IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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

CITATION of Administrative Rules

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

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

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, July 14, 2025, at 10 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:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Organization and operation; state library of Iowa, 1.4(7), 111.2(12), chs 122 to 130 Filed **ARC 9354C** 6/11/25
Benefits, 64.1 to 64.4 Notice **ARC 9373C** 6/25/25
Procurement of goods and services of general use; purchasing standards for service contracts, amendments to chs 117, 118 Filed **ARC 9355C** 6/11/25
Programs and funding, ch 131 Filed **ARC 9356C** 6/11/25
Internet use policy, ch 132 Filed **ARC 9357C** 6/11/25

AGING, DEPARTMENT ON[17]

Agency reorganization, rescind chs 1, 2, 4 to 8, 14, 15, 19, 21, 22 Notice **ARC 9371C** 6/25/25

HUMAN SERVICES DEPARTMENT[441]

Medicaid for employed people with disabilities program—premium amounts, 75.1(39)"b"(3) Filed **ARC 9381C** 6/25/25
Orthodontic procedures, 78.4(8)"c" Notice **ARC 9372C** 6/25/25
Aging services; state unit on aging responsibilities; area agency on aging responsibilities; delivery of aging services, chs 225 to 228 Notice **ARC 9375C** 6/25/25
Long-term care ombudsman, ch 230 Notice **ARC 9385C** 6/25/25
Office of public guardian, ch 231 Notice **ARC 9380C** 6/25/25

INSPECTIONS AND APPEALS DEPARTMENT[481]

Uniform waiver standards, ch 6 Filed **ARC 9382C** 6/25/25
Definitions; licenses, registrations, and permits, chs 550, 551 Filed **ARC 9337C** 6/11/25
Standards—practice of pharmacy, ch 552 Filed **ARC 9338C** 6/11/25
Controlled and precursor substances, ch 553 Filed **ARC 9339C** 6/11/25
Operational standards—distribution and drug supply chain, ch 554 Filed **ARC 9340C** 6/11/25
Standards—drugs in emergency medical services programs, ch 555 Filed **ARC 9341C** 6/11/25
Iowa prescription monitoring program, ch 556 Filed **ARC 9342C** 6/11/25
Board of pharmacy operations, ch 557 Filed **ARC 9343C** 6/11/25
Respiratory care practitioners and polysomnographic technologists—continuing education, 721.2(4) Notice **ARC 9374C** 6/25/25
Licensure of physician assistants, ch 780 Notice **ARC 9377C** 6/25/25
Barbering and cosmetology arts and sciences—continuing education, 944.2(5) Filed **ARC 9344C** 6/11/25

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Federal occupational safety and health standards—penalties for citations, 3.11(1) Filed Emergency After Notice **ARC 9345C** 6/11/25

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

EDUCATION DEPARTMENT[281]"umbrella"

Organization and operation; public records and fair information practices; statewide programs and agreements; library services and technology Act (LSTA) program; Internet use policy; waivers from administrative rules; petitions for rule making, rescind chs 1 to 3, 6, 7, 10 to 12 Filed **ARC 9358C** 6/11/25

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Physician supervision of a physician assistant, ch 21 Amended Notice **ARC 9379C** 6/25/25

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Agency realignment, rescind chs 1 to 8, 10 to 23, 25 to 37, 39 to 43, 100 Filed **ARC 9346C** 6/11/25

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Barbers and cosmetologists—agency realignment, rescind chs 21 to 25 Filed **ARC 9347C** 6/11/25

PUBLIC HEALTH DEPARTMENT[641]

Licensure standards for substance use disorder and problem gambling treatment programs, ch 155 Notice **ARC 9376C** 6/25/25

