The summary that is proposed by the Secretary of State appears below:

Summary: Provides that the lieutenant governor will act as the governor if there is a temporary disability of the governor. Further provides that the lieutenant governor or lieutenant governor-elect will be the governor or governor-elect in the case of the resignation, death, or permanent disability of the governor or governor-elect thus creating a vacancy in the office of lieutenant governor or lieutenant governor-elect, as appropriate.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Roby Smith, Superintendent of Credit Unions Katie Averill, Superintendent of Banking James Johnson, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for May is 6.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective May 9, 2024, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum 1.75%
180-364 days	Minimum 1.80%
One year to 397 days	Minimum 1.80%
More than 397 days	Minimum 1.40%

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

Inquiries may be sent to Roby Smith, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

In accordance with the provisions of Iowa Code section 535.2(3)"a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

June 1, 2023 — June 30, 2023	5.50%
July 1, 2023 — July 31, 2023	5.50%
August 1, 2023 — August 31, 2023	5.75%
September 1, 2023 — September 30, 2023	6.00%
October 1, 2023 — October 31, 2023	6.25%
November 1, 2023 — November 30, 2023	6.50%
December 1, 2023 — December 31, 2023	6.75%
January 1, 2024 — January 31, 2024	6.50%
February 1, 2024 — February 29, 2024	6.00%
March 1, 2024 — March 31, 2024	6.00%
April 1, 2024 — April 30, 2024	6.25%
May 1, 2024 — May 31, 2024	6.25%
June 1, 2024 — June 30, 2024	6.50%

ARC 8030C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rulemaking related to management efficiency evaluation and providing an opportunity for public comment

The Utilities Board hereby proposes to rescind Chapter 29, "Management Efficiency Evaluation," 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 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 476.52.

Purpose and Summary

The Board commenced this rulemaking as part of its Executive Order 10 review. The proposed rulemaking promulgates a methodology by which the Board may evaluate a utility's management efficiency.

The Board issued an order on April 23, 2024, commencing this rulemaking. The order is available on the Board's electronic filing system, efs.iowa.gov, under RMU-2023-0029.

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.

UTILITIES DIVISION[199](cont'd)

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on June 18, 2024. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

June 18, 2024 9 to 11 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa
July 2, 2024 9 to 11 a.m.	Board Hearing Room 1375 East Court Avenue 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 Board 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 199—Chapter 29 and adopt the following **new** chapter in lieu thereof:

CHAPTER 29
MANAGEMENT EFFICIENCY EVALUATION

199—29.1(476) Policy and purpose. It is the policy of the board that a public utility shall be operated in an efficient manner. This chapter describes the methodology by which the board may evaluate the management efficiency of a rate-regulated utility and the actions that the board may take upon a finding as to the efficiency of a utility's management.

199—29.2(476) Efficiency considered in a complaint or rate case proceeding. In a complaint proceeding conducted pursuant to Iowa Code section 476.3 or in a rate proceeding conducted pursuant to Iowa Code section 476.6, the board may determine whether a public utility subject to rate regulation

is being operated in an efficient or inefficient manner. In making such a determination, the board shall evaluate the management of the utility in the manner prescribed by this chapter.

199—29.3(476) Management efficiency evaluation. The board may evaluate a utility's management efficiency based upon the utility's particular circumstances and considering a range of factors that may differ among utilities. In evaluating a utility's management efficiency, the board may consider any of the factors listed in this chapter and any additional relevant factors. No single factor will be deemed conclusive evidence of efficiency or inefficiency. In performing the evaluation, the board may collect data to compare a utility to other rate-regulated utilities providing the same service within the state of Iowa. The board may consider data for time periods outside a rate case test year.

29.3(1) *Factors.* The board may consider the following factors:

a. Price per unit of service (including amounts collected subject to refund) by customer class and type of service.

b. Operation and maintenance costs per unit of service. Low operations and maintenance costs may not support a finding of efficiency if quality of service is substandard.

c. Quality of service, as reflected in objective measures of service quality, customer complaints shown in company and board records, findings made in complaint proceedings, penalties assessed, and measures of customer satisfaction.

d. Customer mix.

e. Total compensation for each officer of the utility.

f. Company's bad debt ratio.

g. Innovative practices implemented by utility management that result in improved service or that control costs.

h. Geographic service territory.

i. Economic conditions in the areas served.

j. Weather patterns and disasters.

k. Development and implementation of energy efficiency programs.

29.3(2) *Electric utilities.* When evaluating an electric utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to electric utilities, including the following:

a. Fuel cost per kilowatt-hour.

b. Availability for each generating unit with 2,000 or more service hours per year.

c. Companywide load factor.

29.3(3) *Natural gas utilities.* When evaluating a natural gas utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to natural gas utilities, including the following:

a. Total cost per unit of gas purchased from a pipeline (to be considered separately from operations and maintenance costs).

b. Total cost per unit of gas purchased from other sources (to be considered separately from operations and maintenance costs).

c. Residential and commercial sales volume in relation to investment in the system (rate base).

d. Unaccounted-for gas as a percentage of total sales volume.

199—29.4(476) Rewards and penalties. If the board makes a determination as to the efficiency of the management of a utility pursuant to this chapter, except for an electric cooperative that has elected rate regulation, the board may prescribe an adjustment of the utility's return on common equity or revenue requirement as allowed pursuant to Iowa Code section 476.52. Upon making a determination as to the efficiency of the management of a rural electric cooperative that has elected rate regulation, the board may prescribe an adjustment of the rates charged by the cooperative as part of an adjustment to the utility's revenue requirement.

These rules are intended to implement Iowa Code section 476.52.

ARC 8029C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rulemaking related to competitive bidding process and providing an opportunity for public comment

The Utilities Board hereby proposes to rescind Chapter 40, "Competitive Bidding Process," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.1 and 476.53.

Purpose and Summary

The purpose of Chapter 40 is to establish minimum requirements for any rate-regulated electric utility engaging in the bidding process used to purchase supply. No rate-regulated electric utilities have opted to utilize the processes afforded them by Chapter 40, so the Board is proposing to rescind Chapter 40.

The Board issued an order on April 25, 2024, commencing this rulemaking. The order is available on the Board's electronic filing system, efs.iowa.gov, under RMU-2023-0040.

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

No waiver provision is included in the proposed amendment because the chapter is proposed to be rescinded.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on June 18, 2024. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

UTILITIES DIVISION[199](cont'd)

July 16, 2024 9 to 10 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa
July 30, 2024 9 to 10 a.m.	Board Hearing Room 1375 East Court Avenue 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 Board 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 **199—Chapter 40** .

ARC 8026C
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Rulemaking related to highly pathogenic avian influenza

The Agriculture and Land Stewardship Department hereby amends Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 163.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 163.

Purpose and Summary

These amendments move highly pathogenic avian influenza (HPAI) to an all-species reportable disease. It is currently listed as an avian-only reportable disease.

Reason for Adoption of Rulemaking Without Prior Notice and Opportunity for Public Participation

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because emergency adoption was approved by the Administrative Rules Review Committee (ARRC).

In compliance with Iowa Code section 17A.4(3)"a," the ARRC at its May 6, 2024, meeting reviewed the Department's determination and this rulemaking and approved the emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(c), the Department also finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective as soon as possible upon approval by the ARRC. Earlier adoption of this rulemaking will allow the Department to better respond to the emerging foreign animal disease concerns related to HPAI in dairy animals, which will confer a benefit to the public.

Adoption of Rulemaking

This rulemaking was adopted by the Department on May 6, 2024.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rulemaking has been initiated through the normal rulemaking process and is published herein under Notice of Intended Action as **ARC 8025C** to allow for public comment.

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 21—Chapter 8.

Review by Administrative Rules Review Committee

The ARRC, 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 ARRC'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 May 7, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend subrule 64.1(1) as follows:

64.1(1) *Multiple species diseases.*

- Anthrax
- Aujeszky's disease
- Bluetongue
- Brucellosis (Brucella abortus)
- Brucellosis (Brucella melitensis)
- Brucellosis (Brucella suis)
- Crimean Congo haemorrhagic fever
- Echinococcosis/hydatidosis
- Epizootic haemorrhagic disease
- Equine encephalomyelitis (Eastern)
- Foot and mouth disease
- Heartwater
- Highly pathogenic avian influenza
- Japanese encephalitis
- Johne's disease
- Leptospirosis
- New world screwworm (Cochliomyia hominivorax)
- Old world screwworm (Chrysomya bezziana)
- Q fever
- Rabies
- Rift Valley fever
- Rinderpest
- Surra (Trypanosoma evansi)
- Trichinellosis
- Tularemia
- Vesicular stomatitis
- West Nile fever

ITEM 2. Amend subrule 64.1(6) as follows:

64.1(6) *Avian diseases.*

- Avian chlamydiosis
- Avian infectious bronchitis
- Avian infectious laryngotracheitis
- Avian mycoplasmosis (M. gallisepticum)
- Avian mycoplasmosis (M. synoviae)
- Duck virus hepatitis

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

- Fowl cholera
- Fowl typhoid
- ~~Highly pathogenic avian influenza and low~~ Low pathogenic avian influenza in poultry
- Infectious bursal disease (Gumboro disease)
- Marek's disease
- Newcastle disease
- Pullorum disease
- Turkey rhinotracheitis

[Filed Emergency 5/7/24, effective 5/7/24]
[Published 5/29/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/24.

ARC 8031C

EXECUTIVE COUNCIL[361]

Adopted and Filed

Rulemaking related to disbursement of money from civil reparations trust fund

The Executive Council hereby adopts new Chapter 1, "Disbursement of Money from Civil Reparations Trust Fund," and rescinds Chapter 12, "Disbursement of Money from Civil Reparations Trust Fund," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 7D, 17A and 668A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 668A.

Purpose and Summary

These rules explain the process for applying for grants from the Civil Reparations Trust Fund and the criteria the Council will use to consider disbursement for the purposes of indigent civil litigation programs or insurance assistance programs.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 13, 2023, as **ARC 7190C**. Public hearings were held on January 4 and 5, 2024, at 12:15 p.m. in Room G9, Iowa State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received.

These rules are being repromulgated as Chapter 1 instead of Chapter 4 as proposed in the Notice. Other minor grammatical changes were made in subrule 1.1(2) and rule 361—1.5(668A).

Adoption of Rulemaking

This rulemaking was adopted by the Council on May 6, 2024.

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 Council for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A.

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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 361—Chapter 1:

CHAPTER 1
DISBURSEMENT OF MONEY FROM CIVIL REPARATIONS TRUST FUND

361—1.1(668A) Notice of funds. The executive council provides notice of availability of money in the civil reparations trust fund in the following ways:

1.1(1) *Iowa Administrative Bulletin.* The executive council publishes notice of the balance in the fund in the Iowa Administrative Bulletin semiannually in January and July of each year and within 30 days of the deposit of any amount into the fund exceeding $10,000. If the deposit of an amount exceeding $10,000 would cause notice within 30 days of the deposit to be published in January or July, no additional publication is necessary.

1.1(2) *First-class mail.* The executive council maintains a mailing list of those persons who wish to receive notice of the balance in the fund. Notice is sent by first-class mail to all persons on the mailing list semiannually in January and July of each year and within 30 days of the deposit of any amount into the fund exceeding $10,000. If the deposit of an amount exceeding $10,000 would cause notice within 30 days of the deposit to be mailed in January or July, no additional mailing is necessary. Any person may be added to the mailing list on request.

In the event that there is no money in the fund in January or July, no notice will be published or mailed.

361—1.2(668A) Applications.

1.2(1) The executive council will accept applications for money from the fund for a period of 30 days after notice has been published in the Iowa Administrative Bulletin or sent by first-class mail. Applications will not be accepted in advance of this time period.

1.2(2) Application forms are available from and filed with the office of the state treasurer.

1.2(3) An application is timely if it is postmarked on the thirtieth day after the date of publication in the Iowa Administrative Bulletin or on the thirtieth day after the date affixed to the notice sent by first-class mail, whichever is later. The executive council may accept applications submitted after this deadline only for good cause upon motion in writing.

361—1.3(668A) Criteria. In determining whether to grant an application for money from the fund, the executive council considers the following factors:

1.3(1) The purpose for which the money will be utilized;

1.3(2) The number of people who will be served by the money;

1.3(3) The availability to the applicant of alternative sources of money;

1.3(4) The degree to which the applicant legally used the money under any prior applications.

361—1.4(668A) Disposition of applications. The executive council determines the disposition of all pending applications and notifies all applicants of the decision by first-class mail. Notice of disposition is sent to all applicants on the same date.

361—1.5(668A) Motion for reconsideration. Any applicant who is aggrieved or adversely affected by the disposition of the applicant's application may, within 15 days of the date affixed to the notice of disposition, file a motion for reconsideration with the office of the state treasurer. The motion is deemed filed when received and date-stamped by the treasurer.

361—1.6(668A) Grounds. The motion for reconsideration has to delineate the specific grounds for reconsideration. An applicant may request a contested case hearing; however, any request for a contested case hearing specifically delineates the facts in dispute to be contested and determined at the hearing.

EXECUTIVE COUNCIL[361](cont'd)

361—1.7(668A) Procedure. The executive council rules on any pending motion for reconsideration, including a request for a contested case hearing. In the event that a request for a contested case hearing is granted, the proceeding is conducted as provided in X.5 of the Uniform Rules on Agency Procedure related to contested cases, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. The burden of proof by a preponderance of the evidence rests with the requester to establish grounds for reconsideration. The office of the attorney general will defend the decision of the executive council.

361—1.8(668A) Disbursement of money. No money will be disbursed from the fund after disposition of all applications until the time period for filing a motion for reconsideration has expired. After the time period for filing a motion for reconsideration has expired but while a motion for reconsideration by any applicant is pending, the executive council in its discretion may disburse money from the fund to applicants who have not filed a motion for reconsideration. Money may be disbursed to applicants while a motion for reconsideration is pending only to the extent that resolution of any pending motion could not affect the disbursement of money to other applicants.

361—1.9(668A) Administrative costs. The costs of administering this fund, including any costs associated with the conduct of any contested case proceeding challenging the disbursement of money from the fund and costs for postage and copying, are billed to the fund after approval by the executive council.

These rules are intended to implement Iowa Code chapters 17A, 7D, and 668A.

ITEM 2. Rescind and reserve **361—Chapter 12**.

[Filed 5/6/24, effective 7/3/24]
[Published 5/29/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/24.

ARC 8032C

EXECUTIVE COUNCIL[361]

Adopted and Filed

Rulemaking related to disaster contingency fund

The Executive Council hereby adopts new Chapter 2, "Contingent Fund—Disaster Fund," and rescinds Chapter 7, "Disaster Contingency Fund," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 29C.20.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 29C.20.

Purpose and Summary

The purpose of this rulemaking is to enumerate policies, responsibilities, and procedures adopted by the Executive Council of the State of Iowa in order to provide guidance for administering the state Disaster Contingency Fund.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 13, 2023, as **ARC 7188C**. Public hearings were held on January 4 and 5, 2024, at 11:45 a.m. in

Room G9, Iowa State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received.

Instances of "government subdivision" have been changed to "governmental subdivision" to more accurately reflect Iowa Code section 29C.20. In addition, obsolete Iowa Code section references have been removed.

Adoption of Rulemaking

This rulemaking was adopted by the Council on May 6, 2024.

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 Council for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A.

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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 361—Chapter 2:

CHAPTER 2
CONTINGENT FUND—DISASTER AID

361—2.1(29C) Purpose. The purpose of these rules is to enumerate policies, responsibilities, and procedures adopted by the executive council of the state of Iowa in order to provide guidance for administering the state disaster contingency fund as described in Iowa Code section 29C.20.

361—2.2(29C) Definitions. The definitions set forth in Iowa Code chapter 29C are incorporated herein by reference.

361—2.3(29C) Policy. It is the policy of the state of Iowa to maintain an organization and procedures for providing supplemental assistance by the state to governmental subdivisions in the achievement of improved disaster readiness and to recover from the effects of a disaster.

361—2.4(29C) Program responsibilities and procedures.

2.4(1) *Governor.* The governor may proclaim a state of disaster emergency in accordance with Iowa Code section 29C.6.

2.4(2) *Governmental subdivisions.* Governmental subdivisions will:

a. Make every effort to avert and recover from the disaster with their own resources.

b. Maintain detailed accounts of disaster expenses.

c. Submit to the department a request for a loan. The initial request constitutes a letter on official agency letterhead briefly describing the effect of the disaster or action on the governmental subdivision and the immediate financial inability to meet the continuing obligations of local government.

d. Include in the initial letter request Form SDA-1, Form SDA-2, Form SDA-3, and Form SDA-3A as well as the State of Iowa Contingent Fund Loan Contact and Information Sheet.

e. Initiate action to implement annual emergency levy as authorized by Iowa Code section 24.6, in order to expedite repayment of loan.

2.4(3) *Director.* The director will:

a. Prepare and maintain current rules for issuance by the executive council, providing for the administration of the contingent fund—disaster aid.

b. Coordinate, as necessary, actions by other departments and agencies necessary to the administration of the contingent fund—disaster aid.

c. Report each fiscal year to the governor and the executive council on activities in connection with administration of the contingent fund—disaster aid, including but not limited to a description of each disaster of a magnitude sufficient to warrant recommendations concerning applications for loans to the executive council. Such description is to include the kind and scope of the disaster, the disposition of governmental subdivision applications for loans, and the total of loan approvals for the fiscal year.

d. The director, upon receipt of an initial request for assistance supported by all appropriate forms and documentation, will advise the secretary of the executive council of such request and will furnish copies of all accompanying documents.

e. The director will submit a recommendation to the executive council as to eligibility and entitlement of the requesting governmental subdivision on Form SDA-4 and Form SDA-4A.

2.4(4) *Executive council.* The executive council will:

a. Decide if the contingent fund—disaster aid is justified by the application and showing, and, if so, the amount of the loan(s) to be made.

b. Develop and publish the form and procedures for applying for the contingent fund—disaster aid and issue rules describing the administration of the contingent fund—disaster aid.

c. Designate and instruct appropriate state departments and agencies to assist the director and the department in the administration of the contingent fund—disaster aid by loan or use of personnel, equipment, and facilities.

d. Consider the information furnished by the governmental subdivisions requesting loans, the report and recommendation of the director and decide which of the governmental subdivisions are eligible, and if so, the amount and terms reflecting approved eligibility.

The aggregate total of the loans cannot exceed $1 million during a fiscal year.

2.4(5) *Department of management.* The department of management will execute loans in the amounts, and as scheduled, to governmental subdivisions as approved by the executive council and maintain appropriate accounts.

2.4(6) *State auditor actions.* The auditor will audit the accounts of governmental subdivisions to ensure that loans have been applied in accordance with determined eligibility and will make an audit report to the executive council.

361—2.5(29C) Eligibility for contingent fund—disaster aid loans.

2.5(1) To be eligible for contingent fund—disaster aid loans, a governmental subdivision will demonstrate an immediate financial inability to meet the continuing obligations of local government through a showing of obligations and expenditures necessitated by an actual or potential disaster proclaimed a state of disaster emergency by the governor.

2.5(2) The loan, if made, may only be up to a limit of 75 percent of the showing of obligations and expenditures. The loan, without interest, may be repaid by the maximum annual emergency levy as authorized by Iowa Code section 24.6. The loan shall be repaid within 20 years.

361—2.6(29C) Forms and documents.

2.6(1) SDA forms.

a. Form SDA-1 "Certified True Copy of Resolution of Governing Body."

b. Form SDA-2 "Certificate by Authorized Requesting Official to Accompany Application for State Disaster Aid."

c. Form SDA-3 "Application for Financial State Disaster Aid."

d. Form SDA-3A "Resolution."

e. Form SDA-4 "Report and Recommendation of the Director, Iowa Department of Homeland Security and Emergency Management on Application for State Disaster Aid."

f. Form SDA-4A "Review of Application for State Disaster Aid."

2.6(2) "Request from Applicant" as described in paragraph 2.4(2)*"c."*

2.6(3) "State of Iowa Contingent Fund Loan Contact and Information Sheet."

These rules are intended to implement Iowa Code section 29C.20.

ITEM 2. Rescind and reserve **361—Chapter 7**.

[Filed 5/6/24, effective 7/3/24]
[Published 5/29/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/24.

ARC 8033C

EXECUTIVE COUNCIL[361]

Adopted and Filed

Rulemaking related to deferred compensation program and health maintenance organizations

The Executive Council hereby rescinds Chapter 5, "Deferred Compensation Program," and Chapter 6, "Health Maintenance Organizations," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 509A.8.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 509A.6 and 509A.12 and 2024 Iowa Acts, Senate File 2370.

Purpose and Summary

This rulemaking rescinds Chapters 5 and 6 after 2024 Iowa Acts, Senate File 2370, directly authorized the Director of the Department of Administrative Services (DAS) to administer the deferred compensation and health benefits programs for state employees.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 13, 2023, as **ARC 7187C**. Public hearings were held on January 4 and 5, 2024, at 11:30 a.m. in Room G9, Iowa State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received.