STATE PUBLIC DEFENDER[493]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Administration, ch 1 Notice **ARC 9359C** 6/25/25
Petitions for rulemaking, ch 2 Notice **ARC 9360C** 6/25/25
Declaratory orders, ch 3 Notice **ARC 9361C** 6/25/25
Public records and fair information practices, ch 4 Notice **ARC 9362C** 6/25/25
Agency procedure for rulemaking, ch 5 Notice **ARC 9370C** 6/25/25
Uniform waiver rules, ch 6 Notice **ARC 9363C** 6/25/25
Definitions, ch 7 Notice **ARC 9364C** 6/25/25
Eligibility guidelines for court-appointed counsel, ch 10 Notice **ARC 9367C** 6/25/25
Attorney fee contracts, ch 11 Notice **ARC 9365C** 6/25/25
Claims for indigent defense services, ch 12 Notice **ARC 9368C** 6/25/25
Claims for other professional services, ch 13 Notice **ARC 9366C** 6/25/25
Claims for attorney fees in 600A terminations, ch 14 Notice **ARC 9369C** 6/25/25

TRANSPORTATION DEPARTMENT[761]

Interstate motor vehicle fuel licenses and permits, ch 505 Notice **ARC 9334C** 6/11/25
License examination, ch 604 Notice **ARC 9335C** 6/11/25
Nonoperator's identification, ch 630 Notice **ARC 9336C** 6/11/25

UTILITIES COMMISSION[199]

Intrastate gas pipelines and underground gas storage, ch 10 Filed **ARC 9348C** 6/11/25
Cogeneration and small power production, ch 15 Filed **ARC 9349C** 6/11/25
Accounting, ch 16 Filed **ARC 9350C** 6/11/25
Service supplied by rate-regulated gas utilities, ch 19 Filed **ARC 9351C** 6/11/25
Service supplied by rate-regulated electric utilities, ch 20 Filed **ARC 9352C** 6/11/25
Electric interconnection of distributed generation facilities, ch 45 Filed **ARC 9353C** 6/11/25

WORKFORCE DEVELOPMENT BOARD, STATE[877]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Workforce development board, ch 1 Notice **ARC 9378C** 6/25/25

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
Vice Chair
Senate District 32

Senator Mike Bousselot
Senate District 21

Senator Dan Dawson
Senate District 10

Senator Sarah Trone Garriot
Senate District 14

Senator Cindy Winckler
Senate District 49

Representative Chad Ingels
Chair
House District 68

Representative Amy Nielsen
House District 85

Representative Rick Olson
House District 39

Representative Mike Sexton
House District 7

Representative David Young
House District 28

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AGING, DEPARTMENT ON[17]

Agency reorganization, rescind chs 1, 2, 4 to 8, 14, 15, 19, 21, 22 IAB 6/25/25 **ARC 9371C**	Microsoft Teams Meeting ID: 281 777 413 166 0 Passcode: mg9we9VJ Microsoft Teams Meeting ID: 214 765 418 271 7 Passcode: wq9Dc7cr	July 16, 2025 10 to 10:30 a.m. July 16, 2025 1:30 to 2 p.m.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Organization, ch 1 IAB 6/25/25 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review	July 15, 2025 2 to 2:15 p.m.
Iowa community development block grant program, ch 23 IAB 6/25/25 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa Registration information: opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review	July 15, 2025 2:15 to 2:30 p.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Homeland security and emergency response teams, ch 12 IAB 6/25/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa	July 15, 2025 8:30 a.m.
Flood mitigation program, ch 14 IAB 6/25/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa	July 15, 2025 9 a.m.
Emergency planning and reporting, chs 102 to 104 IAB 6/25/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa	July 15, 2025 9:30 a.m.

HUMAN SERVICES DEPARTMENT[441]

Orthodontic procedures, 78.4(8) IAB 6/25/25 **ARC 9372C**	Microsoft Teams Meeting ID: 295 977 061 745 9 Passcode: XL28if9J Microsoft Teams Meeting ID: 266 930 675 699 6 Passcode: Ka39av7A	July 15, 2025 10 to 10:30 a.m. July 15, 2025 1:30 to 2 p.m.
Aging services, chs 225 to 228; long-term care ombudsman, ch 230; office of public guardian, ch 231 IAB 6/25/25 **ARCs 9375C**, **9380C**, **9385C**	Microsoft Teams Meeting ID: 281 777 413 166 0 Passcode: mg9we9VJ Microsoft Teams Meeting ID: 214 765 418 271 7 Passcode: wq9Dc7cr	July 16, 2025 10 to 10:30 a.m. July 16, 2025 1:30 to 2 p.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Respiratory care practitioners and polysomnographic technologists continuing education, 721.2(4) IAB 6/25/25 **ARC 9374C**	6200 Park Avenue Des Moines, Iowa	July 15, 2025 9 to 9:30 a.m.
Licensure of physician assistants, ch 780 IAB 6/25/25 **ARC 9377C**	6200 Park Avenue Des Moines, Iowa	July 15, 2025 8:30 a.m. July 16, 2025 8:30 a.m.