The rulemaking has been changed from the Notice to only rescind Chapters 5 and 6 after 2024 Iowa Acts, Senate File 2370, transferred authority over the programs from the Council to the DAS Director.

Adoption of Rulemaking

This rulemaking was adopted by the Council on May 6, 2024.

EXECUTIVE COUNCIL[361](cont'd)

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 Council for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A.

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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **361—Chapter 5**.

ITEM 2. Rescind and reserve **361—Chapter 6**.

[Filed 5/6/24, effective 7/3/24]
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ARC 8034C

EXECUTIVE COUNCIL[361]

Adopted and Filed

Rulemaking related to agency realignment

The Executive Council hereby rescinds Chapter 8, "Executive Branch Lobbyist Registration," Chapter 9, "Executive Branch Personal Financial Disclosure Statement," and Chapter 10, "Executive Branch Ethics Complaint Procedure," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds chapters for which the underlying statutory rulemaking authority no longer exists.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 13, 2023, as **ARC 7191C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on May 6, 2024.

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 Council for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A.

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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **361—Chapter 8**.

ITEM 2. Rescind and reserve **361—Chapter 9**.

ITEM 3. Rescind and reserve **361—Chapter 10**.

[Filed 5/6/24, effective 7/3/24]
[Published 5/29/24]

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ARC 8035C

EXECUTIVE COUNCIL[361]

Adopted and Filed

Rulemaking related to inheritance tax payments

The Executive Council hereby rescinds Chapter 11, "Inheritance Tax Payments," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 450.6 and 2024 Iowa Acts, Senate File 2370.

EXECUTIVE COUNCIL[361](cont'd)

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 450.6 and 2024 Iowa Acts, Senate File 2370.

Purpose and Summary

This rulemaking rescinds Chapter 11 after 2024 Iowa Acts, Senate File 2370, repealed the underlying statute.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 13, 2023, as **ARC 7189C**. Public hearings were held on January 4 and 5, 2024, at 12 noon in Room G9, Iowa State Capitol, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received.

The rulemaking has been changed from the Notice to only rescind Chapter 11 because 2024 Iowa Acts, Senate File 2370, repealed the underlying statute.

Adoption of Rulemaking

This rulemaking was adopted by the Council on May 6, 2024.

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 Council for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A.

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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **361—Chapter 11**.

[Filed 5/6/24, effective 7/3/24]
[Published 5/29/24]

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ARC 8045C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to agency realignment

The Department of Health and Human Services (HHS) hereby rescinds Chapter 1, "Departmental Organization and Procedures," and adopts a new Chapter 1, "Department Organization and General Definitions"; rescinds Chapter 3, "Department Procedure for Rule Making," and adopts a new Chapter 3, "Department Procedure for Rulemaking"; rescinds Chapter 4, "Petitions for Rule Making," and adopts a new Chapter 4, "Petitions for Rulemaking"; rescinds Chapter 5, "Declaratory Orders," and adopts a new chapter with the same title; rescinds Chapter 7, "Appeals and Hearings," and adopts a new chapter with the same title; rescinds Chapter 9, "Public Records and Fair Information Practices," and adopts a new chapter with the same title; and rescinds Chapter 16, "Notices," and adopts a new chapter with the same title, Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

Each legacy department merged into HHS as part of the government realignment in 2023 Iowa Acts, Senate File 514, and maintained its own set of Uniform Rules on Agency Procedure. HHS is keeping one set of uniform rules for the combined HHS. Existing uniform rule chapters include the following:

- 17—Chapters 2, 11, 13, 17, 18, and 19
- 421—Chapters 1, 2, 3, 4, 5, 6, and 7
- 441—Chapters 1, 3, 4, 5, 7, 9, and 16
- 489—Chapter 5
- 641—Chapters 170, 171, 172, 173, 174, 175, and 178
- 817—Chapters 1, 2, 3, 5, and 6

These chapters comprise the HHS Uniform Rules on Agency Procedure. HHS is rescinding all uniform rules that exist for a department or program merged into HHS as part of the government realignment and promulgating one set of uniform rules for HHS under agency number 441.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7358C**. Two virtual public hearings were held on February 14, 2024, at 11 a.m. and February 26, 2024, at 1 p.m. 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 Health and Human Services Council on April 11, 2024.

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 HHS 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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 1 and adopt the following **new** chapter in lieu thereof:

GENERAL DEPARTMENTAL PROCEDURES
TITLE I

CHAPTER 1
DEPARTMENT ORGANIZATION AND GENERAL DEFINITIONS

441—1.1(217) History and mission. The Iowa department of health and human services was established in 2022 pursuant to 2022 Iowa Acts, House File 2578, and fully codified pursuant to 2023 Iowa Acts, Senate File 514. The authority delegated to the department had previously been delegated to the departments of human services, public health, aging, and human rights; the Iowa commission on volunteer service; the child advocacy board and the department of inspections and appeals. In 2023, the general assembly combined these agencies and programs to create the department of health and human services. The department's mission is published on the department's website.

441—1.2(217) Definitions. For the purposes of the department's rules, unless otherwise defined:

"Council" means the health and human services council.

"Department" means the department of health and human services.

"Director" means the director of health and human services.

"Electronic signature" means a confidential personalized digital key, code, or number that is used for secure electronic data transmission and that identifies and authenticates the signatory.

441—1.3(217) Department structure.

1.3(1) *General.* The department's organizational structure consists of the council, the director and such divisions as the director may from time to time create.

1.3(2) *Director.* The department director is appointed pursuant to the requirements in Iowa Code section 217.5.

1.3(3) *Delegation of director authority.* The director may designate employee(s) to administer the department in the director's absence. The director may also delegate the director's authority to administer the department to other employees as determined necessary for efficient and effective department operations. Delegations of the director's authority will be documented by the department.

1.3(4) *Divisions.* The director may from time to time reorganize the department into administrative divisions to most efficiently and effectively carry out the department's responsibilities. Reorganization may include creating new division, eliminating existing divisions, or combining divisions as the director deems necessary.

441—1.4(217) Information. The general public may obtain information about the department by contacting the department at its offices located at 321 E. 12th Street, Des Moines, Iowa 50319, telephone 515.281.5452, or through the department's website.

441—1.5(217) Health and human services council. The council is established in Iowa Code section 217.2 and its duties are in Iowa Code section 217.3. Meetings of the council and any ad hoc committee it may establish are conducted in accordance with the provisions of Iowa Code chapter 21.

441—1.6(217) State council on developmental disabilities. The state developmental disabilities council and its duties are established in 42 U.S.C. §15025.

1.6(1) *Designated state agency.* The department serves as the designated state agency.

1.6(2) *Membership.* The council consists of up to 26 members appointed by the governor. Members serve three-year terms. Appointments are staggered so at least one-third of the members are appointed each year. The nonattendance provisions of Iowa Code section 69.15 apply to the council's members.

1.6(3) *Meetings.* Meetings of the council are conducted in accordance with the provisions of Iowa Code chapter 21.

1.6(4) *Council information.* The general public may obtain information about the council at its offices located at 700 2nd Avenue, Suite 101, Des Moines, Iowa, 50309; telephone 800.452.1936; or the website iowaddcouncil.org.

ITEM 2. Rescind 441—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
DEPARTMENT PROCEDURE FOR RULEMAKING

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

441—3.3(17A) Public rulemaking docket.

3.3(2) *Anticipated rulemaking.* In lieu of the words "(commission, board, council, director)" insert "director".

441—3.4(17A) Notice of proposed rulemaking.

3.4(3) *Notices mailed.* In lieu of the words "(specify time period)" insert "one calendar year".

441—3.5(17A) Public participation.

3.5(1) *Written comments.* In lieu of the words "(identify office and address)" insert "Compliance Division, Iowa Department of Health and Human Services, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319".

3.5(5) *Accessibility.* In lieu of the words "(designate office and telephone number)" insert "Compliance Division of the Department, 515.281.7689".

441—3.6(17A) Regulatory flexibility analysis.

3.6(3) *Mailing list.* In lieu of the words "(designate office)" insert "Compliance Division, Iowa Department of Health and Human Services, Lucas State Office Building, Des Moines, Iowa 50319".

441—3.11(17A) Concise statement of reasons.

3.11(1) *General.* In lieu of the words "(specify the office and address)" insert "Compliance Division, Iowa Department of Health and Human Services, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319".

441—3.13(17A) Agency rulemaking record.

3.13(2) *Contents.* Amend paragraph *"c"* by inserting "director" in lieu of "(agency head)".

ITEM 3. Rescind 441—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
PETITIONS FOR RULEMAKING

The department 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.

441—4.1(17A) Petition for rulemaking. In lieu of the words "designate office" insert "Compliance Division, Iowa Department of Health and Human Services, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319" and in lieu of the words "AGENCY NAME," the heading on the petition should read "THE DEPARTMENT OF HEALTH AND HUMAN SERVICES".

441—4.3(17A) Inquiries. Inquiries concerning the status of a petition may be made to the compliance division at the department's address or at compliancerules@idph.iowa.gov.

ITEM 4. Rescind 441—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
DECLARATORY ORDERS

The department adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly's website. Every instance that lists "designate agency" shall be read as the department of health and human services.

441—5.1(17A) Petition for declaratory order. In lieu of the words "designate office" insert "compliance division, at the department's address".

441—5.2(17A) Notice of petition. The department shall have 15 days after receipt to give notice.

441—5.3(17A) Intervention.

5.3(1) *Nondiscretionary intervention.* Fifteen days shall be the time frame for a person to file for an intervention.

5.3(3) *Filing and form of petition for intervention.* In lieu of the words "designate office" insert "compliance division, at the department's address".

441—5.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the compliance division at the department's address or at compliancerules@idph.iowa.gov.

441—5.6(17A) Service and filing of petitions and other papers.

5.6(2) *Filing—when required.* In lieu of the words "specific office and address" insert "compliance division, at the department's address or compliancerules@idph.iowa.gov" and in lieu of "agency name" insert "department".

5.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by X.12(17A) of the contested cases segment of the uniform rules on agency procedure published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

441—5.8(17A) Action on petition.

5.8(1) *Time frames for action.* Within 30 days after receipt of a petition for a declaratory order, the department shall take action on the petition as required by Iowa Code section 17A.9(5).

5.8(2) *Date of issuance of order.* 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.

ITEM 5. Rescind 441—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
APPEALS AND HEARINGS

PREAMBLE

The provisions of this chapter shall apply to contested case proceedings conducted by or on behalf of the department pursuant to Iowa Code chapter 17A. The definitions in rule 441—7.1(17A) apply to the rules in both Division I and Division II.

441—7.1(17A) Definitions.

"Adverse benefit determination" means any adverse action taken as to any individual's benefits pursuant to an assistance program administered by the department or on the department's behalf, excluding determinations related to requests for exceptions to policy.

"Appeals section" means the section of the department charged with administering the department's appeals.

"Appellant" means a person, including an authorized representative acting on the person's behalf, seeking to appeal some action pursuant to this chapter.

"Assistance program" means a program administered by the department or on the department's behalf through which qualifying individuals receive benefits or services. Assistance programs include, but are not necessarily limited to, the Supplemental Nutrition Assistance Program (SNAP), Medicaid, the family investment program, refugee cash assistance, child care assistance, emergency assistance, the family planning program, the family self-sufficiency program, PROMISE JOBS, state supplementary assistance, the healthy and well kids in Iowa (hawki) program, foster care, adoption, and aftercare services.

"Authorized representative" means a person lawfully designated by an individual to act on the individual's behalf or who has legal authority to act on behalf of the individual.

"Contested case" refers to an evidentiary hearing mandated by state or federal constitutional or statutory authority whereupon a presiding officer makes a determination pertaining to the relative rights and obligations of parties to an appeal under this chapter.

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

"Enrollee" means any applicant to or recipient of benefits or services pursuant to an assistance program.

"Good cause," for purposes of this rule, shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

"In-person hearing" means an appeal hearing where the administrative law judge and appellant are physically present in the same location but witnesses are not required to be physically present.

"Intentional program violation" means deliberately making a false or misleading statement; or misrepresenting, concealing, or withholding facts; or committing any act that is a violation of the Supplemental Nutrition Assistance Program (SNAP), SNAP regulations, or any state law relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of SNAP benefits or an electronic benefit transfer (EBT) card. An intentional program violation is determined through a SNAP administrative disqualification hearing, a court conviction, or when an individual signs and returns Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing, which may result in a period of ineligibility for the program, a claim for overpayment of benefits, or both.

"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.

"Managed care organization" or *"MCO"* has the meaning assigned to it in rule 441—73.1(249A) and includes prepaid ambulatory health plans.

"Medicaid" means Iowa's medical assistance program administered under Iowa Code chapter 249A.

"Party-in-interest" refers to the party, including enrollees, whose rights or obligations are the subject of a contested case hearing under this chapter. Parties-in-interest may or may not be the appellant.

"Presiding officer" means an administrative law judge from DIAL or the director of the department or the members of a multimember board or commission.

"Self-represented" means representing oneself without an attorney.

441—7.2(17A) Governing law and regulations. In the absence of an applicable rule in this chapter, the DIAL rules found at 481—Chapter 10 govern department appeals. Notwithstanding the foregoing and the rules contained in this chapter, to the extent that federal or state law (including regulations and rules) related to a specific program is more specific than or contradicts these rules or the applicable DIAL rules, the program-specific federal or state law shall control.

DIVISION I
GENERAL APPEALS PROCESS

441—7.3(17A) When a contested case hearing will be granted.

7.3(1) *Requirements.* A person shall be granted a contested case hearing if the party-in-interest fulfills all of the following requirements:

a. The party-in-interest is entitled to a contested case hearing;

b. The party-in-interest has an ongoing, specific and personal interest in the outcome of the contested case hearing; and

c. The party-in-interest meets all of the other requirements contained in these rules.

7.3(2) *Refusal to process an application.* Unless otherwise provided by law, when an appellant seeks a contested case hearing after the department refuses to process an application for benefits or services, a hearing shall be granted.

7.3(3) *When a hearing is not granted.* A hearing shall not be granted when one of the following issues is appealed:

a. Patient treatment interventions outlined in the patient handbook of the civil commitment unit for sexual offenders.

b. Children have been removed from or placed in a specific foster care setting or preadoptive placement.

c. A final decision from a previous hearing with a presiding officer has been implemented.

7.3(4) *Contractual rights not subject to contested case hearing.* Unless otherwise provided by law, when an appellant seeks a contested case hearing of an issue predicated upon or governed by the terms of a contract between appellant and another party, including the department, a contested case hearing shall not be provided.

7.3(5) *Change in law.* A contested case hearing shall not be granted when the sole issue raised is a federal or state law requiring an automatic change adversely affecting some or all beneficiaries to an assistance program.

7.3(6) *Competitive procurement bid appeals.* Competitive procurement bid appeals shall be adjudicated pursuant to Division II of this chapter.

441—7.4(17A) Initiating an appeal.

7.4(1) *Exhaustion of remedies.* An appellant shall only be granted a contested case hearing if the appellant has exhausted all other appeal remedies available to the party-in-interest. An appellant should refer to program-specific provisions for the appropriate procedures applicable to specific programs.

7.4(2) *Medicaid managed care enrollees exhaustion of remedies.*

a. A Medicaid managed care enrollee shall be granted a contested case hearing only if the enrollee has either received a decision from a managed care organization in the time and manner required by rule

441—73.12(249A) or has been deemed to have exhausted the managed care organization appeals under paragraph 7.4(2)*"b."*

b. If a Medicaid enrollee's managed care organization fails to provide a decision in the time and manner required by rule 441—73.12(249A), the enrollee shall be deemed to have exhausted the managed care organization's appeals process and may initiate a contested case hearing.

7.4(3) *Time to appeal.* For a contested case hearing to be granted, the following appeal timelines must be met:

a. Supplemental Nutrition Assistance Program (SNAP), Medicaid eligibility, healthy and well kids in Iowa (hawki), fee-for-service Medicaid coverage, family planning program and autism support program. On or before the ninetieth day following the date of notice of an adverse benefit determination.

b. Managed care organization medical services coverage. On or before the one hundred twentieth day following the date of exhaustion, actual or deemed, of the managed care organization appeal process outlined in rule 441—73.12(249A).

c. to *e.* Reserved.

f. Dependent adult abuse. Within six months of the date of notice of the action as provided in Iowa Code section 235B.10.

g. Child abuse. For appeals regarding child abuse, the person alleged responsible for the abuse must appeal on or before the ninetieth day following the date of notice of the action as provided in Iowa Code section 235A.19. A subject of a child abuse report, other than the alleged person responsible for the abuse, may file a motion to intervene in the appeal on or before the tenth day following the date of notice of the right to intervene.

h. Assistance program overpayments. For appeals pertaining to the family investment program, refugee cash assistance, PROMISE JOBS, child care assistance, medical assistance, healthy and well kids in Iowa (hawki), family planning program or Supplemental Nutrition Assistance Program (SNAP) overpayments, the party-in-interest's right to appeal the existence, computation and amount of the overissuance or overpayment begins when the department sends the first notice informing the party-in-interest of the overissuance or overpayment.

i. All other appeals. For all other appeals, and unless federal or state law provides otherwise elsewhere, the appellant must appeal on or before the thirtieth day following the date of notice of the action being appealed. If such an appeal is made more than 30 days, but less than 90 days, of the date of notice, the director or director's designee may, at the director's or designee's sole discretion, allow a contested case hearing if the delay was for good cause, substantiated by the appellant.

7.4(4) *Written and oral notification.* The department shall advise each applicant and recipient of the right to appeal any adverse decision affecting the person's status.

a. Written notification of the following shall be given at the time of application and at the time of any agency action affecting the claim for assistance.

(1) The right to request a hearing.

(2) The procedure for requesting a hearing.

(3) The right to be represented by others at the hearing unless otherwise specified by statute or federal regulation.

b. Written notification shall be given on the application form and all notices of decision.

441—7.5(17A) How to request an appeal.

7.5(1) *Ways to request a hearing.* An appellant may request a contested case hearing:

a. Via the department's website,

b. By telephone, except as specified in subrule 7.5(4),

c. By mail,

d. In person, except as specified in subrule 7.5(4), or

e. Through other commonly available electronic means (such as email or facsimile).

7.5(2) *Hearing request.* The request for a contested case hearing must be sufficiently detailed so that the department can reasonably understand the action being appealed. The department may request

additional information to determine the scope of the appeal. The department may deny if there is not sufficient information to determine the action being appealed.

7.5(3) *Filing date.* The date of filing for appeal requests sent by regular mail shall be the date postmarked on the envelope sent to the department or, when a postmarked envelope is not available, on the date the appeal is stamped received by the agency. The date of filing for appeal requests sent electronically shall be determined by the date on which the electronic submission was completed.

7.5(4) *Appeals that must be filed in writing.* Appeal requests pertaining to foster care, adoption, state supplementary assistance, the autism support program, the Iowa individual disaster assistance program, the Iowa disaster case management program, sex offender risk assessment, record check evaluation, child care registered or nonregistered homes, child abuse, dependent adult abuse or child support must be made in writing.

7.5(5) *Department's responsibilities.* Unless the appeal is voluntarily withdrawn, the department shall:

a. Within one working day of receipt of an appeal request, forward the request for appeal and envelope (if any) and a copy of the notice to the appeals section.

b. Within ten days of the receipt of the appeal, forward a summary and supporting documentation of the worker's or agent's factual basis for the proposed action to the appeals section.

c. Copies of all materials sent to the appeals section or the presiding officer to be considered in reaching a decision on the appeal are to be provided to the appellant at the same time as the materials are sent to the appeals section or the presiding officer.

441—7.6(17A) Prehearing procedures.

7.6(1) *Acknowledgment of appeal.* When the appeals section receives a request for appeal, it shall send acknowledgment of the receipt of the appeal to the parties to the appeal. For appeals regarding child abuse, all subjects other than the person alleged responsible (party-in-interest) will be notified of the opportunity to file a motion to intervene as provided in Iowa Code section 235A.19.

7.6(2) *Acceptance or denial of appeal.* The appeals section will determine with reasonable promptness whether the party-in-interest is entitled to a contested case hearing. If a request is accepted, the appeals section will certify the appeal to DIAL and designate the issues on appeal. If a request for a contested case hearing is denied, the appeals section will provide written notice of and the reasons for the denial. On or before the thirtieth day following the denial, the individual requesting the appeal may provide additional information related to the individual's asserted right to a contested case hearing and request reconsideration of the denial.

7.6(3) *Designation of issues for appeal.*

a. Initial designation. After determining that the party-in-interest is entitled to a contested case hearing, the appeals section will designate the issues to be decided at the contested case hearing. The issues designated shall be certified to DIAL and be identified in the notice of hearing issued pursuant to subrule 7.6(5).

b. Additional designation of issues. If any party believes additional issues should be designated, the party shall identify the additional issues within the following timelines. The presiding officer shall determine whether all issues have properly been preserved.

(1) Child abuse and dependent adult abuse registry appeals. For child abuse and dependent adult abuse registry appeals, the party shall identify additional issues at least 30 days before the date of hearing.

(2) Appeals set on or before the tenth day following the notice of hearing. If the hearing is on or before the tenth day following the date of the notice of hearing, the party shall identify any additional issues at the hearing.

(3) All other appeals. For all other appeals not identified in this paragraph, the party shall identify the additional issues on or before the tenth day following the date of the notice of hearing.

7.6(4) *Group hearings regarding medical assistance.* The appeals section may respond to a series of related, individual requests for hearings regarding medical assistance by consolidating individual hearings into a single group hearing where the sole issue is based on state or federal law or policy. An appellant scheduled for a group hearing may withdraw and request an individual hearing.

7.6(5) *Notice of hearing.*

a. Issuance of hearing notice. Except as provided in paragraph 7.6(5)*"b,"* DIAL shall send notice to the parties of the appeal at least ten calendar days in advance of the hearing setting forth the date, time, method, and place of the hearing; that evidence may be presented orally or documented to establish pertinent facts; that the parties may bring and question witnesses and refute testimony; and that the parties may be represented by others, including an attorney, at the parties' own cost and as subject to state and federal law. Notice shall be mailed by first-class mail, postage prepaid, and addressed to the appellant at the appellant's last-known address.

b. Intentional program violation hearing notices. DIAL shall send notices of hearing regarding alleged intentional program violations at least 30 days in advance of the hearing date. The notices under this paragraph shall otherwise comply with the requirements of paragraph 7.6(5)*"a."*

7.6(6) *Appellant's right to department's case file.* Prior to and during the contested case hearing, the department must provide enrollees or their authorized representative with the opportunity to examine the content of the appellant's case file, if any, and all documents and records to be used by the department at the hearing.

7.6(7) *Informal conference.* The purpose of an informal conference is to provide information as to the reasons for the intended adverse action, to answer questions, to explain the basis for the adverse action or position, and to provide an opportunity for the appellant to examine the contents of the case record.

a. When requested by the appellant, an informal conference with a representative of the department or one of its contracted partners, including a managed care organization, shall be held as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the informal conference, unless precluded by federal rule or state statute.

b. An informal conference need not be requested for the appellant to examine the contents of the case record.

441—7.7(17A) Timelines for contested case hearings.

7.7(1) *Medical assistance.* In cases involving the determination of medical assistance, the contested case hearing shall be held within a time frame such that the final administrative action is timely pursuant to 42 CFR 431.244(f) as amended to December 8, 2021.

7.7(2) *Community spouse resource allowance.* In cases involving the determination of the community spouse resource allowance, the hearing shall be held within 30 days of the date of the appeal request.

7.7(3) *Sex offender risk assessment.* In cases involving an appeal of a sex offender risk assessment, the hearing or administrative review shall be held within 30 days of the date of the appeal request.

441—7.8(17A) Contested case hearing procedures.

7.8(1) *Method.* Contested case hearings may be conducted via telephone or videoconference. Upon request of a party to the appeal or order of the presiding officer, the contested case hearing shall be conducted in person.

7.8(2) *Evidence.*

a. The parties to a contested case hearing may:

(1) Bring witnesses,

(2) Submit competent evidence to establish all pertinent facts and circumstances,

(3) Present arguments without undue interference,

(4) Question or refute any testimony or evidence, including through cross-examination, and

(5) Respond to evidence and arguments on all issues.

b. Evidence shall be received or excluded as provided in Iowa Code section 17A.14.

7.8(3) *Right to counsel.* Parties to an appeal shall be permitted to be represented by counsel at the parties' own expense.

7.8(4) *Self-represented appellants.* The presiding officer shall, at the officer's discretion, provide reasonable assistance to self-represented appellants. The presiding officer must, however, ensure that such assistance does not impact the independence and fairness of the contested case hearing process.

7.8(5) *Closed to public.* Contested case hearings are closed to the public, and unless otherwise provided by state or federal law, only the parties, their representatives, permissible intervenors, and witnesses may be present for a contested case hearing in the absence of mutual agreement of the parties.

7.8(6) *Administration of appeals.* Except as otherwise provided in this chapter or other applicable federal or state law, discretion in the conduct and administration of appeals is vested in the contested case hearing presiding officer.

7.8(7) *Contested cases with no factual dispute.* If the parties in a contested case agree that there is no dispute of material fact, the parties may present all admissible evidence either by stipulation, or as otherwise agreed, in lieu of an evidentiary hearing. If an agreement is reached, the parties shall jointly submit a schedule for submission of the record, briefs and oral arguments to the presiding officer for approval. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

441—7.9(17A) Miscellaneous rules governing contested case hearings.

7.9(1) *Ex parte communication.* Ex parte communications between the presiding officer and person or party in connection with any issue of fact or law in the contested case proceeding is prohibited except as permitted by Iowa Code section 17A.17. All of the provisions of Iowa Code section 17A.17 apply.

7.9(2) *Default.* If a party fails to appear at a scheduled hearing or prehearing conference without good cause as determined by the presiding officer, the party's appeals may be denied and dismissed or may be heard and ruled upon, consistent with Iowa Code section 17A.12(3). Defaulting parties may file a timely motion to vacate, which shall be granted if the presiding officer determines good cause has been shown.

7.9(3) *Withdrawal.* An appellant may submit a withdrawal of a fair hearing request at any time prior to hearing through any of the methods identified in subrule 7.5(1), except for programs listed in subrule 7.5(4). For programs listed in subrule 7.5(4), a written request may be submitted via the department's website, by mail, in person, or through other commonly available electronic means (such as email or facsimile). Unless otherwise provided, a withdrawal shall be with prejudice.

7.9(4) *Medical assessment.* For Medicaid enrollees engaged in an appeal involving medical issues, the department may request, at the department's own expense, that the appellant submit to an appropriate medical assessment. The presiding officer shall order such assessment upon sufficient showing of necessity.

7.9(5) *Standard of review.* In child abuse appeals, the criteria and level of deference by which the presiding officer shall render a decision is based on a preponderance of evidence.

7.9(6) *Interpreters.* The department shall provide translation and interpretation services to appellants, if requested. In all cases when an appellant is illiterate or semiliterate, the presiding officer shall advise the appellant of the appellant's rights to the satisfaction of the appellant's understanding.

7.9(7) *Persons living with disabilities.* Persons living with disabilities shall be provided assistance through the use of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act (as amended to December 31, 2023) and Section 504 of the Rehabilitation Act (as amended, effective October 1, 2016).

441—7.10(17A) Proposed decision.

7.10(1) *Contents.* The presiding officer shall issue a written proposed decision to all parties clearly identifying the issues on appeal, holding, findings of fact, conclusions of law, and order. The findings of fact shall cite and be based exclusively on the record as defined by Iowa Code section 17A.12(6). The conclusions of law shall be limited to the contested issues of fact, policy or law and shall identify the specific provisions of law that support the ultimate conclusion.

7.10(2) *Access to record.* After receiving the proposed decision, appellants shall be given reasonable access to the record at a convenient place and time.

441—7.11(17A) Director's review.

7.11(1) *Time.* Parties, including the department, may appeal the proposed decision to the director.

a. A request for director's review shall be in writing and postmarked or received within 14 calendar days of the date on which the proposed decision was issued, except as provided for under paragraph 7.11(1)*"b."* A request for director's review may be accompanied by a brief written summary of the arguments in favor of director's review.

b. A managed care organization appealing a proposed decision reversing an adverse benefit determination shall request director's review within 72 hours from the date it received notice of the proposed decision.

7.11(2) *Grant or denial of review.* The department has full discretion to grant or deny a request for review. In addition, the director may initiate review of a proposed decision on the director's own motion at any time on or before the thirtieth day following the issuance of the proposed decision.

When the department grants a request for director's review, the appeals section shall notify the parties and enclose a copy of the request. All other parties shall have 14 calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

7.11(3) *Cross-appeal.* When a party requests director's review in accordance with subrule 7.11(1), the remaining parties shall have 14 calendar days from that date to submit cross-requests for director's review. The party originally seeking director's review shall have 14 calendar days from the date of the cross-request for director's review to submit further written arguments or objections for consideration upon review.

7.11(4) *Limited record.* Director's review shall be limited to the issues and record before the contested case hearing presiding officer.

7.11(5) *Oral arguments.* Upon specific request, the director may, at the director's discretion, permit parties to present oral arguments with the parties' requests for director's review.

441—7.12(17A) Final decisions.

7.12(1) *No appeal or denial of director review.* If there is no timely appeal from or review of the proposed decision, the presiding officer's proposed decision becomes the final decision of the agency.

7.12(2) *Timelines.*

a. The department or director will issue a final decision within the timelines prescribed by federal or state law. For all appeals for which there is no federal or state timeliness standard, the department or director will issue a final decision on or before the ninetieth day from the date the department receives an appeal request.

b. Except as otherwise provided by state or federal law, the time frames for a final decision provided under this rule may be tolled when:

(1) The appellant requests a delay;

(2) The appellant fails to take a required action; or

(3) There is an administrative or other emergency beyond the department's control.

c. DIAL shall document in the record the reasons for any delay and the requesting party.

7.12(3) *Written notice of final decision.* The parties to the appeal shall be provided written notice of the department's final decision. The department shall also notify the appellant of the appellant's right to seek judicial review, where applicable.

441—7.13(17A) Expedited review.

7.13(1) *Expedited review criteria.* Appellants to a medical assistance appeal may, at any time, file with the department a request for expedited review of the appeal. Expedited review shall be granted when the department determines, or a provider acting on behalf or in support of an appellant indicates, that taking the time for a standard resolution could seriously jeopardize the party-in-interest's life, physical or mental health, or ability to attain, maintain, or regain maximum function.

7.13(2) *Managed care expedited proceedings.*

a. If the appellant is granted an expedited review pursuant to subrule 73.12(2), all subsequent proceedings shall also be expedited without an additional request if the appeal request indicates that the managed care organization appeal was expedited and provides the basis for expedited relief.

b. When review is expedited pursuant to paragraph 7.13(2)*"a,"* the presiding officer shall issue a proposed decision as expeditiously as the enrollee's health condition requires, but no later than three working days after the department receives from the managed care organization the case file and information for any appeal of a denial of a service that, as indicated by the managed care organization:

(1) Meets the criteria for expedited resolution but was not resolved within the time frame for expedited resolution; or

(2) Was resolved within the time frame for expedited resolution but reached a decision wholly or partially adverse to the enrollee.

7.13(3) *Medicaid eligibility, nursing facility transfers or discharges, or preadmission and annual resident review expedited proceedings.* For expedited appeals related to Medicaid eligibility, nursing facility transfers or discharges, or preadmission and annual resident review requirements, the presiding officer shall issue a proposed decision as expeditiously as possible, but no later than seven working days after the department receives a request for expedited fair hearing.

7.13(4) *Medicaid-covered benefits or services expedited proceedings.* For expedited appeals related to Medicaid-covered benefits or services, the presiding officer shall issue a proposed decision as expeditiously as possible, but no later than provided in paragraph 7.13(2)*"b."*

7.13(5) *Final decision for expedited proceeding.* The department shall issue its final decision in accordance with this rule, except as provided by subrule 7.12(2).

7.13(6) *Notification if expedited relief is granted or denied.* The department shall notify the appellant as expeditiously as possible whether the request for expedited relief is granted or denied. Such notice must be provided orally or through electronic means to the extent consistent with federal and state law. If oral notice is provided, the department shall follow up with written notice, which may be through electronic means to the extent consistent with federal and state law.

441—7.14(17A) Effect.

7.14(1) If the contested case hearing presiding officer's proposed decision is favorable to an enrollee in a Medicaid appeal, the department must promptly make corrective payments retroactive to the date an incorrect action was taken, and, if appropriate, provide for admission or readmission of an individual to a facility. If the presiding officer reverses a decision of a managed care organization to deny, limit, or delay services that were not furnished while the appeal was pending, the managed care organization must authorize or provide the disputed services promptly and as expeditiously as the enrollee's health condition requires, but no later than 72 hours from the date the managed care organization receives notice reversing the determination.

7.14(2) Unless there is contravening federal or state law, all final decisions shall be put into effect within seven days of the issuance of the final decision.

441—7.15(17A) Calculating time. In computing any time period specified in this chapter, the period:

1. Excludes the day of the event that triggers the period;

2. Includes every day of the time period (including Saturdays, Sundays, and holidays on which the department is closed); and

3. Includes the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

441—7.16(17A) Authorized representatives.

7.16(1) *Regulations.* The provisions of this rule only apply to the extent the standards expressed in this rule are not in conflict with other state or federal law.

7.16(2) *Designation of authority.* Legally recognized delegations of authority, such as guardianships, applicable designations of power of attorney, or similar designations, shall be sufficient for a delegate to serve as authorized representative under this chapter. A person who is not designated a

legally recognized delegation of authority but who otherwise seeks to act as an authorized representative for an individual in an appeal under this chapter shall provide a written, signed designation of authority to the department with the request for appeal. The designation must provide the scope of the representation, applicable waivers for the release of confidential information, and any temporal or other limitations on the scope of representation. An authorized representative of a party-in-interest only represents the party-in-interest and has no independent right to appeal by virtue of the authorized representative's representation.

7.16(3) *Written designation.* For persons other than attorneys seeking to act as authorized representative of a party-in-interest in a Medicaid managed care appeal, the authorized representative's written designation of authority pursuant to subrule 7.16(2) shall be Form 470-5526, Authorized Representative for Managed Care Appeals. This form is required for all managed care appeals, including those handled through the expedited appeals process. Failure to provide the form or legal documentation may result in denial of the appeal request.

7.16(4) *Appearance by attorney.* Legal counsel appearing on behalf of any person in a proceeding under this chapter shall enter an appropriate written appearance.

441—7.17(17A) Continuation and reinstatement of benefits.

7.17(1) *Programs for which no federal or state law applies.* For all assistance programs for which there is no contravening federal or state law, benefits or services shall not be suspended, reduced, restricted, or discontinued, nor shall a license, registration, certification, approval, or accreditation be revoked or other adverse action taken pending a final decision when:

a. An appeal is filed before the effective date of the intended action; or

b. The appellant requests a hearing within ten days of receipt of a notice to suspend, reduce, restrict, or discontinue benefits or services. The date on which the notice is received is considered to be five days after the date on the notice, unless the appellant shows the notice was not received within the five-day period.

7.17(2) *Sole issue is state or federal law or policy.* Benefits or services continued pursuant to subrule 7.17(1) may be suspended, reduced, restricted, or discontinued if the presiding officer determines at the contested case hearing that the sole issue is one of state or federal law or policy and the department has notified the enrollee in writing that services are to be suspended, reduced, restricted, or discontinued pending the proposed decision.

7.17(3) *Recoup cost of services or benefits.* The department or managed care organization may recoup the cost of benefits or services provided pursuant to this chapter if the adverse action appealed from is affirmed, consistent with state and federal law.

441—7.18(17A) Emergency adjudicative proceedings.

7.18(1) *Necessary emergency action.* When and to the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with state and federal law, a contested case hearing presiding officer may issue a written order 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 department by emergency adjudicative order. In determining the necessity of such an action, the presiding officer shall consider factors including, but not limited to, the following:

a. Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;

b. Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;

c. Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of 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 is necessary to avoid the immediate danger.

7.18(2) *Issuance of order.* An emergency adjudicative order shall contain, or shall be expeditiously followed by, a written analysis, including findings of fact, conclusions of law, and policy reasons to justify the order. The agency shall provide written notice that best ensures prompt, reliable delivery. Such order shall be immediately delivered to the persons required to comply with the order.

7.18(3) *Completion of proceedings.* Upon issuance of an order under this rule, the department shall proceed as quickly as reasonably practicable to complete any proceedings that would be required if the matter did not involve an immediate danger. An order issued under this rule shall include notice of the date on which proceedings under this chapter are to be completed. After issuance of an order under this rule, continuance of further proceedings under this chapter shall only be granted in compelling circumstances upon application in writing. Before issuing an emergency adjudicative order, the presiding officer shall consider factors including, but not limited to, the following:

a. Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;

b. Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;

c. Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of 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 is necessary to avoid the immediate danger.

441—7.19(17A) Supplemental Nutrition Assistance Program (SNAP) administrative disqualification hearings. The department acts on alleged intentional program violations either through an administrative disqualification hearing or referral to a court of appropriate jurisdiction. An individual accused of an intentional program violation may waive the individual's right to an administrative disqualification hearing in accordance with the procedures outlined in this rule and in 7 CFR 273.16(e) and (f) as amended to December 8, 2021.

7.19(1) When a case is referred for an administrative disqualification hearing, the appeals section shall mail written notification to the individual that the individual can waive the right to an administrative disqualification hearing by signing and returning Waiver of Right to an Administrative Disqualification Hearing.

7.19(2) By signing Waiver of Right to an Administrative Disqualification Hearing, the individual:

a. Waives the right to an administrative disqualification hearing;

b. Consents to the SNAP disqualification period designated Waiver of Right to an Administrative Disqualification Hearing, and a reduction of benefits for the period of disqualification; and

c. Acknowledges that remaining household members, if any, may be held responsible for repayment of the resulting claim.

7.19(3) An administrative disqualification hearing shall be scheduled if the individual does not sign and mail or fax Waiver of Right to an Administrative Disqualification Hearing, to the appeals section within ten days of receipt of the written notification stating the individual can waive the right to an administrative disqualification hearing. The date on which the written notification is received is considered to be five days after the date on the notification, unless the individual shows the notification was not received within the five-day period.

7.19(4) An individual who waives the right to an administrative disqualification hearing will be subject to the same penalties as an individual found to have committed an intentional program violation in an administrative disqualification hearing.

7.19(5) No further administrative appeal procedure exists after an individual waives the individual's right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty shall not be changed by a subsequent fair hearing decision.

441—7.20 to **7.40** Reserved.

DIVISION II
APPEALS BASED ON THE COMPETITIVE PROCUREMENT BID PROCESS

441—7.41(17A) Scope, bidder and applicability. The rules in Division II apply to appeals based on the department's competitive procurement bid process. A bidder is an entity that submits a proposal in response to a solicitation issued through the department's competitive procurement process.

441—7.42(17A) Requests for timely filing of an appeal. Any bidder that receives either a notice of disqualification or a notice of award, and has first exhausted the reconsideration process, is considered an aggrieved party and may file a written appeal with the department.

7.42(1) An aggrieved party in a competitive procurement must seek reconsideration of a disqualification or a notice of award prior to filing any appeal. The request for reconsideration must be received by the department within five calendar days of the date of either a disqualification notice or notice of award, exclusive of Saturdays, Sundays and legal state holidays. The department will expeditiously address the request for reconsideration and issue a decision on the reconsideration. If the party seeking reconsideration continues to be an aggrieved party following receipt of the decision on reconsideration, the aggrieved party may file an appeal within five calendar days of the date of the department's decision on reconsideration, exclusive of Saturdays, Sundays and legal state holidays.

7.42(2) The written appeal shall state the grounds upon which the appellant challenges the department's decision.

7.42(3) The day after the department's decision on reconsideration is issued is the first day of the period in which the appeal may be filed. The mailing address is: Department of Health and Human Services, Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Appeals may also be sent by email or in-person delivery.

When an appeal is submitted through an electronic delivery method, such as electronic mail or facsimile, the appeal is filed on the date it is submitted. The electronic delivery method shall record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method or the appeal was filed via in-person delivery, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals shall be documented by the office where the appeal is received.

When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

441—7.43(17A) Bidder appeals. The bidder appeal shall be a contested case proceeding and shall be conducted in accordance with the provisions of Division II. Division I of this chapter does not apply to competitive procurement bid appeals, unless otherwise noted.

7.43(1) *Hearing time frame.* The presiding officer shall hold a hearing on the bidder appeal within 60 days of the date the notice of appeal was received by the department.

7.43(2) *Registration.* Upon receipt of the notice of appeal, the department shall register the appeal.

7.43(3) *Acknowledgment.* Upon receipt of the notice of appeal, the department shall send a written acknowledgment of receipt of the appeal to the appellant, representative, or both.

7.43(4) *Granting a hearing.* The department shall determine whether an appellant may be granted a hearing and the issues to be discussed at the hearing in accordance with the applicable rules, statutes or federal regulations or request for proposal.

a. The appeals of those appellants who are granted a hearing shall be certified to the department of inspections, appeals, and licensing for the hearing to be conducted. The department shall indicate at the time of certification the issues to be discussed at the hearing.

b. Appeals of those appellants who are denied a hearing shall not be closed until a letter is sent to the appellant and the appellant's representative advising of the denial of the hearing and the basis upon which that denial is made. Any appellant who disagrees with a denial may present additional information relative to the reason for denial and request reconsideration by the department over the denial.