IOWA FINANCE AUTHORITY[265]

Private activity bond allocation, ch 8 IAB 6/25/25 **Regulatory Analysis**	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review	July 15, 2025 2:30 to 2:45 p.m.
Water pollution control works and drinking water facilities financing program, ch 26 IAB 6/11/25 **Regulatory Analysis**	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information: opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review	July 1, 2025 2 to 2:15 p.m.
Wastewater and drinking water treatment financial assistance program, ch 28 IAB 6/11/25 **Regulatory Analysis**	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information: opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review	July 1, 2025 2:15 to 2:30 p.m.
Water quality financing program, ch 46 IAB 6/11/25 **Regulatory Analysis**	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information: opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review	July 1, 2025 2:30 to 2:45 p.m.

IOWA PUBLIC INFORMATION BOARD[497]

Open meetings, ch 8 IAB 6/25/25 **Regulatory Analysis**	Via virtual meeting/videoconference meet.google.com/quc-bvrw-cnh Or dial: 304.769.9126 Passcode: 822 138 940#	July 15, 2025 9 to 9:30 a.m.

MEDICINE BOARD[653]

Physician supervision of a physician assistant, ch 21 IAB 6/25/25 **ARC 9379C**	6200 Park Avenue Des Moines, Iowa	July 15, 2025 8 to 8:30 a.m. July 16, 2025 8 to 8:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

IA CFY program, outpatient diabetes education, Iowa get screened, registry for brain and spinal cord injuries, rescind chs 8 to 10, 21; local boards of health, local public health services, chs 77, 80 IAB 6/11/25 **Regulatory Analyses**	Microsoft Teams Meeting ID: 242 652 748 070 8 Passcode: k9m3He3u	July 1, 2025 10 a.m.
Licensure standards for substance use disorder and problem gambling treatment programs, ch 155 IAB 6/25/25 **ARC 9376C**	Microsoft Teams Meeting ID: 295 977 061 745 9 Passcode: XL28if9J	July 15, 2025 10 to 10:30 a.m.
	Microsoft Teams Meeting ID: 266 930 675 699 6 Passcode: Ka39av7A	July 15, 2025 1:30 to 2 p.m.

REVENUE DEPARTMENT[701]

Public safety officer moving expense tax credit, 800.56 IAB 6/25/25 **Regulatory Analysis**	Via videoconference call meet.google.com/ucv-djpu-ovb	July 15, 2025 2:30 to 3 p.m.
Mixed drinks or cocktails, 1000.19, 1000.22 IAB 6/11/25 **Regulatory Analysis**	Via videoconference call meet.google.com/tyb-diem-qkf	July 1, 2025 1:30 to 2 p.m.

STATE PUBLIC DEFENDER[493]

Red Tape Review, chs 1 to 7, 10 to 14 IAB 6/25/25 **ARC 9359C** to **ARC 9370C**	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#	July 16, 2025 10 a.m.
	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#	July 23, 2025 10 a.m.

TRANSPORTATION DEPARTMENT[761]

Interstate motor vehicle fuel licenses and permits, ch 505 IAB 6/11/25 **ARC 9334C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 973 584 641#	July 1, 2025 9 to 9:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 390 122 549#	July 1, 2025 2 to 2:30 p.m.

TRANSPORTATION DEPARTMENT[761](cont'd)

License examination, ch 604 IAB 6/11/25 **ARC 9335C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 479 043 651#	July 1, 2025 9:30 to 10 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 882 355 408#	July 1, 2025 2:30 to 3 p.m.
Nonoperator's identification, ch 630 IAB 6/11/25 **ARC 9336C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 115 805 399#	July 1, 2025 10 to 10:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 399 107 303#	July 1, 2025 3 to 3:30 p.m.