7.43(5) *Hearing scheduled.* For those records certified for hearing, the department of inspections, appeals, and licensing shall establish the date, time, method and place of the hearing, with due regard for the convenience of the appellant as set forth in the department of inspections, appeals, and licensing rules in 481—Chapter 10 unless otherwise designated by federal or state statute or regulation.

7.43(6) *Method of hearing.* The department of inspections, appeals, and licensing shall determine whether the appeal hearing is to be conducted in person, by videoconference or by teleconference call. The parties to the appeal may participate from multiple sites for videoconference or teleconference hearings. Any appellant is entitled to an in-person hearing if the appellant requests one. All parties shall be granted the same rights during a teleconference hearing as specified in rule 441—7.8(17A).

7.43(7) *Reschedule requests.* Requests made by the appellant or the department to set another date, time, method or place of hearing shall be made to the department of inspections, appeals, and licensing, except as otherwise noted. The granting of the requests will be at the discretion of the department of inspections, appeals, and licensing. All requests concerning the scheduling of a hearing shall be made to the department of inspections, appeals, and licensing directly.

7.43(8) *Notification.* For those appeals certified for hearing, the department of inspections, appeals, and licensing shall send a notice to the appellant at least ten calendar days in advance of the hearing date.

a. The notice shall comply with Iowa Code section 17A.12(2), and include a statement that opportunity shall be afforded to all parties to respond and present evidence on all issues involved and to be represented by counsel at their own expense.

b. A copy of this notice shall be made available to the department employee who took the action and to any other parties to the appeal.

441—7.44(17A) Procedures for bidder appeal.

7.44(1) Discovery. The parties shall serve any discovery requests upon other parties at least 30 days prior to the date set for the hearing. The parties must serve responses to discovery at least 15 days prior to the date set for the hearing.

7.44(2) Witnesses and exhibits. The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the date set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

7.44(3) Amendments to notice of appeal. The aggrieved bidder may amend the grounds upon which the bidder challenges the department's award no later than 15 days prior to the date set for the hearing.

7.44(4) If the hearing is not conducted in person, the parties must deliver all exhibits to the office of the presiding officer at least three days prior to the time the hearing is conducted.

7.44(5) The presiding officer shall issue a proposed decision in writing that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case and shall conform to Iowa Code chapter 17A. The presiding officer shall send the proposed decision to the appellant and representative by mail.

7.44(6) The record of the contested case shall include all materials specified in Iowa Code section 17A.12(6).

441—7.45(17A) Stay of agency action for bidder appeal.

7.45(1) *When a stay may be requested.*

a. Any party appealing the issuance of a notice of disqualification or notice of award may petition for stay of the decision pending its review. The petition for stay shall be filed with the notice of appeal, shall state the reasons justifying a stay, and shall be accompanied by an appeal bond equal to 120 percent of the contract value.

b. Any party adversely affected by a final decision and order may petition the department for a stay of that decision and order pending judicial review. The petition for stay shall be filed with the director within five days of receipt of the final decision and order and shall state the reasons justifying a stay.

7.45(2) *When a stay is granted.* In determining whether to grant a stay, the director shall consider the factors listed in Iowa Code section 17A.19(5)*"c."*

7.45(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the department or any other party.

441—7.46(17A) Request for review of the proposed decision. A request for review of the proposed decision shall follow the provisions outlined in rule 441—7.11(17A).

441—7.47(17A) Other procedural considerations.

7.47(1) *Consolidation—severance.* The provisions regarding consolidation and severance in rule 481—10.10(10A,17A) apply.

7.47(2) *Rights of appellants during hearings.* All rights afforded appellants at rule 441—7.8(17A) shall apply.

441—7.48(17A) Appeal record.

7.48(1) The appeal record shall consist of all items specified in Iowa Code section 17A.16.

7.48(2) The party that requests a transcription of the proceedings shall bear the cost.

441—7.49(17A) Pleadings. The provisions regarding pleadings in rule 481—10.11(10A,17A) apply.

441—7.50(17A) Ex parte communications. The rules regarding ex parte communications specified in subrule 7.9(1) and Iowa Code section 17A.17 apply.

441—7.51(17A) Right of judicial review. The rules regarding right of judicial review specified in subrule 7.12(3) and Iowa Code section 17A.19 apply.

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

ITEM 6. Rescind 441—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

441—9.1(17A,22) Statement of policy, purpose and scope of chapter.

9.1(1) The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate department determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The department is committed to the policies set forth in Iowa Code chapter 22; department staff shall cooperate with members of the public in implementing the provisions of that chapter.

These rules also implement the federal Health Insurance Portability and Accountability Act (HIPAA) regulations at 45 CFR Parts 160 and 164 as amended to March 26, 2013. These rules set forth the standards the department must meet to protect the privacy of protected health information. The department is a hybrid entity for purposes of HIPAA. The rules on protected health information apply only to those parts of the department that are considered part of the covered entity.

9.1(2) This chapter does not:

a. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

b. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

c. Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency which are governed by the rules of another agency.

d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs.

e. Make available records compiled by the agency 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 constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

f. Require the agency to create, compare or procure a record solely for the purpose of making it available.

441—9.2(17A,22) Definitions. As used in this chapter:

"Business associate" means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Client" means a person who has applied for or received services or assistance from the department.

"Confidential record" in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Covered entity" means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Custodian" means the director of the department or the director's designee.

"Data aggregation" is the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

"Designated record set" is the same as defined in 45 CFR §164.501 as amended to March 26, 2013, including:

1. The medical records about subjects that are maintained for facilities;
2. The enrollment, payment, and eligibility record systems maintained for Medicaid; or
3. The enrollment, payment, and eligibility record systems maintained for the hawki program that are used, in whole or in part, by the hawki program to make decisions about subjects.

For purposes of this definition, the term "record" means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

"Disclosure" means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Facility" or *"facilities"* means, with respect to HIPAA rules about health information, one or more of these department institutions: Cherokee Mental Health Institute, Glenwood Resource Center, Independence Mental Health Institute, and Woodward Resource Center.

"Health care" means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Health care clearinghouse" means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Health care operations" for covered entities in the department has the same definition as that stated in 45 CFR §164.501 as amended to March 26, 2013.

"Health care provider" means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Health information" means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Health oversight agency" means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

"Health plan" means an individual or group plan that provides or pays the cost of medical care, as defined at 45 CFR §160.103 as amended to March 26, 2013. In the department, "health plan" means Medicaid or hawki.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996.

"Law enforcement official" means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by law to:

1. Investigate or conduct an official inquiry into a potential violation of law; or
2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

"Legal representative" is a person recognized by law as standing in the place or representing the interests of another for one or more purposes.

"Mental health information" means oral, written, or otherwise recorded information which indicates the identity of a person receiving professional services (as defined in Iowa Code section 228.1(8)) and which relates to the diagnosis, course, or treatment of the person's mental or emotional condition.

"Open record" means a record other than a confidential record.

"Payment," with respect protected health information, has the same definition as that stated in 45 CFR §164.501 as amended to March 26, 2013. In the department, "payment" applies to subjects for whom health care coverage is provided under the Medicaid program or the hawki program.

"Personally identifiable information" means information about or pertaining to the subject of a record which identifies the subject and which is contained in a record system.

"Personal representative" means someone designated by another as standing in the other's place or representing the other's interests for one or more purposes. The term "personal representative" includes, but is not limited to, a legal representative. For disclosure of protected health information, the definition of "personal representative" is more restrictive, as described at rule 441—9.15(17A,22).

"Protected health information" means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Psychotherapy notes" means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

"Public health authority" means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

"Record" means the whole or a part of a "public record" as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department.

"Record system" means any group of records under the control of the department from which a record may be retrieved by a personal identifier such as the name of a subject, number, symbol, or other unique identifier assigned to a subject.

"Subject" means the person who is the subject of the record, whether living or deceased.

"Substance abuse information" means information which indicates the identity, diagnosis, prognosis, or treatment of any person in an alcohol or drug abuse program.

"Transaction" means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Treatment" means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

"Use," with respect to protected health information, means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

"Workforce," with respect to protected health information, means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

441—9.3(17A,22) Requests for access to records.

9.3(1) *Location of record.* A request for access to a record should be directed to the Director's Office, 321 East 12th Street, Des Moines, Iowa 50319. If a request for access to a record is misdirected, department personnel will promptly forward the request to the department's records officer.

9.3(2) *Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

9.3(3) *Request for access.* Requests for access to open records may be made in writing, in person, or by telephone. Requests shall identify the particular records sought by name or description. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information.

9.3(4) *Response to requests.* Access to an open record will be provided upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4).

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 441—9.4(17A,22) and other applicable provisions of law.

9.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from department files. Examination and copying of department records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

9.3(6) *Copying.* A reasonable number of copies of an open record may be made in the department office. If photocopy equipment is not available in the department office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

9.3(7) *Fees.* The department may charge fees as permitted by Iowa Code chapter 22. The department will publish a fee schedule for open records on its website. The department may charge a fee for the cost of preparing an explanation or summary of health information. The department and the subject requesting the information shall agree to the amount of any fee imposed before the department prepares the explanation or summary.

441—9.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 441—9.3(17A,22).

9.4(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

9.4(2) *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

9.4(3) *Notice to subject of record and opportunity to obtain injunction.* Except as provided in 441—subrule 175.41(2), after the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

9.4(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

9.4(5) *Request granted.* Except as provided in 441—subrule 175.41(2), when the custodian grants a request for access to a confidential record, the custodian shall notify the requester or the person who is to receive the information and include any limits on the examination and copying of the record.

9.4(6) *Records requiring special procedures.* Special procedures are required for access to:

a. Child abuse information. Access to child abuse information is obtained according to rules 441—175.41(235A) and 441—175.42(235A).

b. Dependent adult abuse information. Access to adult abuse information is governed by rule 441—176.9(235A).

441—9.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examinations. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

9.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

9.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian.

a. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request.

b. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit stating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts.

c. Requests to temporarily treat a record as a confidential record shall specify the precise period of time for which that treatment is requested.

d. A person filing such a request shall, if possible, provide a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the department by the person requesting confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

9.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the department does not request that it be withheld from public inspection under Iowa Code section 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

9.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

9.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

9.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify 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 custodian 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 custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

9.5(7) *Requesting privacy protection for protected health information.*

a. Requesting restrictions on protected health information use or disclosure. Subjects may complete a Request to Restrict Use or Disclosure of Health Information form. The department will follow the requirements of 45 CFR §164.522 as amended to March 26, 2013, in responding to these requests.

b. Requesting the receipt of communications of protected health information by alternative means or at alternative locations. Subjects may complete a Request to Change How Health Information Is Provided form. The department will follow the requirements of 45 CFR §164.522 as amended to March 26, 2013, in responding to these requests. For Medicaid and hawki, the subject is required to clearly indicate the reason for requesting the confidential communication. Facilities shall not require the subject to explain the basis for the request as a condition of providing confidential communications.

441—9.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.

9.6(1) *All programs.* Except as otherwise provided by law, a subject may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that subject. However, the subject is not authorized to alter the original copy of the record or to expand the official record of any department proceeding.

a. The subject shall send the request to review such a record or the written statement of additions, dissents, or objections to the department.

b. The request to review such a record or the written statement of additions, dissents, or objections must be dated and signed by the subject, and shall include the current address and telephone number of the subject or the subject's representative.

9.6(2) *Additional procedures for protected health information.* The department will follow the protected health information right to amend standards as outlined in 45 CFR §164.526 as amended to March 26, 2013. A subject shall submit a request for amendment to the department on a Request to Amend Health Information form published on the department's website. The subject shall provide a reason to support the requested amendment.

441—9.7(17A,22,228) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records to be disclosed, the particular person or class of persons to whom the record may be disclosed, and the time period during which the record may be disclosed. The subject of the record and, where applicable, the person to whom the record is to be disclosed may be required to provide proof of identity. Appearance of counsel before the department on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the department to disclose records about that person to the person's attorney. No confidential information about clients of the department shall be released without the client's consent, except as otherwise provided by law. Release of confidential information includes granting access to or allowing the copying of a record, providing information either in writing or orally, or acknowledging information to be true or false.

9.7(1) *Release forms.*

a. Releases allowing the department to provide confidential information. Subjects should complete the Authorization for the Department to Release Information for releases that do not involve protected health information.

b. Releases allowing the department to provide confidential information, including protected health information. When consent or authorization for use or disclosure of health information is required, the department shall use Form 470-3951, Authorization to Obtain or Release Health Care Information, or a HIPAA authorization form from another source that meets HIPAA requirements. The department shall not require a subject to sign a HIPAA authorization form as a condition of treatment, payment, enrollment in a health plan, or eligibility for benefits. The department as a health care provider may require a subject to sign a HIPAA authorization form for the use or disclosure of protected health information for research, as a condition of the subject's receiving research-related treatment. A subject may revoke a HIPAA authorization at any time, provided that the revocation is in writing using the Request to End an Authorization form, except to the extent that the department has taken action in reliance thereon.

(2) Except as provided in subparagraph 9.7(1)*"c"*(1), department staff shall release mental health or substance abuse information only with authorization on the Consent to Obtain and Release Information form, a form from another source that meets requirements of law, or as otherwise allowed by law.

c. Releases allowing the department to obtain confidential information from a third party. The department is required to obtain confidential information from third parties. The department may make these requests only when the client has authorized the release on one of the following forms or when otherwise provided by law:

(1) Authorization for Release of Information.
(2) Household Member Questionnaire.
(3) Bank or Credit Union Information.
(4) Addendum for Application and Review Forms for Release of Information.
(5) Request for School Verification.
(6) Employer's Statement of Earnings.
(7) Verification of Educational Financial Aid.
(8) Financial Institution Verification.
(9) Authorization to Obtain or Release Health Care Information.

d. Releases for photographs and recordings. The department uses Authorization to Take and Use Photographs, and Authorization to Take and Use Photographs of Minor or Ward forms, for permission to use photographs in department publications. The department shall obtain authorization from the subject or person responsible (such as a guardian, custodian, or personal representative) for the subject before taking photographs or making any type of recording for any purpose other than those specifically allowed by law or for internal use within an institution.

9.7(2) *Exceptions to use of release forms.*

a. Public official. A letter from the subject to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the department shall be treated as an authorization to release information upon receipt of appropriate authorization from the client to do so. The department shall release only the minimum amount of information necessary about the subject to the official to resolve the matter.

b. Medical emergency. Department staff may authorize release of confidential information to medical personnel in a medical emergency if the subject is unable to give or withhold consent. As soon as possible after the release of information, the subject shall be advised of the release.

c. Abuse information. Consent to release information is not required to gather information for investigations of child abuse or dependent adult abuse.

9.7(3) *Opportunity for subject to agree or object.* This subrule describes when the department may use or disclose protected health information, without a written authorization, to persons involved in the subject's care and for notification purposes. However, the department shall give the subject an opportunity to agree or object, unless this requirement is waived as specified in paragraph 9.7(3)*"e."*

a. Involvement in the subject's care. The department may, in accordance with paragraphs 9.7(3)*"c,""e,"* and *"f,"* disclose protected health information that is directly relevant either to a subject's care or to payment related to the subject's care, provided payment is relevant to the person's involvement in the subject's care. The person involved must be:

(1) A family member;

(2) Another relative;

(3) A close personal friend of the subject; or

(4) Any other person identified by the subject.

b. Notification purposes. The department may use or disclose protected health information to notify, or assist in notifying, identifying or locating a family member, a personal representative of the subject, or another person responsible for the care of the subject of the subject's location, general condition or death. For disaster relief purposes, the use or disclosure shall be in accordance with paragraph 9.7(3)*"f."*

c. Uses and disclosures with the subject present. If the subject is present for, or available before, a use or disclosure permitted by this subrule and has the capacity to make health care decisions, the department may use or disclose the protected health information if the department:

(1) Obtains the subject's agreement;

(2) Provides the subject with the opportunity to object to the disclosure, and the subject does not express an objection; or

(3) Reasonably infers from the circumstances, based on the exercise of professional judgment, that the subject does not object to the disclosure.

d. Informing the subject. The department may orally inform the subject of and obtain the subject's oral agreement or objection to a use or disclosure permitted by this subrule.

e. Limited uses and disclosures when the subject is not present. When the subject is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the subject's incapacity or an emergency circumstance, the department may, in the exercise of professional judgment, determine that disclosure is in the best interest of the subject.

(1) When the department determines that disclosure is in the subject's best interest, the department may disclose only the protected health information that is directly relevant to the person's involvement with the subject's health care.

(2) The department may use professional judgment and its experience with common practice to make reasonable inferences of the subject's best interest in allowing a person to act on behalf of the subject to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of protected health information.

f. For disaster relief purposes. The department may use protected health information or disclose protected health information to a public or private organization authorized by law or by its charter to assist in disaster relief efforts for the purpose of coordinating with these organizations the uses or disclosures permitted by paragraph 9.7(3)*"b."* The requirements in paragraphs 9.7(3)*"c"* and *"d"* apply to these uses and disclosures to the extent that the department, in the exercise of professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstances.

441—9.8(17A,22) Notice to suppliers of information. When the department requests a person to supply information about that person, the department shall notify the person of how the information will be used, which persons outside the department might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means. The notice shall generally be given at the first contact with the department and need not be repeated. Where appropriate, the notice may be given to a person's legal or personal representative. Notice may be withheld in an emergency or where it would compromise the purpose of a department investigation.

441—9.9(17A,22) Release to subject.

9.9(1) *Access by subjects to protected health information.* The department will follow the access of individuals to protected health information standards as outlined in 45 CFR §164.524 as amended to February 6, 2014. Subjects shall submit all requests for access to the department using the Request for Access to Health Information form. If the department does not maintain the protected health information that is the topic of the subject's request for access, and the department knows where the requested information is maintained, the department shall inform the subject where to direct the request for access.

9.9(2) Reserved.

441—9.10(17A,22) Use and disclosure without consent of the subject. Open records are routinely disclosed without the consent of the subject. To the extent allowed by law, the department may also use and disclose confidential information without the consent of the subject or the subject's representative.

9.10(1) *Internal use.* Confidential information may be disclosed to employees and agents of the department as needed for the performance of their duties. The custodian of the record shall determine what constitutes legitimate need to use confidential records.

9.10(2) *Audits and health oversight activities.*

a. Audits. Information concerning program expenditures and client eligibility is released to staff of the state executive and legislative branches who are responsible for ensuring that public funds have been managed correctly. Information is also released to auditors from federal agencies when those agencies provide program funds.

b. Health oversight activities. The department will follow the uses and disclosures standards for health oversight activities as outlined in 45 CFR §164.512 as amended to January 6, 2016.

9.10(3) *Program review.* Information concerning client eligibility and benefits is released to state or federal officials responsible for determining whether the department is operating a program lawfully. These officials include the ombudsman office under Iowa Code section 2C.9, the auditor of state under Iowa Code section 11.2, the Office of Inspector General in the federal Department of Health and Human Services, and the Centers for Medicare and Medicaid Services.

9.10(4) *Contracts and agreements with agencies and persons.*

a. The department may enter into contracts or agreements with public or private agencies to carry out the department's official duties or as necessary to administer a program within the other agency. Information necessary to carry out these duties may be shared with these agencies. The department may disclose protected health information to a business associate and may allow a business associate to create or receive protected health information on its behalf if the department obtains satisfactory assurance that the business associate will appropriately safeguard the information.

b. The department may enter into agreements to share information with agencies administering federal or federally assisted programs which provide assistance or services directly to persons on the basis of need. Only information collected in the family investment program, the child care assistance program, the food assistance program, the refugee resettlement program, or the child support recovery program may be shared under these agreements.

c. To meet federal income and eligibility verification requirements, the department has entered into agreements with the department of workforce development, the United States Internal Revenue Service, and the United States Social Security Administration. The department obtains information regarding persons whose income or resources are considered in determining eligibility and the amount of benefits for the family investment program, refugee cash assistance, child care assistance, food assistance, Medicaid, state supplementary assistance and foster care. Identifying information regarding clients of these programs is released to these agencies. The information received may be used for eligibility and benefit determinations.

d. To meet federal requirements under the Immigration Reform and Control Act of 1986 (IRCA) relating to the Systematic Alien Verification for Entitlements (SAVE) program, the department has entered into an agreement with the Bureau of Citizenship and Immigration Service (BCIS). Under the agreement, the department exchanges information necessary to verify alien status for the purpose of determining eligibility and the amount of benefits for the family investment program, refugee

cash assistance, food assistance, Medicaid, state supplementary assistance and foster care assistance. Identifying information regarding these subjects is released to the BCIS. The information received may be used for eligibility and benefit determinations.

e. The department has entered into an agreement with the department of workforce development to provide services to family investment program clients participating in the PROMISE JOBS program as described at 441—Chapter 93. Information necessary to carry out these duties shall be shared with the department of workforce development, as well as with its subcontractors.

f. The department has entered into an agreement with the department of education, vocational rehabilitation, disability determination services, to assist with Medicaid disability determinations.

g. The department has entered into an agreement with the department of education to share information that assists both schools and department clients in carrying out the annual verification process required by the United States Department of Agriculture, Food and Nutrition Service. That federal agency requires the department of education and local schools to verify eligibility of a percentage of the households approved for free-meal benefits under the school lunch program. When a department office receives a written request from the local school, the department office responds in writing with the current family investment program and food assistance program status of each recipient of free meals listed in the request. Other client-specific information is made available only with written authorization from the client.

9.10(5) *Release for judicial and administrative proceedings.* Information is released to the court as required in Iowa Code sections 125.80, 125.84, 125.86, 229.8, 229.10, 229.13, 229.14, 229.15, 229.22, 232.48, 232.49, 232.52, 232.71B, 232.81, 232.97, 232.98, 232.102, 232.111, 232.117 and 235B.3.

a. The department may disclose protected health information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal, provided that the department discloses only the protected health information expressly authorized by the order and the court makes the order knowing that the information is confidential.

b. When a court subpoenas information that the department is prohibited from releasing, the department shall advise the court of the statutory and regulatory provisions against disclosure of the information and shall disclose the information only on order of the court.

9.10(6) *Fraud.* Information concerning suspected fraud or misrepresentation to obtain department services or assistance is disclosed to the department of inspections, appeals, and licensing and to law enforcement authorities.

9.10(7) *Service referrals.* Information concerning clients may be shared with purchase of service providers under contract to the department.

a. Information concerning the client's circumstances and need for service is shared with prospective providers to obtain placement for the client. If the client is not accepted for service, all written information released to the provider shall be returned to the department.

b. When the information needed by the provider is mental health information or substance abuse information, the subject's specific consent is required.

9.10(8) *Medicaid billing.* Only the following information shall be released to bona fide providers of medical services in the event that the provider is unable to obtain it from the subject and is unable to complete the Medicaid claim form without it:

a. Patient identification number.

b. Health coverage code as reflected on the subject's medical card.

c. The subject's date of birth.

d. The subject's eligibility status for the month that the service was provided.

e. The amount of spenddown.

f. The bills used to meet spenddown.

9.10(9) Reserved.

9.10(10) *Child support recovery.* The child support recovery unit has access to information from most department records for the purpose of establishing and enforcing support obligations. Information about absent parents and recipients of child support services is released according to the provisions of Iowa Code chapters 234, 252A, 252B, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, 252K, 598,

and 600B and any other support chapter. Information is also released to consumer reporting agencies as specified in rule 441—98.116(252B).

9.10(11) *Refugee resettlement program.* Contacts with both sponsor and resettlement agencies are made as a part of the verification process to determine eligibility or the amount of assistance. When a refugee applies for cash or Medicaid, the refugee's name, address, and telephone number are given to the refugee's local resettlement agency.

9.10(12) *Abuse investigation.* The central abuse registry disseminates child abuse information and dependent adult abuse information as provided in Iowa Code sections 235A.15 and 235B.7, respectively. Reports of child abuse and dependent adult abuse investigations are submitted to the county attorney as required in Iowa Code sections 232.71B and 235B.3. Results of the investigation of a report by a mandatory reporter are communicated to the reporter as required in Iowa Code sections 235A.17(2) and 235A.15(2)*"b"*(5).

9.10(13) *Foster care.* Information concerning a child's need for foster care is shared with foster care review committees or foster care review boards and persons named in the case permanency plan.

9.10(14) *Adoption.* Adoptive home studies completed on families who wish to adopt a child are released to licensed child-placing agencies, to the United States Immigration and Naturalization Service, and to adoption exchanges. Information is released from adoption records as provided in Iowa Code sections 600.16 and 600.24.

9.10(15) *Disclosures to law enforcement.*

a. Disclosures by workforce members who are crime victims. The department is not considered to have violated the requirements of this chapter if a member of its workforce who is the victim of a criminal act discloses confidential information to a law enforcement official, provided that:

(1) The confidential information disclosed is about the suspected perpetrator of the criminal act and intended for identification and location purposes; and

(2) The confidential information disclosed is limited to the following information:

1. Name and address.
2. Date and place of birth.
3. Social security number.
4. ABO blood type and Rh factor.
5. Type of injury.
6. Date and time of treatment.
7. Date and time of death, if applicable.
8. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

b. Crime on premises. The department may disclose to a law enforcement official protected health information that the department believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the department.

c. Decedents. The department may disclose protected health information to a law enforcement official about a subject who has died when the death resulted from child abuse or neglect or the death occurred in a department facility.

d. Other. The department may disclose confidential information to a law enforcement official when otherwise required or allowed by this chapter, such as disclosures about victims of child abuse or neglect; disclosures to avert a threat to health or safety, or to report suspected fraud; disclosures required by due process of law, such as disclosures for judicial and administrative proceedings; or other disclosures required by law.

9.10(16) *Response to law enforcement.* The address of a current recipient of family investment program benefits may be released upon request to a federal, state or local law enforcement officer if the officer provides the name of the recipient, and the officer demonstrates that:

a. The recipient is a fugitive felon who is fleeing prosecution, custody or confinement after conviction under state or federal law, or who is a probation or parole violator under state or federal law, or

b. The recipient has information that is necessary for the officer to conduct the officer's official duties, and

c. The location or apprehension of the recipient is within the officer's official duties.

9.10(17) *Research.* Disclosure is made to employees of federal, state and local agencies and other researchers for purposes of bona fide research. The department shall not release data or information pursuant to this paragraph unless the department and the researcher have executed an agreement that includes the conditions under which the confidential data or information may be used and restrictions on further disclosure of the data or information.

a. Mental health information may be disclosed for purposes of scientific research as provided in Iowa Code sections 228.5 and 229.25. Requests to do research involving records of a department facility shall be approved by the designated authority.

b. Abuse registry information may be disclosed for research purposes as provided in rules 441—175.42(235A) and 441—176.12(235B) and authorized by Iowa Code sections 235A.15(2)*"e"*(1) and 235B.6(2)*"e"*(1).

c. For research relating to protected health information, the researcher shall provide the department with information about the nature of the research, the protocol, the type of information being requested, and any other relevant information that is available concerning the request. If the researcher feels that contact with the subject is needed, the researcher shall demonstrate to the department that the research cannot be conducted without contact with the subject. The researcher shall pay for the costs of obtaining authorizations needed to contact the subjects and for the cost of files and preparation needed for the research.

9.10(18) *Threat to health or safety.*

a. All programs. A client's name, identification, location, and details of a client's threatened or actual harm to department staff or property may be reported to law enforcement officials. Other information regarding the client's relationship to the department shall not be released. When a department staff person believes a client intends to harm someone, the staff person may warn the intended victim or police or both. Only the name, identification, and location of the client and the details of the client's plan of harm shall be disclosed.

b. Protected health information. The department will follow the disclosure standards in 45 CFR §164.512 as amended to January 6, 2016.

9.10(19) *Required by law.*

a. Information is shared with other agencies without a contract or written agreement when federal law or regulations require it.

b. The department may use or disclose protected health information to the extent that use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of the law.

c. State law shall preempt rules in this chapter about protected health information when any one of the following conditions exists:

(1) Exception granted by Secretary of Health and Human Services under 45 CFR §160.204 as amended to March 26, 2013.

(2) State law more stringent. The provision of state law relates to the privacy of protected health information and is more stringent than a requirement of this chapter, within the meaning of "more stringent" found at 45 CFR §160.202 as amended to March 26, 2013.

(3) Reporting requirements. The provision of state law, including state procedures established under the law, as applicable, provides for the reporting of disease or injury, child abuse, birth, or death, or for the conduct of public health surveillance, investigation, or intervention.

(4) Requirements related to audits, monitoring, evaluation, licensing, and certification. The provision of state law requires a health plan to report, or to provide access to, information for the purpose of management audits, financial audits, program monitoring and evaluation, or the licensure or certification of facilities and persons.

9.10(20) *Treatment, payment, or health care operations.*

a. The department may use or disclose protected health information for treatment, payment, or health care operations, as permitted by 45 CFR §164.506 as amended to January 25, 2013, except for psychotherapy notes, which are subject to the limits described in paragraph 9.10(21)*"b."* The use or disclosure shall be consistent with other applicable requirements of this chapter.

b. The department may use or disclose psychotherapy notes without an authorization for any one of the following reasons:

(1) To carry out the following treatment, payment, or health care operations:

1. Use by the originator of the psychotherapy notes for treatment.

2. Use or disclosure by the department for its own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling.

3. Use or disclosure by the department to defend itself in a legal action or other proceeding brought by the subject.

(2) When required by the Secretary of Health and Human Services to investigate or determine the department's compliance with federal HIPAA regulations.

(3) For health oversight activities with respect to the oversight of the originator of the psychotherapy notes.

(4) When necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public as described in this chapter.

(5) When required by law as described in this chapter.

(6) To disclose protected health information in the designated record set to a coroner or medical examiner as described in this chapter.

9.10(21) *Other uses and disclosures for which an authorization or opportunity to agree or object is not required.* The department may use or disclose protected health information for which an authorization or opportunity to agree or object is not required, as permitted by 45 CFR §164.512 as amended to January 25, 2013.

9.10(22) *Victims of domestic violence.* The department shall disclose confidential information about an individual whom the department reasonably believes to be a victim of domestic violence when required by state law.

9.10(23) *Whistle blowers.* The department is not considered to have violated the requirements of this chapter when a member of its workforce or a business associate discloses protected health information, provided that:

a. The workforce member or business associate has a good-faith belief that the department or a business associate has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or has provided care, services, or conditions that potentially endanger one or more patients, workers, or the public; and

b. The disclosure is made to one of the following:

(1) A health oversight agency or public health authority authorized by law to investigate or oversee conduct or conditions for the purpose of reporting the allegation of failure to meet professional standards or misconduct.

(2) An appropriate health care accreditation organization.

(3) An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate.

9.10(24) *Secondary to a use or disclosure of protected health information.* The department may use or disclose protected health information that is secondary to a use or disclosure otherwise permitted or required by these rules, such as when a visitor in a facility overhears a doctor speaking to a subject about the subject's health.

9.10(25) *De-identified data or a limited data set.* The department may use or disclose protected health information to create information that is de-identified or a limited data set under the conditions specified in 45 CFR §164.514 as amended to August 14, 2002.

441—9.11(22) Availability of records.

9.11(1) *Open records.* Department records are open for public inspection and copying unless otherwise provided by rule or law.

9.11(2) *Confidential records.* Iowa Code chapters governing the operations of the department establish the confidential nature of many department records. The department also administers several federally funded programs and is authorized by Iowa Code section 22.9 to enforce confidentiality standards from federal law and regulation as required for receipt of the funds where the department has determined that the right to examine and copy public records under Iowa Code section 22.2 would cause the denial of funds, services, or essential information from the United States government that would otherwise be available to the department.

9.11(3) *Authority to release confidential records.* The department may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other provision of law.

441—9.12(22,252G) Personally identifiable information. The nature and extent of personally identifiable information collected by the department varies by the type of record. This rule describes personally identifiable information collected, maintained, and retrieved by the department by personal identifiers in record systems and the legal authority for the collection of that information. This rule also identifies the legal authority for keeping some or all of the collected personally identifiable information confidential.

9.12(1) Department administrative records.

a. Personnel records. These records contain information about employees, families and dependents, and applicants for positions with the department. Some of this information is confidential under Iowa Code section 22.7(11) and 22.7(18).

b. Fiscal records. These records contain itemized vouchers collected from individuals pursuant to Iowa Code section 8A.514. Some of this information is confidential under Iowa Code section 22.7(11) and 22.7(18).

c. Litigation files. These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain 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 copies of pleadings and other documents filed in litigation should obtain them from the clerk of the appropriate court that maintains the official copy. These records are confidential as outlined in Iowa Code sections 217.30, 22.7(4) and 622.10.

9.12(2) Program records.

a. Adoption investigator certification. These records are collected pursuant to Iowa Code chapter 600.

b. Adoption program records. These records are collected pursuant to Iowa Code sections 600.8 and 600.16. These records are confidential as outlined in Iowa Code sections 600.16 and 600.24.

c. Appeals. These records are collected pursuant to Iowa Code section 217.1. Some of these records are confidential as outlined in Iowa Code section 217.1.

d. AIDS drug reimbursement program. These records are collected for purposes of implementing a federal grant program authorized by HR 1827. Certain patient records are confidential as outlined in Iowa Code section 141A.9.

e. Brain injury service program recipients. These records are collected pursuant to Iowa Code section 135.22B. These records are confidential as outlined in Iowa Code section 135.22(2).

f. Center for congenital and inherited disorders. These records are collected pursuant to Iowa Code chapter 136A. These records are confidential as outlined in Iowa Code section 136A.7.

g. Central registry for brain or spinal cord injuries. These records are collected pursuant to Iowa Code section 135.22. Except for statistical reports, these records are maintained as confidential pursuant to Iowa Code section 135.22.

h. Child abuse program. These records are collected pursuant to Iowa Code section 235A.14. These records are confidential as outlined in Iowa Code sections 235A.13, 235A.15, 235A.16, and 235A.17.

i. Childcare assistance client records. These records are collected pursuant to Iowa Code section 237A. These records are confidential as outlined in Iowa Code section 237A.13.

j. Childcare facility licensing. These records are collected pursuant to Iowa Code chapter 237A. Some of these records are confidential as outlined in Iowa Code section 237A.7.

k. Childhood lead poisoning prevention program. These records are collected pursuant to Iowa Code sections 135.100 to 135.105. Certain of these records are confidential as outlined in Iowa Code chapter 139A.

l. Child support recovery program. These records are collected pursuant to Iowa Code chapters 252A, 252B, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, and 252K and Iowa Code sections 144.13, 144.26, 232.147, 234.39, 595.4, 598.22B and 600.16A. These records are confidential as outlined in Iowa Code sections 252B.9 and 252G.5, 42 U.S.C. §654(26), 42 U.S.C. §654a(d), 45 CFR §303.21 and 307.13.

m. Chronic disease prevention and management programs. These records are collected pursuant to Iowa Code section 135.11(1). Certain medical information in these records is confidential as outlined in Iowa Code section 22.7(2).

n. Collection service center payment. These records are collected pursuant to Iowa Code sections 252B.9, 252B.13A and 252B.16. These records are confidential as outlined in Iowa Code section 252B.9(2), 42 U.S.C. §654a(d) and 45 CFR §307.13.

o. Criminal and juvenile justice information. These records are collected pursuant to Iowa Code sections 216A.136 and 216A.138 and through interagency agreements.

p. Dental health program. These records are collected pursuant to Iowa Code section 135.11(19). Certain medical information in these records is confidential as outlined in Iowa Code section 22.7(2).

q. Dependent adult abuse program. These records are collected pursuant to Iowa Code section 235B.1. These records are confidential as outlined in Iowa Code section 235B.1.

r. Domestic abuse death review team. These records are collected pursuant to Iowa Code section 135.110. These records are confidential as outlined in Iowa Code section 135.11.

s. Emergency medical services. These records are collected pursuant to Iowa Code chapter 147A.

t. Environmental health program. These records are collected pursuant to Iowa Code section 135.11(1) and PL 96-510, Section 104(d)(1), 40 CFR 763 effective June 28, 1983, and 40 CFR 761 effective May 31, 1979, dealing with asbestos, PCB and other environmental health factors. Certain medical information in the work-related disease program file may be confidential as outlined in Iowa Code section 22.7(2). Certain asbestos and PCB inspection records are collected under contract with the federal Environmental Protection Agency, and requests for such records will be referred to that agency.

u. Family investment program client records. These records are collected pursuant to Iowa Code section 234.6. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §602(a)(1) and §1306a.

v. Food assistance client files. These records are collected pursuant to Iowa Code section 234.6. These records are confidential as outlined in Iowa Code section 217.30, 7 U.S.C. §2020(e)8 and 7 CFR 272.1(c) and (d) as amended to January 1, 1987.

w. Foster care client/service files. These records are collected pursuant to Iowa Code sections 237.3 to 237.5. These records are confidential as outlined in Iowa Code section 237.9.

x. Foster care facility licensing. These records are collected pursuant to Iowa Code chapter 237. Some of these records are confidential as outlined in Iowa Code section 237.9.

y. Foster care review board files. These records are collected pursuant to Iowa Code section 237.17. Some of these records are confidential as outlined in Iowa Code section 237.21.

z. Hawki client files. These records are collected pursuant to Iowa Code section 514I.4. These records are confidential as outlined in Iowa Code section 514I.4, and 42 CFR §457.1110 as amended to January 1, 2001.

aa. Human rights advocacy files. These records are collected pursuant to Iowa Code chapter 216A; the Omnibus Budget Reconciliation Act, P.L. 97-35; Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; and the Victims Compensation and Assistance Act, P. L. 98-473. These records are confidential as outlined in Iowa Code section 22.7(18).

bb. Long term and managed care ombudsman complaints. These records are collected pursuant to Iowa Code sections 135C.37 and 231.42. These records are confidential as outlined in Iowa Code sections 135C.37 and 231.42.

cc. Maternal and child health program. These records are collected pursuant to Iowa Code section 135.11(20). Records that contain medical information are confidential pursuant to Iowa Code section 22.7(2).

dd. Medicaid clients. These records are collected pursuant to Iowa Code section 249A.4. These records are confidential as outlined in Iowa Code section 217.30, 42 U.S.C. §1396a(7), and 42 CFR §431.300 to 307 as amended to November 13, 1996.

ee. Medicaid provider information. These records are collected pursuant to Iowa Code section 249A.4. Some of these records are confidential as outlined in Iowa Code section 217.30, 42 U.S.C. §1396a(7), and 42 CFR §431.300 to 307 as amended to November 13, 1996.

ff. Newborn and infant hearing screening program. These records are collected pursuant to Iowa Code section 135.131. Information which identifies an individual patient is confidential as outlined in Iowa Code section 135.131.

gg. Nutrition and WIC (supplemental food program for women, infants and children) program. These records are collected pursuant to Iowa Code section 135.11(1) and Chapter 17 of the federal Child Nutrition Act of 1966 as amended. These records are confidential as outlined in 7 CFR 246 and Iowa Code section 22.7(2).

hh. Radiological health program. These records are collected pursuant to Iowa Code chapters 136B and 136C. Certain of these records are confidential as outlined in 641—39.4(24).

ii. Refugee health program. These records are collected pursuant to Iowa Code section 135.11(1) and Section 412(c)(3) of the federal Immigration and Naturalization Act. Records that contain medical information are confidential pursuant to Iowa Code section 22.7(2).

jj. Refugee resettlement client records. These records are collected pursuant to Iowa Code section 217.1. These records are confidential as outlined in Iowa Code section 217.30, and 45 CFR §400.27 as amended to March 22, 2000.

kk. Reportable diseases and other diseases and health conditions, including lead and other heavy metal poisonings. These records are collected pursuant to Iowa Code chapter 139A. Except for statistical reports, these records are confidential as required by Iowa Code chapter 139A.

ll. Reportable sexually transmitted diseases or infections. These records are collected pursuant to Iowa Code chapter 139A. Except for statistical reports, these records are confidential as required by Iowa Code chapter 139A.

mm. State institution resident records. These records are collected pursuant to Iowa Code section 218.1. These records are confidential as outlined in Iowa Code sections 218.22, 229.24 and 229.25.

nn. State supplementary assistance clients. These records are collected pursuant to Iowa Code chapter 249. Some of these records are confidential as outlined in Iowa Code section 217.30.

oo. Substance abuse client records. These records are collected pursuant to Iowa Code chapters 125 and 218 and sections 234.6 and 249A.4. These records are confidential as outlined in Iowa Code sections 125.37 and 125.93, 42 U.S.C. §29 dd.3 and ee.3, 42 CFR Part 2 as amended to January 1, 2017, and 38 U.S.C. §4132.

pp. Substance abuse program licensing complaints. These records are collected pursuant to Iowa Code chapter 125. Certain information in these records may be confidential as outlined in Iowa Code sections 22.7(2), 22.7(18) and 125.37.

qq. Title IV-E foster care and adoption assistance client files. These records are collected pursuant to Iowa Code sections 217.1 and 600.17 to 600.22. These records are confidential as outlined in Iowa Code section 217.30, 42 U.S.C. §671(a)(8), and 45 CFR 1355.30(1) as amended to November 23, 2001.

rr. Veterinary public health. These records are collected pursuant to Iowa Code chapter 139A. Certain medical information in these records may be confidential as outlined in Iowa Code chapter 139A.

ss. Vital records. These records are collected pursuant to Iowa Code chapter 144, including records of births, deaths, fetal deaths, adoptions, marriages, divorces, annulments and related data and correspondence. These records are confidential as outlined in Iowa Code section 144.43.