WORKFORCE DEVELOPMENT BOARD, STATE[877]

Workforce development board, ch 1 IAB 6/25/25 **ARC 9378C**	Microsoft Teams link Meeting ID: 215 346 331 460 2 Passcode: Zx9Yf25G Dial in by phone: 1.469.998.6043 Find a local number Phone conference ID: 678 750 156#	July 15, 2025 9:30 a.m.
	Microsoft Teams link Meeting ID: 269 225 131 692 9 Passcode: bD9GX357 Dial in by phone: 1.469.998.6043 Find a local number Phone conference ID: 260 395 76#	July 15, 2025 1 p.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Iowa industrial new jobs training program, ch 62 IAB 6/11/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 238 408 589 250 Passcode: 6iu9Cw6Y Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 324 020 485#	July 1, 2025 9 a.m.
Iowa jobs training program, ch 63 IAB 6/11/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 241 057 225 551 9 Passcode: 42WL9Xa2 Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 428 181 217#	July 1, 2025 9:30 a.m.
Accelerated career education (ACE) program, ch 68 IAB 6/11/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 246 930 694 517 5 Passcode: Mw9iX7yT Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 257 197 044#	July 1, 2025 10 a.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Innovative businesses internship program, ch 69 IAB 6/11/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 269 840 362 023 2 Passcode: UT7eL3AU Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 440 242 943#	July 1, 2025 10:30 a.m.
STEM internship program, ch 75 IAB 6/11/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 293 767 963 717 4 Passcode: pf69Y26P Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 749 128 679#	July 1, 2025 11 a.m.

Schedule for Rulemaking—2025

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

PLEASE NOTE:

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

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more business days in advance of the deadline. The first possible notice submission deadline noted above may not allow sufficient time for this. **Agencies should plan accordingly.**

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

The following list will be updated as changes occur.

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

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

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

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ECONOMIC DEVELOPMENT AUTHORITY[261]

Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 1
"Organization"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 15

Public Hearing

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

July 15, 2025	1963 Bell Avenue
2 to 2:15 p.m.	Des Moines, Iowa

Public Comment

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

Lisa Connell
Iowa Economic Development 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 1 and adopt a new chapter in lieu thereof. The chapter describes the organization of the Authority and the Authority Board.

The proposed new chapter omits language that is duplicative of statutory language and other unnecessary or inconsistent language.

Analysis of Impact

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

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

The proposed rulemaking does not impose any costs.

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

Persons interested in the organization of the Authority may benefit from the improved clarity of the chapter.

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:**

The proposed rulemaking does not impose any costs.

- **Qualitative description of impact:**

Persons interested in the organization of the Authority may benefit from the improved clarity of the chapter.

3. **Costs to the State:**

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

Authority staff time is required to provide administrative support to the Authority Board and its committees.

- **Anticipated effect on State revenues:**

The proposed rulemaking has no anticipated effect on State revenues.

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

The proposed rulemaking does not impose any costs.

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

The Authority has not identified any less costly methods or less intrusive methods of describing its organization.

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 alternative methods.

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

The Authority did not consider any alternative methods because the Authority did not identify a less costly or less intrusive method.

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 proposed rules do not have a substantial impact on small business. The rules do not establish compliance or reporting requirements. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION

261—1.1(15) Definitions. As used in these rules, unless the context otherwise requires:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Authority's website" means the information and related content found at opportunityiowa.gov and may include integrated content at affiliate sites.

"Board" means the same as defined in Iowa Code section 15.102(4).

"Committee" means a committee established by the board and includes any standing committees established by rule or ad hoc committees established pursuant to Iowa Code section 15.105(12).

"Director" means the same as defined in Iowa Code section 15.102(8).

261—1.2(15) Economic development authority board.

1.2(1) *Meetings.*

a. The board generally meets monthly at the authority's offices. By notice of the regularly published meeting agendas, the board and its committees may hold regular or special meetings at other locations within the state. Meeting agendas are available on the authority's website.

b. The chairperson may exclude any person disrupting the proceedings.