9.12(3) Other restricted data contained in department client records includes:

a. Department of revenue information. These records are collected pursuant to Iowa Code sections 252B.5 and 252B.9. These records are confidential as outlined in Iowa Code sections 421.17 and 422.20(1).

b. Department of workforce development information. These records are collected pursuant to Iowa Code chapters 239B and 249A and section 252B.9. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §503(d) and (e).

c. Income and eligibility verification system. These records are collected pursuant to Iowa Code chapters 239B and 249A and sections 217.1 and 234.6(7). These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §1230b-7.

d. Department of public safety information. These records are collected pursuant to Iowa Code sections 237.8, 237A.5 and 252B.9. These records are confidential as outlined in Iowa Code sections 692.2, 692.3, 692.8 and 692.18.

e. Federal tax return information. These records are collected pursuant to Iowa Code chapters 239B, 249A and 252B and Iowa Code sections 217.1 and 234.6(7). These records are confidential as outlined in Iowa Code section 422.20(2) and 26 U.S.C. §6103.

f. Juvenile court information. These records are collected pursuant to Iowa Code chapter 232 and section 234.6. These records are confidential as outlined in Iowa Code sections 232.48, 232.97 and 232.147 to 232.151.

g. Peer review organization. These records are collected pursuant to Iowa Code section 249A.4. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §1320c-9.

h. United States Department of Health and Human Services information. These records are collected pursuant to Iowa Code chapters 239B, 249, 249A and 252B and sections 217.1 and 234.6(7). These records are confidential as outlined in Iowa Code section 217.30 and 42 CFR Part 401.134(c) as amended to October 1, 2002.

441—9.13(17A,22) Special policies and procedures for protected health information. The department will follow all special policies and procedures for using and disclosing protected health information as outlined in 45 CFR Part 164 as amended through December 31, 2023, including the minimum necessary standard, uses and disclosures for premium rating and related purposes, verification and documentation requirements, notice of privacy practices, the right to receive an accounting of disclosures, complaint procedures, appeal rights and record retention.

441—9.14(17A,22) Person who may exercise rights of the subject.

9.14(1) *Adults.* When the subject is an adult, including an emancipated minor, the subject's rights under this rule may also be exercised by the subject's legal or personal representative, except as provided in subrule 9.14(3).

9.14(2) *Minors.* Within the limits of subrule 9.14(3), when the subject is an unemancipated minor, the subject's rights under this rule shall be exercised only by the subject's legal representative, except as follows:

a. When the department otherwise deals with the minor as an adult, as in the case of minor parents under the family investment program.

b. When otherwise specifically provided by law. However, minor subjects shall be granted access to their own records upon request, subject to the limits in rule 441—9.9(17A,22).

9.14(3) *Exceptions.*

a. Scope of authority. Legal and personal representatives may act only within the scope of their authority. For protected health information, the designation must reflect the subject's ability to

make health care decisions and receive protected health information. For example, court-appointed conservators shall have access to and authority to release only the following information:

(1) Name and address of subject.

(2) Amounts of assistance or type of services received.

(3) Information about the economic circumstances of the subject.

b. Mental health information. Only an adult subject or a subject's legal representative may consent to the disclosure of mental health information. Records of involuntary hospitalization shall be released only as provided in Iowa Code section 229.24. Medical records of persons hospitalized under Iowa Code chapter 229 shall be released only as provided in Iowa Code section 229.25.

c. Substance abuse information. Only the subject may consent to the disclosure of substance abuse information, regardless of the subject's age or condition.

d. Failure to act in good faith. If the department has reason to believe that the legal or personal representative is not acting in good faith in the best interests of the subject, the department may refuse to release information on the authorization of the legal or personal representative.

e. Abuse, neglect, and endangerment situations. Notwithstanding a state law or any other requirement of this chapter, the department, in the exercise of professional judgment, may elect not to treat a person as a subject's personal representative if:

(1) The department has reason to believe that the subject has been or may be subjected to domestic violence, abuse, or neglect by the person; or

(2) The department has reason to believe that treating the person as a personal representative could endanger the subject.

f. Protected health information. A parent, guardian, or other person acting in place of a parent who does not represent the minor for protected health information may still access protected health information about the minor if required by law.

g. Deceased subjects. If, under applicable law, an executor, administrator, or other person has authority to act on behalf of a deceased subject or of the subject's estate, the department shall treat that person as a personal representative.

h. Other. If, under applicable law, the subject of a confidential record is precluded from having a copy of a record concerning the subject disclosed to a third party, the department shall not treat the third party as a personal representative.

These rules are intended to implement Iowa Code chapters 17A, 22, 135, 217, 228, and 252G and the Health Insurance Portability and Accountability Act of 1996.

ITEM 7. Rescind 441—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
NOTICES

441—16.1(17A) Definitions.

"Adequate notice" means any notice of decision or notice of action that includes all of the following information:

1. A description of the action taken;

2. The effective date of the action;

3. The specific reasons supporting the action, stated language likely to be understood by the average program applicant or enrollee;

4. References to applicable provisions of law supporting the action;

5. An explanation of the right to appeal; and

6. The circumstances under which assistance is continued when an appeal is filed.

"Adverse benefit determination" means any adverse action taken by the department regarding assistance program benefits administered by the department or on the department's behalf, excluding department decisions about requests for exceptions to policy.

"Assistance program" means a program administered by the department or on the department's behalf through which qualifying individuals receive benefits or services.

"Enrollee" means any applicant for, or recipient of, benefits or services pursuant to an assistance program.

"Timely" means that the notice is sent at least ten calendar days before the date the adverse benefit determination would become effective. The timely notice period shall begin on the day after the notice is sent.

441—16.2(17A) Notices.

16.2(1) *Written timely and adequate notice.* When required by federal or state law, the department will provide written timely and adequate notice of the right to appeal any adverse benefit determination that affects an individual who is applying for, or receiving benefits from, an assistance program. The department will also provide written timely notice of pending actions for a state or federal tax or debtor offset.

16.2(2) *Adequate notice.* The department shall give adequate notice of the approval or denial of assistance or services; the approval or denial of a license, certification, approval, registration, or accreditation.

16.2(3) *Dispensing with timely notice.* Timely notice may be dispensed with, but adequate notice shall be sent no later than the date benefits would have been issued, when:

a. There is factual information confirming the death of the enrollee or of the family investment program payee and there is no relative available to serve as a new payee.

b. The enrollee provides a clear written, signed statement that the enrollee no longer wishes to receive assistance, or gives information that requires termination or reduction of assistance, and the enrollee has indicated, in writing, that the enrollee understands that the consequence of supplying the information is termination or reduction of assistance.

c. The enrollee has been admitted or committed to an institution that does not qualify for payment under an assistance program.

d. The enrollee has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

e. The whereabouts of the enrollee are unknown and mail directed to the enrollee has been returned by the post office indicating no known forwarding address. When the whereabouts of the enrollee become known during the payment period covered by the returned warrant, the warrant shall be made available to the enrollee.

f. The department establishes that the enrollee has been accepted for assistance in another state.

g. Cash assistance or food assistance is changed because a child is removed from the home as a result of a judicial determination or is voluntarily placed in foster care.

h. A change in the level of medical care is prescribed by the enrollee's physician.

i. A special allowance or service granted for a specific period is terminated and the enrollee has been informed in writing at the time of initiation that the allowance or service shall terminate at the end of the specified period.

j. The notice involves an adverse determination made with regard to the preadmission screening requirements.

k. The department terminates or reduces benefits or makes changes as described at 441—subrule 40.27(3) or rule 441—75.52(249A).

l. The department terminates benefits for failure to return a completed report form, as described in paragraph 16.3(3)*"k."*

m. The department approves or denies an application for assistance.

n. The department implements a mass change based on law or rule changes that affect a group of enrollees.

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

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INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rulemaking related to military service, veteran reciprocity, and spouses of active-duty service members

The Department of Inspections, Appeals, and Licensing hereby adopts new Chapter 7, "Military Service, Veteran Reciprocity, and Spouses of Active-Duty Service Members," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 272C.4 and 272C.12A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 272C.4, 272C.12 and 272C.12A and 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking adopts new Chapter 7. The chapter applies to licensing programs that became part of the Department following realignment resulting from 2023 Iowa Acts, Senate File 514. The rulemaking aligns with the goals of Executive Order 10 (January 10, 2023) of reducing and simplifying the Iowa Administrative Code and creating unity throughout the agency. Multiple boards under the administrative authority of the Department are in the process of rescinding substantively identical rules in reliance upon the rules herein.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on April 3, 2024, as **ARC 7754C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on May 8, 2024.

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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 481—Chapter 7:

CHAPTER 7
MILITARY SERVICE, VETERAN RECIPROCITY, AND
SPOUSES OF ACTIVE-DUTY SERVICE MEMBERS

481—7.1(272C) Applicability and definitions. These rules are applicable to any licensing authority under the administrative authority of the department pursuant to Iowa Code chapter 10A unless that licensing authority has separate rulemaking authority and has adopted governing rules. As used in this chapter:

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

"License" means a license, certification, registration, permit, approval, renewal, or other similar authorization issued by a licensing authority authorizing a person to engage in a profession, occupation, or business.

"Licensing authority" means a board, a commission, or any other division or entity of the department that has the authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession pursuant to Iowa Code chapter 272C.

"Military service" means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c)(2021); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101(2006).

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

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

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

481—7.2(272C) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure in accordance with Iowa Code chapter 272C by submitting a military service application form to the licensing authority.

7.2(1) The application may be submitted with an application for licensure or examination, or prior to applying for licensure or to take an examination. No fee is required with submission of an application for military service credit.

7.2(2) The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit will not be applied to an examination requirement.

7.2(3) The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

7.2(4) Upon receipt of a completed military service application, the licensing authority will promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

7.2(5) The licensing authority will grant credit requested in the application in whole or in part if the licensing authority determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

7.2(6) The licensing authority will inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

7.2(7) An applicant who is aggrieved by the licensing authority's decision may request a contested case hearing. A request for a contested case shall be made within 30 days of issuance of the licensing authority's decision. Unless the licensing authority has adopted rules governing contested case hearings under the jurisdiction of that licensing authority, the provisions of 481—Chapter 9 apply, except that no fees or costs will be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

7.2(8) The licensing authority will grant or deny the military service application prior to ruling on the application for licensure. The applicant will not be required to submit any fees in connection with the licensure application unless the licensing authority grants the military service application. If the licensing authority does not grant the military service application, the applicant may withdraw the licensure application or request that the application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application does not preclude subsequent applications supported by additional documentation or information.

481—7.3(272C) Veteran and active-duty military spouse reciprocity.

7.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity in accordance with Iowa Code chapter 272C. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with the licensing authority's laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this subrule will be given priority and will be expedited.

7.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including but not limited to completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant will use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse.

7.3(3) Upon receipt of a fully completed licensure application, the licensing authority will promptly determine if the scope of practice of the jurisdiction where the veteran or spouse is licensed is substantially equivalent to the scope of practice in Iowa. The licensing authority shall make this determination based on information supplied by the applicant and such additional information as the licensing authority may acquire from the applicable jurisdiction.

7.3(4) The licensing authority will promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose scope of practice is substantially equivalent to the scope required in Iowa unless the applicant is ineligible for licensure based on other grounds, including, for example, the applicant's disciplinary history or criminal background.

7.3(5) If the licensing authority determines that the scope of practice in the jurisdiction in which the applicant is licensed is not substantially equivalent to the scope of practice in Iowa, the licensing authority will promptly inform the applicant of the additional education or training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary history or criminal background, the following will apply:

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

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

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

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

7.3(6) An applicant who is aggrieved by the licensing authority's decision to deny an application for a reciprocal license or a temporary license or is aggrieved by the terms under which a temporary license will be granted may request a contested case hearing as set forth in subrule 7.2(7).

These rules are intended to implement Iowa Code sections 272C.4, 272C.12, and 272C.12A.

[Filed 5/8/24, effective 7/3/24]
[Published 5/29/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/24.

ARC 8037C

PHARMACY BOARD[657]

Adopted and Filed

Rulemaking related to temporary designation of controlled substances

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 124.201.

Purpose and Summary

The purpose of this rulemaking is to add nine substances to Schedule I (fentanyl-related substances) and one substance to Schedule IV (an FDA-approved medication to treat postpartum depression) of

the Controlled Substances Act in response to similar scheduling action taken by the federal Drug Enforcement Administration.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 21, 2024, as **ARC 7632C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on May 7, 2024.

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 657—Chapter 34.

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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind subrule 10.39(1) and adopt the following **new** subrule in lieu thereof:

10.39(1) Amend Iowa Code section 124.204(2) by adding the following new paragraphs:

cq. 2-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide. Other name: alpha'-Methyl butyryl fentanyl.

cr. N-(1-(2,5-dimethoxyphenethyl)piperidin-4-yl)-N-phenylpropionamide. Other name: 2',5'-Dimethoxyfentanyl.

cs. N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-3-carboxamide. Other name: 3-Furanyl fentanyl.

ct. 3-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide. Other name: Isovaleryl fentanyl.

cu. N-(3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide. Other name: meta-Fluorofentanyl.

cv. N-(3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide. Other name: meta-Fluoroisobutyryl fentanyl.

cw. N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide. Other name: ortho-Fluorofuranyl fentanyl.

cx. N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide. Other name: para-Methoxyfuranyl fentanyl.

cy. N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide. Other name: para-Methylcyclopropyl fentanyl.

ITEM 2. Rescind and reserve subrules **10.39(3)** and **10.39(4)**.

ITEM 3. Amend subrule 10.39(8) as follows:

10.39(8) Amend Iowa Code section 124.210(3) by adding the following new ~~paragraph~~ paragraphs:

bg. Daridorexant.

bh. Zuranolone.

[Filed 5/8/24, effective 7/3/24]
[Published 5/29/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/24.

ARC 8038C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to practice of physician assistants

The Board of Physician Assistants hereby rescinds Chapter 327, "Practice of Physician Assistants," 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 147.36, 147.76, 148C.3, 148C.5, 272C.3 and 272C.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148C and 272C.

Purpose and Summary

This rulemaking articulates the medical scope of practice that a physician assistant can provide based on the physician assistant's education, training, and experience. The rulemaking provides Iowans, licensees, and licensees' employers with more information on the accepted minimum standards for the practice of this profession in this state.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7528C**. Public hearings were held on February 13 and 14, 2024, at 1:10 p.m. at 6200 Park Avenue, Des Moines, Iowa, and virtually. 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 April 24, 2024.

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 of Inspections, Appeals, and Licensing 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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 645—Chapter 327 and adopt the following **new** chapter in lieu thereof:

CHAPTER 327
PRACTICE OF PHYSICIAN ASSISTANTS

645—327.1(148C,88GA,ch1020) Duties. The medical services to be provided by the physician assistant are those for which the physician assistant has been prepared by education, training, or experience and is competent to perform. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills, and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including but not limited to offices, ambulatory clinics, hospitals, patient's homes, extended care facilities, and nursing homes.

327.1(1) A physician assistant's duties relating to prescribing, dispensing, ordering, administering, and procuring drugs and medical devices include all of the following:

a. Administering any drug.

b. Prescribing, dispensing, ordering, administering, and procuring drugs and medical devices. A physician assistant may plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions, including but not limited to durable medical equipment, nutrition, blood and blood products, and diagnostic support services, including but not limited to home health care, hospice, and physical and occupational therapy. The prescribing and dispensing of drugs may include Schedule II through V substances, as described in Iowa Code chapter 124, and all legend drugs.

c. A physician assistant may prescribe drugs and medical devices subject to all of the following conditions:

(1) The physician assistant will have passed the national certifying examination conducted by the National Commission on Certification of Physician Assistants or its successor examination approved by the board.

(2) The physician assistant must comply with appropriate federal and state regulations.

(3) If a physician assistant prescribes or dispenses controlled substances, the physician assistant must register with the federal Drug Enforcement Administration.

(4) The physician assistant may prescribe or order Schedule II controlled substances that are listed as depressants in Iowa Code chapter 124.

(5) The physician assistant may prescribe, supply, and administer drugs and medical devices in all settings, including but not limited to hospitals, health care facilities, health care institutions, hospice, clinics, offices, health maintenance organizations, and outpatient and emergency care settings.

(6) A physician assistant may request, receive, and supply sample drugs and medical devices.

d. Supplying properly packaged and labeled prescription drugs, controlled substances, or medical devices when pharmacist services are not reasonably available or when it is in the best interest of the patient.

(1) If the physician assistant is the prescriber of the medications supplied pursuant to this paragraph, the medications supplied will be for the purpose of accommodating the patient and will not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician assistant.

(2) A nurse or staff assistant may assist the physician assistant in supplying medications.

327.1(2) The medical services to be provided by the physician assistant also include, but are not limited to, the following:

a. Initial approach to a patient of any age group in any setting to elicit a medical history and perform a physical examination.

b. Assessment, diagnosis and treatment of medical or surgical problems and recording the findings.

c. Order, interpret, or perform laboratory tests, X-rays or other medical procedures or studies.

d. Performance of therapeutic procedures such as injections, immunizations, suturing and care of wounds, removal of foreign bodies, ear and eye irrigation and other clinical procedures.

e. Performance of office surgical procedures including, but not limited to, skin biopsy, mole or wart removal, toenail removal, removal of a foreign body, arthrocentesis, incision and drainage of abscesses.

f. Assisting in surgery.

g. Prenatal and postnatal care and assisting a physician in obstetrical care.

h. Care of orthopedic problems.

i. Performing and screening the results of special medical examinations including, but not limited to, electrocardiogram or Holter monitoring, radiography, audiometric and vision screening, tonometry, and pulmonary function screening tests.

j. Instruction and counseling of patients regarding physical and mental health on matters such as diets, disease, therapy, and normal growth and development.

k. Function in the hospital setting by performing medical histories and physical examinations, making patient rounds, recording patient progress notes and other appropriate medical records, assisting in surgery, performing or assisting with medical procedures, providing emergency medical services and issuing, transmitting and executing patient care orders.

l. Providing services to patients requiring continuing care (i.e., home, nursing home, extended care facilities).

m. Referring patients to specialty or subspecialty physicians, medical facilities or social agencies as indicated by the patients' problems.

n. Immediate evaluation, treatment and institution of procedures essential to providing an appropriate response to emergency medical problems.

o. Order drugs and supplies in the office, and assist in keeping records and in the upkeep of equipment.

p. Admit patients to a hospital or health care facility as defined in Iowa Code section 135C.1.

q. Order diets, physical therapy, inhalation therapy, or other rehabilitative services as indicated by the patient's problems.

r. At the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.

s. Direct medical personnel, health professionals, and others involved in caring for patients and the execution of patient care.

t. Authenticate a medical form by signing the form.

u. Perform other duties appropriate to a physician assistant's practice.

v. Health care providers will consider the instructions of a physician assistant to be authoritative.

327.1(3) Emergency medicine duties.

a. A physician assistant may be a member of the staff of an ambulance or rescue squad pursuant to Iowa Code chapter 147A.

b. A physician assistant will document skills, training and education equivalent to that required of a certified advanced emergency medical technician or a paramedic.

c. A physician assistant must apply for approval of advanced care training equivalency on forms supplied by the board of physician assistants.

d. Exceptions to this subrule include:

(1) A physician assistant who accompanies and is responsible for a transfer patient;

(2) A physician assistant who serves on a basic ambulance or rescue squad service; and

(3) A physician assistant who renders aid within the physician assistant's skills during an emergency.

645—327.2(148C) Prohibition. No physician assistant engaged in independent practice, as defined in Iowa Code section 148C.1(5), will be permitted to measure the visual power and visual efficiency of the human eye, as distinguished from routine visual screening, except in the personal presence of a supervising physician at the place where these services are rendered.

645—327.3(147,88GA,ch1020) Identification as a physician assistant. The physician assistant will be identified as a physician assistant to patients and to the public, regardless of the physician assistant's educational degree.

645—327.4(147) Prescription requirements.

327.4(1) Each written outpatient prescription drug order issued by a physician assistant will contain the following:

a. The date of issuance.

b. The name and address of the patient for whom the drug is prescribed.

c. The name, strength, and quantity of the drug, medicine, or device prescribed and directions for use.

d. The physician assistant's name and the practice address.

e. The signature of the physician assistant followed by the initials "PA."

f. The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

327.4(2) Each oral prescription drug order issued by a physician assistant will include the same information required for a written prescription, except for the written signature of the physician assistant and the physician assistant's practice address.

327.4(3) Prior to prescribing an opioid, a physician assistant will review the patient's information contained in the prescription monitoring program database, unless the patient is receiving inpatient hospice care or long-term residential facility patient care.

327.4(4) Beginning January 1, 2020, every prescription issued for a prescription drug will be transmitted electronically unless exempted pursuant to Iowa Code section 124.308 or 155A.27. Beginning January 1, 2020, a licensee who fails to comply with the electronic prescription mandate may be subject to a nondisciplinary administrative penalty of $250 per violation, up to a maximum of $5,000 per calendar year.

645—327.5(147) Supplying—requirements for containers, labeling, and records.

327.5(1) *Containers.* A prescription drug will be supplied in a container that meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. §1471-1476 (1976), which relate to childproof closure, unless otherwise requested by the patient. The containers must also meet the requirements of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §301 et seq. (1976), which pertain to light resistance and moisture resistance needs of the drug supplied.

327.5(2) *Labeling.* A label bearing the following information will be affixed to a container in which a prescription drug is supplied:

a. The name and practice address of the supervising physician and physician assistant.

b. The name of the patient.

c. The date supplied.

d. The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician assistant.

e. The name, strength and quantity of the prescription drug in the container.

f. When supplying Schedule II, III, or IV controlled substances, the federal transfer warning statement must appear on the label as follows: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

327.5(3) *Samples.* Prescription sample drugs will be provided without additional charge to the patient. Prescription sample drugs supplied in the original container or package will be deemed to conform to labeling and packaging requirements.

327.5(4) *Records.* A record of prescription drugs supplied by the physician assistant to a patient will be kept that contains the label information required by paragraphs 327.7(2)*"b"* through *"e."* Noting such information on the patient's chart or record is sufficient.

645—327.6(147,148C,272C) Standards of practice—telemedicine. This rule establishes standards of practice for the provision of telemedicine services.

327.6(1) *Telemedicine, generally.*

a. Technological advances have made it possible for licensees in one location to provide medical care to patients in another location with or without an intervening health care provider.

b. Telemedicine is a useful tool that, if applied appropriately, can provide important benefits to patients, including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and potential cost savings.

c. Licensees using telemedicine will be held to the same standards of care and professional ethics as licensees using traditional in-person medical care.

d. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may subject the licensee to potential discipline by the board.

327.6(2) *Definitions.* For the purposes of 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 physician assistants.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936.

"In-person encounter" means that the physician assistant and the patient are in the physical presence of each other and are in the same physical location during the physician assistant-patient encounter.

"Licensee" means a physician assistant licensed by the board.

"Telemedicine" means the practice of medicine using electronic audiovisual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telemedicine, for the purposes of this rule establishing standards of practice, does 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.

327.6(3) *Practice guidelines.* A licensee who uses telemedicine will 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.

327.6(4) *License required.* A physician assistant who uses telemedicine in the diagnosis and treatment of a patient located in Iowa will hold an active Iowa physician assistant license consistent with state and federal laws. Nothing in this rule will be construed to supersede the exceptions to licensure contained in rule 645—326.17(148C).

327.6(5) *Standards of care and professional ethics.* A licensee who uses telemedicine will be 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.

327.6(6) *Scope of practice.* A licensee who uses telemedicine will 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.

327.6(7) *Identification of patient and physician assistant.* A licensee who uses telemedicine will 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.

327.6(8) *Physician assistant-patient relationship.*

a. A licensee who uses telemedicine will establish a valid physician assistant-patient relationship with the person who receives telemedicine services. The physician assistant-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 assistant and the person.

b. A valid physician assistant-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.

327.6(9) *Medical history and physical examination.* Generally, a licensee will 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 will 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.

327.6(10) *Non-physician assistant health care providers.* If a licensee who uses telemedicine relies upon or delegates the provision of telemedicine services to a non-physician assistant health care provider, the licensee will:

a. Ensure that systems are in place to ensure that the non-physician assistant health care provider is qualified and trained to provide that service within the scope of the non-physician assistant health care provider's practice;

b. Ensure that the licensee is available in person or electronically to consult with the non-physician assistant health care provider, particularly in the case of injury or an emergency.

327.6(11) *Informed consent.* A licensee who uses telemedicine will 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.

327.6(12) *Coordination of care.* A licensee who uses telemedicine will, when medically appropriate, identify the medical home or treating clinician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee will provide a copy of the medical record to the patient's medical home or treating clinician(s).

327.6(13) *Follow-up care.* A licensee who uses telemedicine will 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.

327.6(14) *Emergency services.* A licensee who uses telemedicine will 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.

327.6(15) *Medical records.* A licensee who uses telemedicine will 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 assistant-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 will note in the patient's record when telemedicine is used to provide diagnosis and treatment. The licensee will ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee will ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

327.6(16) *Privacy and security.* A licensee who uses telemedicine will ensure that all telemedicine encounters comply with the privacy and security measures of HIPAA to ensure that all patient communications and records are secure and remain confidential.

a. Written protocols will 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 will 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.

327.6(17) *Technology and equipment.* 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 will comply with the following requirements:

a. The technology and equipment utilized in the provision of telemedicine services must comply with all 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. The technology and equipment utilized in the provision of telemedicine services must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and

c. The technology and equipment utilized in the provision of telemedicine services must be compliant with HIPAA.

327.6(18) *Disclosure and functionality of telemedicine services.* A licensee who uses telemedicine will 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.

327.6(19) *Patient access and feedback.* A licensee who uses telemedicine will 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 will include information regarding the filing of complaints with the board.

327.6(20) *Financial interests.* Advertising or promotion of goods or products from which the licensee 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 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 will not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

327.6(21) *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 calls for another health care provider who has an established provider-patient relationship with the patient;

d. Cross-coverage situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;

e. Emergency situations in which the life or health of the patient is in imminent danger;

f. 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;

g. 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

h. For licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities, hospice settings, and correctional facilities.

327.6(22) *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 assistant-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 327.9(21).

These rules are intended to implement Iowa Code sections 147.10 and 147.107 and chapters 148C and 272C.

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ARC 8039C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to continuing education for physician assistants

The Board of Physician Assistants hereby rescinds Chapter 328, "Continuing Education for Physician Assistants," 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 147.36, 147.76, 148C.3, 148C.5, 272C.3 and 272C.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148C and 272C.

Purpose and Summary

This rulemaking sets forth continuing education requirements for physician assistants. It includes definitions related to continuing education, the required 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 rulemaking, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that physician assistants 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 January 24, 2024, as **ARC 7529C**. Public hearings were held on February 13 and 14, 2024, at 1:10 p.m. at 6200 Park Avenue, Des Moines, Iowa, and virtually. 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 April 24, 2024.

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 of Inspections, Appeals, and Licensing 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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 645—Chapter 328 and adopt the following **new** chapter in lieu thereof:

CHAPTER 328
CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS

645—328.1(148C) Definitions. For the purpose of these rules, the following definitions will apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of physician assistants.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"License" means license to practice.

"Licensee" means any person licensed to practice as a physician assistant in the state of Iowa.

645—328.2(148C) Continuing education requirements.

328.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on October 1 of each year and ending on September 30 two years later. Each biennium, each licensee will be required to complete a minimum of 100 hours of continuing education approved by the board.

328.2(2) Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. The new licensee will be required to complete a minimum of 100 hours of continuing education per biennium for each subsequent license renewal.

328.2(3) 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.

645—328.3(148C,272C) Standards.

328.3(1) *General criteria.* A continuing education activity is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program;

d. Fulfills stated program goals, objectives, or both; and

e. Provides an individual certificate of completion or evidence of successful completion of the course provided by the course sponsor. This documentation must contain the course title, date(s), contact hours, sponsor and licensee's name.

328.3(2) *Specific criteria.* Continuing education requirements are as follows:

a. The licensee will complete a minimum of 50 hours of credit designated as Category I by the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association Council on Continuing Medical Education, the American Academy of Family Physicians or other organizations accredited by the Accreditation Council for Continuing Medical Education (ACCME).

b. For the remaining 50 hours of required continuing medical education (CME), Category I or Category II credit, as accepted by the National Commission on Certification of Physician Assistants (NCCPA), will satisfy the CME requirements. In case of audit, licensees will provide evidence of NCCPA certification during the time period being audited or an activity log for all Category II credits for which a certificate of completion is not available. The activity log will list for each activity the date and type of activity and number of hours claimed per activity.

c. Licensees who maintain certification by the NCCPA may show proof of meeting the board's CME requirements by providing proof of current certification by the NCCPA for the time period being reviewed or audited.

d. A licensee who has prescribed opioids to a patient during the renewal cycle will complete a minimum of two hours of continuing education regarding the guidelines for prescribing opioids for chronic pain, as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal. These hours may count toward the 100 hours of continuing education required for license renewal. The licensee will maintain documentation of these hours, which may be subject to audit.

These rules are intended to implement Iowa Code section 272C.2 and chapter 148C.

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ARC 8040C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to discipline for physician assistants

The Board of Physician Assistants hereby rescinds Chapter 329, "Discipline for Physician Assistants," 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 147.36, 147.76, 148C.3, 148C.5, 272C.3 and 272C.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148C and 272C.

Purpose and Summary

This rulemaking provides protection to Iowans because it publicly defines professional standards for physician assistants. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the licensee's 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.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to physician assistants and are excluded from the general disciplinary chapter. The grounds for discipline related to opioid prescribing are required by Iowa Code section 147.162.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7530C**. Public hearings were held on February 13 and 14, 2024, at 1:10 p.m. at 6200 Park Avenue, Des Moines, Iowa, and virtually. 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 April 24, 2024.

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 of Inspections, Appeals, and Licensing 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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 645—Chapter 329 and adopt the following **new** chapter in lieu thereof:

CHAPTER 329
DISCIPLINE FOR PHYSICIAN ASSISTANTS

645—329.1(148C) Definitions.

"Board" means the board of physician assistants.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a physician assistant in Iowa.

645—329.2(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

329.2(1) Professional incompetency. Professional incompetency includes but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physician assistants in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care that is ordinarily exercised by the average physician assistant acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a physician assistant in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

329.2(2) 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.

329.2(3) 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 information or intention known to the public that is false, deceptive, misleading or promoted through fraud or misrepresentation.

329.2(4) Representing oneself as a physician assistant when one's license has been suspended or revoked, or when one's license is on inactive status, except as provided by rule 645—326.15(148C,88GA,ch1020).

329.2(5) Failure to comply with universal 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.

329.2(6) The performance of a medical function without approved supervision, if supervision is required pursuant to rules 645—326.7(148C) and 645—326.8(148C), except in cases requiring performance of evaluation and treatment procedures essential to providing an appropriate response to an emergency situation.

329.2(7) Prescribing opioids in dosage amounts that exceed what would be prescribed by a reasonably prudent licensee.

These rules are intended to implement Iowa Code chapters 147, 148C and 272C.

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ARC 8041C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to student immunization and immunization education

The Department of Health and Human Services hereby rescinds Chapter 7, "Immunization and Immunization Education: Persons Attending Elementary or Secondary Schools, Licensed Child Care Centers or Institutions of Higher 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 22.7, 139A.8 and 139A.26.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 256I.

Purpose and Summary

This chapter describes immunization requirements for all persons enrolled or attempting to enroll in a licensed child care center or a public or nonpublic elementary or secondary school in Iowa, including those who are provided private instruction. Required immunizations listed in this chapter are those defined by the Iowa Code or approved by the Council on Health and Human Services.

This chapter defines procedures for members of the public to comply with immunization requirements, including how to:

- Request an individual exclusion for medical or religious reasons.
- Provide required education on meningococcal disease to students of institutions of higher education with on-campus residence halls or dormitories.
- Provide proof of immunization to the school or licensed child care center in which the applicant wishes to enroll.
- Maintain records and complete reporting duties as an admitting official of a licensed child care center or elementary or secondary school.

The Department maintains a statewide immunization and health screening registry to allow enrolled users to maintain and access immunization and health screening histories for purposes of ensuring that patients are fully immunized and screened.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7372C**. Two virtual public hearings were held on February 14, 2024, at 11 a.m. and February 26, 2024, at 1 p.m.

One comment was received during a public hearing requesting a requirement to have immunization waivers be notarized. The Department received four written comments from the Iowa Public Health Association, Johnson County Public Health, Iowa Chapter of the American Academy of Pediatrics, and

Blank Children's Hospital requesting the addition of a requirement for the certificate of immunization to be notarized.

Minimal changes from the Notice have been made to update an Iowa Code citation, and a reference to an external document was removed.

Adoption of Rulemaking

This rulemaking was adopted by the Health and Human Services Council on April 11, 2024.

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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
IMMUNIZATION AND IMMUNIZATION EDUCATION: PERSONS ATTENDING ELEMENTARY OR SECONDARY SCHOOLS, LICENSED CHILD CARE CENTERS OR INSTITUTIONS OF HIGHER EDUCATION

641—7.1(139A) Definitions.

"Admitting official" means the superintendent of schools or the superintendent's designated representative if a public school; if a nonpublic school or licensed child care center, the governing official of the school or child care center.

"Advanced registered nurse practitioner" or *"ARNP"* means an advanced registered nurse practitioner as defined in 655—Chapter 7.

"Applicant" means any person seeking enrollment in a licensed child care center or elementary or secondary school.

"Certified medical assistant" means a person who is certified to practice as a certified medical assistant following completion of a postsecondary medical assistant program accredited by the Commission on Accreditation of Allied Health Education Programs or the Accrediting Bureau of Health Education Schools and successful completion of the certification examination and who is directed by a supervising physician, physician assistant, or nurse practitioner.

"Competent private instruction" is as defined in Iowa Code section 299A.1.

"Elementary school" means kindergarten if provided, and grades one through eight or grades one through six when grades seven and eight are included in a secondary school.

"Eligible postsecondary institution" means an institution of higher learning under the control of the state board of regents, a community college established under Iowa Code chapter 260C, or an accredited private institution as defined in Iowa Code section 256.183.

"Enrolled user" means a user of the registry who has completed an enrollment form that specifies the conditions under which the registry can be accessed and who has been issued an identification code and password by the department.

"Health screening" means a vision screen, dental screen, or refugee health screen.

"Immunization registry" or *"registry"* means the department of health and human services' database of confidential, population-based, immunization and health screening records.

"Institution of higher education" means a postsecondary school.

"Nurse" means a person licensed to practice as a nurse pursuant to Iowa Code chapter 152.

"On-campus residence hall or dormitory" means campus housing for students that is owned or leased by the institution of higher education and located on a recognized campus site.

"Pharmacist" means a person licensed to practice pharmacy pursuant to Iowa Code chapter 155A.

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

"Physician assistant" means a person licensed to practice as a physician assistant pursuant to Iowa Code chapter 148C.

"Postsecondary student" means a person who has officially registered with a postsecondary school, as determined by the school, and who physically attends class on the school's campus. For purposes of these rules, "postsecondary student" does not include a person who is exclusively registered in a correspondence course or continuing education class or who attends class exclusively by means of distance learning or through other means that do not require the person's physical presence on the school's campus.

"Screening provider" means an ophthalmologist, optometrist, physician, free clinic, child care center, local public health department, public or accredited nonpublic school, community-based organization, advanced registered nurse practitioner (ARNP), physician assistant, dentist or dental hygienist.

"Secondary school" means:

1. A junior high school comprising grades 7, 8 and 9, and a senior high school;
2. A combined junior-senior high school comprising grades 7 through 12;
3. A junior high school comprising grades 7 and 8 and a high school comprising grades 9 through 12;
4. A high school comprising grades 9 through 12.

"Signature" means an original signature or the authorized use of a stamped signature or electronic signature.

"Student" means an individual who is enrolled in a licensed child care center, elementary school or secondary school.

641—7.2(139A) Persons included. The immunization requirements specified elsewhere in these rules apply to all persons enrolled or attempting to enroll in a licensed child care center or a public or nonpublic elementary or secondary school in Iowa including those who are provided competent private instruction.

641—7.3(139A) Persons excluded. Exclusions to these rules are permitted on an individual basis for medical and religious reasons pursuant to Iowa Code section 139A.8. Applicants approved for medical or religious exemptions shall submit to the admitting official a valid department certificate of immunization exemption.

7.3(1) To be valid, a medical certificate of immunization exemption shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) exempted, and an expiration date (if applicable) and shall bear the signature of a physician, nurse practitioner, or physician

assistant. Language included on the medical certificate of immunization exemption referencing rule 641—7.3(139A) cannot be altered. Any edits or alterations to the medical certificate of immunization exemption referencing rule 641—7.3(139A) will invalidate the certificate.

a. A medical exemption may apply to a specific vaccine(s) or all required vaccines. If, in the opinion of the physician, nurse practitioner, or physician assistant issuing the medical exemption, the exemption should be terminated or reviewed at a future date, an expiration date shall be recorded on the certificate of immunization exemption; or

b. A medical exemption may apply when the administration of the required vaccine would violate minimum interval spacing and the exemption shall apply only to an applicant who has not received prior doses of the exempted vaccine. An expiration date, not to exceed 60 calendar days, and the name of the vaccine exempted shall be recorded on the medical certificate of exemption.

7.3(2) A religious exemption may be granted to an applicant if immunization conflicts with a genuine and sincere religious belief. To be valid, a religious certificate of immunization exemption for religious reasons shall contain, at a minimum, the applicant's last name, first name, and date of birth and shall bear the signature of the applicant or, if the applicant is a minor, of the applicant's parent or guardian and shall attest that immunization conflicts with a genuine and sincere religious belief and that the belief is in fact religious and not based merely on philosophical, scientific, moral, personal, or medical opposition to immunizations. Language included on the religious certificate of immunization exemption referencing rule 641—7.3(139A) cannot be altered. Any edits or alterations to the religious certificate of immunization exemption referencing rule 641—7.3(139A) will invalidate the certificate.

7.3(3) Medical and religious exemptions do not apply in times of emergency or epidemic pursuant to Iowa Code section 139A.8.

641—7.4(139A) Required immunizations.

7.4(1) Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements below:

IMMUNIZATION REQUIREMENTS

Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements listed below. If, at any time, the age of the child is between the listed ages, the child must have received the number of doses in the "Total Doses Required" column.

Institution	Age	Vaccine	Total Doses Required
Licensed Child Care Center	Less than 4 months of age	This is not a recommended administration schedule, but contains the minimum requirements for participation in licensed child care. **Routine vaccination begins at 2 months of age.**	
	4 months through 5 months of age	Diphtheria/Tetanus/Pertussis	1 dose
		Polio[1]	1 dose
		haemophilus influenzae type B	1 dose
		Pneumococcal	1 dose
	6 months through 11 months of age	Diphtheria/Tetanus/Pertussis	2 doses
		Polio[1]	2 doses
		haemophilus influenzae type B	2 doses
		Pneumococcal	2 doses
	12 months through 18 months of age	Diphtheria/Tetanus/Pertussis	3 doses
		Polio[1]	2 doses
		haemophilus influenzae type B	2 doses; or 1 dose received at 15 months of age or older.
		Pneumococcal	3 doses; or 2 doses if both doses were received at 12 months of age or older.
	19 months through 23 months of age	Diphtheria/Tetanus/Pertussis	4 doses
		Polio[1]	3 doses
		haemophilus influenzae type B	3 doses if a dose was received on or after 12 months of age; or 2 doses if the first dose was received on or after 12 months of age; or 1 dose if the dose was received at 15 months of age or older.
		Pneumococcal	4 doses if a dose was received on or after 12 months of age; or 3 doses if 1 or more doses were received on or after 12 months of age; or 2 doses if both doses were received at 12 months of age or older.
		Measles/Rubella	1 dose; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Varicella	1 dose; or the applicant has a reliable history of natural disease.
	24 months of age and older	Diphtheria/Tetanus/Pertussis	4 doses
		Polio[1]	3 doses
		haemophilus influenzae type B	3 doses if a dose was received on or after 12 months of age; or 2 doses if the first dose was received on or after 12 months of age; or 1 dose if the dose was received at 15 months of age or older. **Hib vaccine is not required for persons 60 months of age or older.**
		Pneumococcal	4 doses if a dose was received on or after 12 months of age; or 3 doses if 1 or more doses were received on or after 12 months of age; or 2 doses if the first dose was received on or after 12 months of age; or 1 dose if the dose was received on or after 24 months of age. Pneumococcal vaccine is not required for persons 60 months of age or older.
		Measles/Rubella	1 dose; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Varicella	1 dose; or the applicant has a reliable history of natural disease.
Elementary or Secondary School (K-12)	4 years of age and older	Diphtheria/Tetanus/Pertussis[2]	5 doses with at least 1 dose received on or after 4 years of age; or 4 doses if the fourth dose was received on or after 4 years of age; and 1 dose of tetanus/diphtheria/acellular pertussis-containing vaccine (Tdap) received on or after 10 years of age for applicants in grades 7 and above, regardless of the interval since the last tetanus/diphtheria-containing vaccine.
		Polio[1]	4 doses, with at least 1 dose received on or after 4 years of age; or 3 doses if the third dose was received on or after 4 years of age.
		Measles/Rubella	2 doses; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Hepatitis B	3 doses
		Varicella	2 doses; or the applicant has a reliable history of natural disease.
		Meningococcal (A, C, W, Y)	1 dose received on or after 10 years of age for applicants in grades 7 through 11; and 2 doses with 1 dose received on or after 16 years of age for applicants in grade 12; or 1 dose for applicants in grade 12 if the dose was received on or after 16 years of age.