1.2(2) *Board treasurer.* The accounting director for the authority or the accounting director's designee serves as the treasurer to the board. The treasurer shall attend audit entrance and exit interviews conducted by the auditor of state and shall report the results of such audits to the board.

1.2(3) *Committees.*

a. A due diligence committee is established to assist the board in making awards of incentives and assistance under the authority's programs.

(1) The due diligence committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee and the terms of committee members will be established annually by the board.

(2) The members of the due diligence committee will elect members to serve as chairperson and vice chairperson. The chairperson may appoint members of the due diligence committee to serve on a due diligence subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson and members of the due diligence committee.

(3) The duties of the due diligence committee may include reviewing applications for financial assistance, conducting a thorough review of proposed projects, making recommendations to the board regarding the size and conditions of awards, and any other duty assigned by the board in relation to the programs administered by the authority.

(4) A majority of committee members constitutes a quorum.

b. Technology commercialization committee.

(1) The technology commercialization committee is established pursuant to Iowa Code section 15.116. The membership and size of the committee and the terms of committee members will be established by the board.

(2) The director will appoint a member to serve as chairperson. The chairperson may appoint members of the technology commercialization committee to serve on a technology commercialization subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson and members of the technology commercialization committee.

(3) The duties of the technology commercialization committee may include reviewing applications for financial assistance, conducting a thorough review of proposed projects, making recommendations to the board regarding the size and conditions of awards, and any other duty assigned by the board in relation to the programs administered by the authority to the extent such programs relate to the areas and industry sectors identified in Iowa Code section 15.116.

(4) A majority of committee members constitutes a quorum.

c. The director may appoint ad hoc committees to serve in an advisory capacity to the authority whenever the director deems them necessary to accomplish the work of the authority. The size of such committees and the terms of committee members will be established by the director. Such committees may be dissolved as deemed appropriate by the director, and other committees may from time to time be established for specific purposes.

261—1.3(15) Authority structure.

1.3(1) *General.* The authority's organizational structure consists of the board, the director and such divisions as the director may from time to time create.

1.3(2) *Chief designee.* The director may designate an employee to administer the authority in the director's absence. Such employee may bear the title of deputy director, chief operating officer, chief

of staff, or other similar title as long as the director has executed an instrument clearly delegating the director's authority to that employee.

1.3(3) *Signature authority.* The director may authorize one or more employees to execute and deliver on behalf of the authority any agreement, document, or instrument as such employee may deem necessary or appropriate to implement and carry out the intent and purpose of any statute or administrative rule by which the authority is bound other than those statutes or administrative rules requiring a person holding a specified office to sign, if any, as long as the director has executed an instrument clearly delegating such authority to such employee or employees.

261—1.4(15) Information. The general public may obtain information about the Iowa economic development authority by contacting the authority at its offices located at 1963 Bell Avenue, Des Moines, Iowa 50315; by telephone at 515.348.6200; or through the authority's website.

These rules are intended to implement Iowa Code chapter 15.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 23
"Iowa Community Development Block Grant Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.106A

State or federal law(s) implemented by the rulemaking: 24 CFR Part 570 and Iowa Code section 15.108(1)"a"

Public Hearing

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

July 15, 2025	1963 Bell Avenue
2:15 to 2:30 p.m.	Des Moines, Iowa

Public Comment

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

Lisa Connell
Iowa Economic Development 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 23 and adopt a new chapter in lieu thereof. The chapter describes the procedures by which the Authority administers and awards Community Development Block Grant funds.

The proposed new chapter omits unnecessary and inconsistent language.

Analysis of Impact

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

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

Local governments requesting funds will bear the costs of the proposed rulemaking.

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

Local governments applying for funding may benefit from the improved clarity of the chapter.

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:**

Local governments that wish to apply for funds may incur costs associated with drafting the application and providing additional information if additional information is needed.

- **Qualitative description of impact:**

This proposed rulemaking will provide clarity about the Authority's processes for awarding Community Development Block Grant funds.

3. **Costs to the State:**

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

Authority staff time is required to prepare and submit plans to the U.S. Department of Housing and Urban Development, review and award applications and manage funded projects to ensure compliance.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no anticipated effect on State revenues.