[1] Doses of oral polio vaccine (OPV) administered on or after April 1, 2016, are not valid doses and do not count toward the polio vaccine requirement.

[2] Applicants 7 through 18 years of age who received the first dose of diphtheria/tetanus/pertussis-containing vaccine at 12 months of age or older should receive a total of 3 doses, with one dose received on or after 4 years of age.

7.4(2) Vaccine doses administered less than or equal to four days before the minimum interval or age shall be counted as valid. Doses administered greater than or equal to five days earlier than the minimum interval or age shall not be counted as valid doses and shall be repeated as appropriate.

7.4(3) For vaccine administration, the minimum age and intervals recommended by the advisory committee on immunization practices shall be followed.

641—7.5(139A) Required education. An institution of higher education with an on-campus residence hall or dormitory shall provide vaccination information on meningococcal disease to enrolled students on a student health form pursuant to Iowa Code section 139A.26. For purposes of this rule, student health form(s) means a document(s) prepared by an institution of higher education that contains, at a minimum, information on meningococcal disease, vaccination information and any recommendations

issued by the national Centers for Disease Control and Prevention regarding meningococcal disease. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received vaccination against meningococcal disease, including, at a minimum, the date of vaccination. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received information on meningococcal disease and benefits of vaccine. If a traditional student health form is not utilized by the institution of higher education, any document(s) containing the above information is acceptable.

641—7.6(139A) Proof of immunization.

7.6(1) A valid department certificate of immunization shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. To be valid, the certificate shall be the certificate of immunization issued by the department, a computer-generated copy from the immunization registry, or a certificate of immunization that has been approved in writing by the department. The certificate shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) administered, the date(s) given, and the signature of a physician, a physician assistant, a nurse, or a certified medical assistant. A faxed copy, photocopy, or electronic copy of the valid certificate is acceptable. The judgment of the adequacy of the applicant's immunization history should be based on records kept by the person signing the certificate of immunization or on that person's personal knowledge of the applicant's immunization history, or comparable immunization records from another person or agency, or an international certificate of vaccination, or the applicant's personal health records. If personal health records are used to make the judgment, the records shall include the vaccine(s) administered and the date given. Persons validating the certificate of immunization are not held responsible for the accuracy of the information used to validate the certificate of immunization if the information is from sources other than their own records or personal knowledge.

7.6(2) Persons wishing to enroll who do not have a valid department certificate of immunization available to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse, or a certified medical assistant to obtain a valid certificate.

641—7.7(139A) Provisional enrollment.

7.7(1) Applicants may be granted provisional enrollment pursuant to Iowa Code section 139A.8. A valid department provisional certificate of immunization shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. To qualify for provisional enrollment, applicants shall have received at least one dose of each of the required vaccines or be a transfer student from another school system. A transfer student is an applicant seeking enrollment from one United States elementary or secondary school into another. To be valid, the certificate shall be the certificate of immunization issued by the department, a computer-generated copy from the immunization registry, or a certificate of immunization that has been approved in writing by the department. The certificate shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) administered, the date(s) given, the remaining vaccine(s) required, the reason that the applicant qualifies for provisional enrollment, and the signature of a physician, a physician assistant, a nurse, or a certified medical assistant. Persons validating the provisional certificate of immunization are not held responsible for the accuracy of the information used to validate the provisional certificate of immunization if the information is from sources other than their own records or personal knowledge. Persons signing the provisional certificate of immunization shall certify that they have informed the applicant or, if the applicant is a minor, the applicant's parent or guardian of the provisional enrollment requirements.

a. Any applicant seeking provisional enrollment who does not have a valid department provisional certificate of immunization to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse, or a certified medical assistant to obtain a valid certificate.

b. Reserved.

7.7(2) The amount of time allowed for provisional enrollment shall be as soon as medically feasible but shall not exceed 60 calendar days. The period of provisional enrollment shall begin on the date the provisional certificate is signed. The person signing the provisional certificate shall assign an expiration date to the certificate and shall indicate the remaining immunizations required to qualify for a certificate of immunization.

7.7(3) The applicant or parent or guardian shall ensure that the applicant receives the necessary immunizations during the provisional enrollment period and shall submit a certificate of immunization to the admitting official by the end of the provisional enrollment period.

7.7(4) If at the end of the provisional enrollment period the applicant or parent or guardian has not submitted a certificate of immunization, the admitting official shall immediately exclude the applicant from the benefits, activities, and opportunities of the school or licensed child care center until the applicant or parent or guardian submits a valid certificate of immunization.

7.7(5) If at the end of the provisional enrollment period the applicant has not completed the required immunizations due to minimum interval requirements, a new department provisional certificate of immunization shall be submitted to the admitting official. The admitting official must maintain all issued certificates of provisional immunization with the original provisional certificate until the applicant submits a certificate of immunization.

641—7.8(139A) Records and reporting.

7.8(1) It shall be the duty of the admitting official of a licensed child care center or elementary or secondary school to ensure that the admitting official has a valid department certificate of immunization, certificate of immunization exemption, or provisional certificate of immunization on file for each student by the first day of attendance.

a. The admitting official shall keep the certificates on file in the school or licensed child care center in which the student is enrolled and assist the student or parent or guardian in the transfer of the certificate to another school or licensed child care center upon the transfer of the student to another school or licensed child care center.

b. Unless otherwise requested by the applicant, or parent or guardian, the admitting official shall retain the department certificate of immunization, or certificate of immunization exemption, or provisional certificate of immunization for three years commencing upon the transfer or graduation of the applicant, or the school may choose to provide the permanent immunization record to the student at time of graduation. Included with the immunization record a letter should state that this is an important document that will be needed by the student for college or employment and should be permanently retained.

7.8(2) It shall be the duty of the local boards of health to audit the department certificates of immunization, certificates of immunization exemption, and provisional certificates of immunization in the schools within their jurisdiction to determine compliance with Iowa Code section 139A.8. The local boards of health shall furnish the department within 60 days of the first official day of school a report of the audit. The report shall be submitted for each school within the local board of health's jurisdiction and shall include the enrollment by grade, and the number of department certificates of immunization, certificates of immunization exemption, and provisional certificates of immunization by grade.

7.8(3) The local board of health and the department shall have the right to have access to the department certificates of immunization, certificates of immunization exemption, and the provisional certificates of immunization of children enrolled in elementary and secondary schools and licensed child care centers within the constraints of the privacy rights of parents and students.

7.8(4) The admitting official of an institution of higher education shall provide to the department by December 1 each year aggregate data regarding compliance with Iowa Code section 139A.26. The data shall be forwarded to the department within 30 days. The data shall include, but not be limited to, the total number of incoming postsecondary freshmen students living in a residence hall or dormitory who have:

a. Enrolled in the institution of higher education; and

b. Been provided information on meningococcal disease; and

c. Been immunized with meningococcal vaccine.

641—7.9(139A) Compliance. Applicants not presenting proper evidence of immunization or exemption are not entitled to enrollment in a licensed child care center or elementary or secondary school under the provisions of Iowa Code section 139A.8. It shall be the duty of the admitting official to deny enrollment to any applicant who does not submit proper evidence of immunization and to exclude a provisionally enrolled applicant in accordance with this chapter.

641—7.10(22) Statewide registry.

7.10(1) *Statewide registry.* The department shall maintain a statewide immunization and health screening registry.

7.10(2) *Purpose and permitted uses of registry.*

a. The registry shall contain immunization and health screening information, including identifying and demographic data, to allow enrolled users to maintain and access a database of immunization and health screening histories for purposes of ensuring patients are fully immunized and screened.

b. The registry may be used to track inventory or utilization of pharmaceutical agents identified by the department to prepare for or respond to an emergency event.

c. Enrolled users shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purpose other than those expressly provided in this rule.

d. The registry shall contain health screening data, including screening results and follow-up information.

7.10(3) *Release of information to the registry.* Enrolled users shall provide immunization and health screening information, including identifying and demographic data, to the registry. Information provided may include, but is not limited to, the following:

a. Name of patient;
b. Gender of patient;
c. Date of birth;
d. Race;
e. Ethnicity;
f. Birth state and birth country;
g. Address;
h. Parents' names;
i. Mother's maiden name;
j. Type of vaccination administered;
k. Dose or series number of vaccine;
l. Date vaccination was administered;
m. Lot number;
n. Date of health screening;
o. Health screening results;
p. Source of health screening;
q. Health screening follow-up information;
r. Patient comments;
s. Provider name, license, and business address; and
t. Patient history, including previously unreported doses.

7.10(4) *Confidentiality of registry information.* Immunization and health screening information, including identifying and demographic data maintained in the registry, is confidential and may not be disclosed except under the following limited circumstances:

a. The department may release information from the registry to the following:

(1) The person or the parent or legal guardian of the person immunized or screened.

(2) Enrolled users of the registry who have completed a department enrollment form that specifies the conditions under which the registry can be accessed.

(3) Persons or entities requesting immunization or health screening data in an aggregate form that does not identify an individual either directly or indirectly.

(4) Agencies that complete an agreement with the department that specifies conditions for access to registry data and how that data will be used. Agencies shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.

(5) A representative of a state or federal agency, or entity bound by that state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency is subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa. State or federal agencies shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.

(6) The admitting official of a licensed child care center, elementary school, secondary school, or postsecondary school; or medical or health care providers providing continuity of care.

(7) Users from other states or jurisdictions who have signed and completed enrollment in the state's or jurisdiction's immunization registry.

b. Users shall not release data obtained from the registry except to the person or the parent or legal guardian of the person immunized or screened, admitting officials of licensed child care centers and schools, medical or health care providers providing continuity of care, and other enrolled users of the registry.

7.10(5) *Suspend or terminate access.* The department will approve, suspend, terminate, and reinstate user access in accordance with this chapter and department policy.

641—7.11(22) Release of immunization and health screening information.

7.11(1) *Between a physician, physician assistant, nurse, certified medical assistant, pharmacist, or screening provider and the elementary, secondary, or postsecondary school or licensed child care center that the student attends.* A physician, a physician assistant, a nurse, a certified medical assistant, a pharmacist, or a screening provider shall disclose a student's or patient's immunization or health screening information, including the name, date of birth, and demographic information; vaccine(s) administered and the month, day and year of administration; health screening results; and clinic source and location, to an elementary, secondary, or postsecondary school or a licensed child care center upon written or verbal request from the elementary, secondary, or postsecondary school or licensed child care center. Written or verbal permission from a student or parent is not required to release this information to an elementary, secondary, or postsecondary school or licensed child care center that the student attends.

7.11(2) *Among physicians, physician assistants, nurses, certified medical assistants, pharmacists or screening providers.* Immunization or health screening information, including the student's or patient's name, date of birth, and demographic information; vaccine(s) administered and the month, day and year of administration; health screening results; and clinic source and location, shall be provided by a physician, physician assistant, nurse, certified medical assistant, pharmacist, or screening provider to another health care provider without written or verbal permission from the student, parent, guardian or patient.

7.11(3) *Among an elementary school, secondary school, postsecondary school, and licensed child care center that the student attends.* An elementary school, secondary school, postsecondary school, and licensed child care center shall disclose a student's immunization or health screening information, including the student's name, date of birth, and demographic information; vaccine(s) administered and the month, day and year of administration; health screening results; and clinic source and location, to another elementary school, secondary school, postsecondary school, and licensed child care center that the student attends. Written or verbal permission from a student, or if the student is a minor, the student's parent or guardian, is not required to release this information to an elementary school, secondary school, postsecondary school, and licensed child care center that the student attends.

7.11(4) *Among the department and a physician, physician assistant, nurse, certified medical assistant, pharmacist, screening provider, elementary school, secondary school, postsecondary school, and licensed child care center.* A student's or patient's immunization or health screening information, including name, date of birth, grade, and demographic information; vaccine(s) administered and the month, day and year of administration; and health screening results, clinic source, and location, all in a format specified by the department, shall be disclosed upon written or verbal request among the department, physicians, physician assistants, nurses, certified medical assistants, pharmacists, screening providers, elementary schools, secondary schools, postsecondary schools, and licensed child care centers. Written or verbal permission from a student, patient, parent, or guardian is not required to release this information.

7.11(5) *Among the department and physicians, physician assistants, nurses, resettlement agencies, federal, state, and local government agencies, and certified medical assistants conducting refugee health screenings.* Refugee health screenings shall be disclosed only as indicated in this rule. Immunization or health screening information, including the patient's name, date of birth, and demographic information; the vaccine(s) administered and the month, day, and year of administration; health screening results; and clinic source and location, shall be disclosed upon written or verbal request among the department, physicians, physician assistants, nurses, certified medical assistants, resettlement agencies, federal, state, and local government agencies, or screening providers to another health care provider or the department. Written or verbal permission from the parent, guardian or patient is not required to release this information.

These rules are intended to implement Iowa Code sections 139A.8, 139A.26 and 22.7(2).

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ARC 8042C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to grants for private well testing, reconstruction, and plugging

The Department of Health and Human Services (HHS) hereby rescinds Chapter 24, "Private Well Testing, Reconstruction, and Plugging—Grants to Counties," and adopts a new Chapter 24, "Private Well Testing, Reconstruction, and Plugging—Iowa Private Well Grants," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 135.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 135.11 and 455E.11.

Purpose and Summary

This chapter sets forth HHS procedure for administering the Iowa Private Well Grants Program for the purpose of testing private water wells, reconstructing private water wells, and the proper plugging of abandoned private water wells within the jurisdiction of each county board of health.

Grant program parameters are defined in Iowa Code section 455E.11. HHS administers these grants in coordination with the Iowa Department of Natural Resources.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7367C**. Two virtual public hearings were held on February 14, 2024, at 11 a.m. and February 26, 2024, at 1 p.m.

HHS received two public comments expressing concern with the low administrative fees the counties are able to recover and a public comment recognizing the significant reduction in word/page count. HHS determined no changes to the chapter are needed to address public comments.

One change from the Notice has been made to update the chapter title because of stakeholder feedback.

Adoption of Rulemaking

This rulemaking was adopted by the Health and Human Services Council on April 11, 2024.

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 HHS 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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 24 and adopt the following **new** chapter in lieu thereof:

CHAPTER 24
PRIVATE WELL TESTING, RECONSTRUCTION, AND PLUGGING—IOWA PRIVATE WELL GRANTS

641—24.1(455E,135) Grant procedures.

24.1(1) The department has adopted policies to administer the awarding of grants for the grants to counties program. Grants will be awarded pursuant to Iowa Code section 455E.11.

24.1(2) The department will:

a. Determine program objectives;

b. Set eligible and ineligible grant costs for which the department will reimburse county programs;

c. Define performance requirements for grant recipients that set minimum standards to be met by all county programs;

d. Develop a grant application and a grant application submission procedure;

e. Terminate a grant found to be obtained by fraud or misrepresentation regardless of whether grant moneys have already been given to the grantee;

f. Allow for an applicant to appeal the denial of a properly submitted grant application. Appeals shall be governed by 441—Chapter 7.

This rule is intended to implement Iowa Code sections 455E.11 and 135.11(26).

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ARC 8043C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to establishment of new certificate of live birth following adoption

The Department of Health and Human Services (HHS) hereby amends Chapter 95, "Vital Records: General Administration," and Chapter 99, "Vital Records Modifications," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in 2023 Iowa Acts, Senate File 517.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 144.13.

Purpose and Summary

The purpose of this rulemaking is to implement 2023 Iowa Acts, Senate File 517. This rulemaking allows adopted adults to add omitted parents to their birth certificate.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7507C**. Two virtual public hearings were held February 14, 2024, at 11 a.m. and February 26, 2024, at 1 p.m. 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 Health and Human Services Council on April 11, 2024.

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 HHS 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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend paragraph **95.6(1)"b"** as follows:

b. The state registrar shall charge a fee of $15 to prepare an adoption certificate, amend a certificate, amend a certificate of live birth to reflect a legal change of name, prepare a delayed certificate, process other administrative or legal actions, prepare a noncertified copy of an original certificate of birth pursuant to Iowa Code ~~section~~ sections 144.23A and 144.24A, or prepare copies of supporting documents on file in the state registrar's office. No fee shall be charged for establishment of paternity.

ITEM 2. Amend rule 641—99.14(144) as follows:

641—99.14(144) Establishment of new certificate of live birth following adoption.

99.14(1) to **99.14(4)** No change.

99.14(5) In accordance with Iowa Code section 144.23A, an adopted person may apply to the state registrar to have the adopted person's original certificate of birth prior to adoption reestablished to include the name of an omitted biological parent.

~~**99.14(5)**~~ **99.14(6)** The new certificate of live birth after adoption shall not be on file at the county registrar's office.

~~**99.14(6)**~~ **99.14(7)** The state registrar shall reveal the date of the adoption and the name and address of the court that issued the adoption decree upon the receipt of a completed, notarized Revelation of County of Adoption form from an adult adopted person, a biological parent, an adoptive parent, or the legal representative of the adult adopted person, the biological parent, or the adoptive parent pursuant to Iowa Code section 144.24.

~~**99.14(7)**~~ **99.14(8)** Administrative and certified copy fees shall be charged and remitted pursuant to rule 641—95.6(144).

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ARC 8044C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to health data

The Department of Health and Human Services hereby rescinds Chapter 177, "Health Data," 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 135.166 and 1996 Iowa Acts, Chapter 1212.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 135.

Purpose and Summary

This rulemaking provides that hospitals must submit data to a selected contractor of the Department. The contractor serves as an intermediary of the Department and completes data collection, maintenance, and dissemination to the Department and on the Department's behalf. It allows the Department to charge fees for administrative costs related to providing data and requires data be kept confidential in compliance with state and federal law.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7370C**. Two virtual public hearings were held on February 14, 2024, at 11 a.m. and February 26, 2024, at 1 p.m. 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 Health and Human Services Council on April 11, 2024.

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 July 3, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 177 and adopt the following **new** chapter in lieu thereof:

CHAPTER 177
HEALTH DATA

641—177.1(76GA,ch1212) Definitions. For purposes of this chapter, the following definitions shall apply:

"Confidential record" means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release

the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record. Included in the definition are those data collected by the department, pursuant to 1996 Iowa Acts, chapter 1212, for preparation and dissemination as compilations.

"Record" means the whole or a part of a "public record" as defined in Iowa Code section 22.1 that is owned by or in the physical possession of this agency.

641—177.2(76GA,ch1212) Description of data to be submitted.

177.2(1) The department shall collect information from other state agencies for the purpose of public dissemination of health data.

177.2(2) Hospitals shall submit data to the contractor selected through the request for proposal process, which shall serve as an intermediary for the department. The information shall include inpatient, outpatient and ambulatory information.

177.2(3) The contractor selected through the request for proposal process shall collect, maintain, and disseminate hospital inpatient, outpatient, and ambulatory information pursuant to a memorandum of understanding with the department. The contractor selected through the request for proposal process shall submit data to the department pursuant to the memorandum of understanding.

641—177.3(76GA,ch1212) Fees. Fees charged for data provided by the department shall not exceed administrative costs. Such charges may include copying, postage, supervisory, computer programming, time, and medium fees. The department will work to provide requestors with an estimate of the charges to be assessed for copies and labor prior to producing copies of records.

641—177.4(76GA,ch1212) Patient confidentiality. The department shall protect patient confidentiality. Confidential records or parts of such records collected as a part of this process shall be kept confidential. All health data shall be collected, maintained, and disseminated only in accordance with Iowa and federal law.

These rules are intended to implement 1996 Iowa Acts, chapter 1212, section 5, and Iowa Code section 135.166.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/24.

CORRECTION OF FOOTNOTES RELATING TO PARTIAL SESSION DELAY OF ARC 7634C

ARC 7634C, an Adopted and Filed rulemaking by the Racing and Gaming Commission amending Chapters 4, 13, and 14 of the Commission's administrative rules, was published in the Iowa Administrative Bulletin on February 21, 2024. Items 8-16 of **ARC 7634C**, amending 491—Chapters 13 and 14, were subject to a session delay by the Administrative Rules Review Committee pursuant to Iowa Code section 17A.8(9) at its March 11, 2024, meeting. This action by the Committee delayed the March 27, 2024, effective date of Items 8-16 until the adjournment of the 2025 Legislative Session.

Footnotes reflecting the session delay were published in the April 3, 2024, Iowa Administrative Code Supplement. The published footnotes erroneously indicated that the effective date of Items 8-16 of **ARC 7634C** was delayed until the adjournment of the 2024 Legislative Session rather than the 2025 Legislative Session. This informational notice is provided to correct the erroneous footnotes to reflect that the effective date of Items 8-16 of **ARC 7634C** was delayed until the adjournment of the 2025 Legislative Session pursuant to Iowa Code section 17A.8(9).