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

This proposed rulemaking does not impose any additional costs on communities applying for funds compared to the existing Chapter 23.

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

The Authority has not identified any less costly methods or less intrusive methods that exist for awarding Community Development Block Grant funds.

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 alternative methods.

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

The Authority did not consider any alternative methods because the Authority did not identify a less costly or less intrusive method.

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 proposed rules do not have a substantial impact on small business. The rules do not establish compliance or reporting requirements. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23
IOWA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

261—23.1(15) Purpose. The primary purpose of the community development block grant program is the development of viable communities by providing decent housing and suitable living environments and expanding economic opportunities, primarily for persons of low and moderate income.

261—23.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

"Annual action plan" means the annual plan required and approved by HUD that outlines the state's processes and procedures for distribution of CDBG funds. The annual action plan is available on the authority's website.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Authority's website" means the information and related content found at opportunityiowa.gov and may include integrated content at affiliate sites.

"CDBG" means community development block grant.

"Citizen participation plan" means the plan required and approved by HUD that describes the state's process for including citizen participation in development of its consolidated plan and annual action plan. The citizen participation plan is available on the authority's website.

"Consolidated plan" means the five-year plan required and approved by HUD that establishes goals and objectives for the state's CDBG program. The consolidated plan is available on the authority's website.

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

"Management guide" means the administrative reference manual published by the authority for each program year. The management guide is available on the authority's website.

"Program year" means the annual period beginning January 1 and ending December 31.

"Recipient" means a local government entity awarded CDBG funds under any CDBG program.

261—23.3(15) Annual action plan. The authority will prepare a CDBG annual action plan for submittal to and approval by HUD. The plan will provide a description of the activities and programs that will take place during the year to meet goals established in the consolidated plan.

23.3(1) The authority will follow the state's citizen participation plan during the development of the annual action plan. A draft annual action plan will be available on the authority's website for 30 days for public review and comment. The authority will hold a public hearing during the comment period to collect public input on the plan prior to its submittal to HUD.

23.3(2) The annual action plan will include the proposed CDBG program funding allocation.

261—23.4(15) Allocation of funds. Upon approval by HUD, the authority will allocate CDBG funds among programs or activities described in the state's most recent annual action plan, which may include but not be limited to the following:

1. Housing assistance.
2. Water and sewer improvements.
3. Community facilities improvements.
4. Opportunities and threats fund.
5. Neighborhood revitalization activities.

261—23.5(15) Requirements for funding. Applications for funds under any of the program-allocated funds pursuant to rule 261—23.4(15) shall meet the minimum criteria described in subrules 23.5(1) through 23.5(3).

23.5(1) Proposed activities shall be eligible, as authorized by Title I, Section 105, of the Housing and Community Development Act of 1974 as amended and as further defined in 24 CFR Part 570. References in this subrule are to the laws as in effect [effective date of this rulemaking].

23.5(2) Proposed activities shall address at least one of the following three objectives:

a. Primarily benefit low- and moderate-income persons. To address this objective, 51 percent or more persons benefiting from a proposed activity must have incomes at or below 80 percent of the area median income as defined by HUD.

b. Aid in the prevention or elimination of slums and blight. To address this objective, the application must document the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area or community and illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

c. Meet an urgent community development need. To address this objective, the applicant must certify that the proposed activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community and that are recent in origin or that recently became urgent, that the applicant is unable to finance the activity without CDBG assistance and that other sources of funding are not available.

23.5(3) Applicants shall certify their compliance with federal requirements applicable to the CDBG program.

261—23.6(15) Award and administration. The authority may negotiate award amounts, terms and conditions prior to making any award under the program. A management guide detailing the instructions for administration of awards will be updated periodically by the authority and will be available on the authority's website.

These rules are intended to implement Iowa Code section 15.108(1)*"a"* and 24 CFR Part 570.

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapter 12
"Homeland Security and Emergency Response Teams"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 29C.8
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2370

Public Hearing

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

July 15, 2025 8:30 a.m.	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Homeland Security and Emergency Management Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Blake DeRouchey
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Purpose and Summary

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 12 and adopt a new chapter in lieu thereof. The chapter describes the structure and guidelines in which local homeland security and emergency response teams are managed.

The proposed new chapter omits language that is duplicative of the Iowa Code, overly restrictive or obsolete and, as a result, shortens the chapter.

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 proposed change to the way homeland security and emergency response teams are compensated. They are only reimbursed upon an activation order by the Department Director or pursuant to a Governor's Disaster Proclamation. This reimbursement comes via request to the Executive Council.

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

All individuals within the State benefit from a well-run and organized emergency response capability.

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:**

Since 2020, the Department has activated the State's homeland security and emergency response teams 20 times in support of emergencies. These rules further implement the Department's ability to activate these resources.

- **Qualitative description of impact:**

Current homeland security and emergency response teams capabilities include but are not limited to urban search and rescue, incident management teams, and telecommunicator emergency response teams. These teams can be deployed in-state or out-of-state at the request of the Department Director or Governor. These teams can help local response capabilities to mitigate loss of life and property and facilitate a more rapid recovery.

3. **Costs to the State:**

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

This proposed chapter implements Iowa Code section 29C.8, which addresses compensation for team members as employees of the State. Costs and number of disasters that require a response by an emergency response team vary by year.

- **Anticipated effect on State revenues:**

There are no anticipated effects on State revenues. However, depending on the number of disasters that require a deployment in a given year, there could be impacts to State expenditures.

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

This rulemaking ensures the State is prepared and has the necessary resource capabilities to respond to disasters. Inaction could lead to death, loss of property, and devastated communities.

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

The Department seeks to implement these rules in a manner that is the least intrusive and prescriptive as possible, while still maintaining the responsibilities of maintaining well-run homeland security and emergency response teams throughout the State, as outlined in Iowa Code section 29C.8. Funding to implement these local programs is outlined as part of the aforementioned Iowa Code section as well as the proposed rulemaking (rule 605—12.5(29C)). Where intrusive or prescriptive methods remain in this proposed rulemaking, the Department is following federal grant and program guidelines to ensure funding qualifications.

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:**

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?

This proposed rulemaking has no direct impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
HOMELAND SECURITY AND EMERGENCY RESPONSE TEAMS

605—12.1(29C) Purpose. The duties of the director of the homeland security and emergency management department include the development and ongoing operation of homeland security and emergency response teams to be deployed by the state to supplement and enhance local resources during times of disaster and emergency. These rules are intended to specify how teams and team members will be designated, minimum standards that shall be maintained, and the use of the teams.

605—12.2(29C) Definitions.

"Director" means the same as defined in Iowa Code section 29C.2.

"Governor's disaster proclamation" means the proclamation of disaster emergency issued by the governor in accordance with Iowa Code section 29C.6.

"Homeland security advisory committee" means the advisory committee created by the director for the purpose of providing advice on public safety response issues within Iowa.

605—12.3(29C) Homeland security and emergency response teams.

12.3(1) The director shall issue requests to create homeland security and emergency response teams based on identified needs, on recommendations from the homeland security advisory committee, and at the request of the governor.

12.3(2) Each team shall be designated by the director. To be eligible for designation, a team shall provide a written application to the director that details the following information:

a. Type of assistance that the team provides.

b. Emergency response team information.

(1) Team name.

(2) Team location.

(3) 24/7 contact information and procedures.

(4) Team agency, including head of agency and contact information.

(5) Team commander and assistant commander, including contact information.

(6) Titles, names, and responsibilities of deployable response personnel assigned to the team.

c. Listing of applicable local, state, and national standards and certifications to which team members are trained and certified.

d. Detailed listing of the team's major response assets that are related to the team's mission. The listing shall provide details related to self-sufficiency, including the amount of time the team can remain self-sufficient.

e. Listing of communications assets, including radio frequencies used and any interoperability capabilities.

f. An estimate of the time needed to assemble the team members and assets and deploy upon the request of the director or governor.

12.3(3) Upon receipt of the written application from the team, the director shall review the application. The director may seek additional information from the team. The team shall provide the requested information in a timely fashion.

12.3(4) Following approval of the application, the director shall issue a letter formally designating the team as an "Iowa homeland security and emergency response team" in accordance

with Iowa Code section 29C.8. The director may enter into an agreement with the team in accordance with Iowa Code chapter 28E.

12.3(5) Upon acceptance as a homeland security and emergency response team, the team shall routinely update all records to accurately reflect membership rosters and major assets at the team's disposal. The team shall update records any time personnel are added to or removed from the team.

605—12.4(29C) Use of homeland security and emergency response teams.

12.4(1) A designated team may be deployed in accordance with Iowa Code section 29C.8(3)*"f,"* 29C.21 or 29C.22.

12.4(2) A designated team shall be deployed as a state asset only by a directive from the director or pursuant to a governor's disaster proclamation unless the sponsoring agency's response team is needed to perform emergency services within its own jurisdiction. Should the response team perform emergency services within its own jurisdiction without a directive from the director or pursuant to a governor's disaster proclamation, the team will be responsible for all associated costs.

605—12.5(29C) Homeland security and emergency response team compensation.

12.5(1) A homeland security and emergency response team will be compensated for its expenses while it is deployed as a state asset in accordance with Iowa Code section 29C.8(3)*"f"* and rule 605—12.4(29C), subject to availability of funds. The application for compensation will be in a manner as specified by the director. Compensation shall be made to the team or the team's governing jurisdiction.

12.5(2) The homeland security and emergency response team's materials, equipment and supplies consumed or damaged while the team is deployed in accordance with rule 605—12.4(29C) shall be reimbursed on a replacement cost basis, subject to the availability of funds.

12.5(3) The director shall request funds from the executive council to address any obligations under rule 605—12.5(29C).

12.5(4) Should the response team perform emergency services within its own jurisdiction without a directive from the director or pursuant to a governor's disaster proclamation, the team will be responsible for all associated costs.

605—12.6(29C) Alternate deployment of homeland security and emergency response teams.

12.6(1) At its discretion, a homeland security and emergency response team may deploy at the direct request of a political subdivision of the state without a directive from the director or without a governor's disaster proclamation.

12.6(2) The provisions of rule 605—12.5(29C) do not apply to a team deployed under rule 605—12.6(29C). A team deployed upon local request may seek compensation from the political subdivision making the request and in accordance with any mutual aid agreements that may exist at the time of deployment, including those authorized by Iowa Code section 29C.22.

12.6(3) If, during a team deployment, a governor's disaster proclamation is issued, the director shall specify the date and time when the team may be deployed under rules 605—12.4(29C) and 605—12.5(29C).

These rules are intended to implement Iowa Code chapter 29C.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapter 14
"Flood Mitigation Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 418
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2370

Public Hearing

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

July 15, 2025 9 a.m.	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Homeland Security and Emergency Management Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Blake DeRouchey
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Purpose and Summary

Pursuant to Executive Order 10 and 2024 Iowa Acts, Senate File 2370, the Department proposes to rescind Chapter 14 and adopt a new combined chapter in lieu thereof. The proposed chapter describes the structure and guidelines in which the Flood Mitigation Program described in Iowa Code chapter 418 will be implemented.

The proposed new chapter omits language that is duplicative of the Iowa Code, overly restrictive or obsolete and, as a result, shortens the chapter.

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 direct cost associated with the proposed rulemaking.

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

All individuals within the State benefit from a well-run and documented Flood Mitigation Program.

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:**

The Department, via the Flood Mitigation Board (FMB), has administered $36,003,186 in funding since 2019. That funding is subject to the application and approval process described via Iowa Code chapter 418 and 605—Chapter 14.

- **Qualitative description of impact:**

There are various funds and programs created via Iowa Code chapter 418 under the authority of the Department and the FMB. These proposed rules help in the administration of the application and approval process of the various funds.

3. **Costs to the State:**

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

There are no direct costs to the State for implementation of these rules.

- **Anticipated effect on State revenues:**

These proposed rules have no direct impact on State revenues. Rather, these proposed rules describe the administrative process to allocate funding described in Iowa Code chapter 418.

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

These proposed rules clarify and implement the application and approval process for jurisdictions to apply for funding as detailed in Iowa Code chapter 418. Without these rules, there would be a lack of clarity for applicants and in the FMB process for intake and approval of applications.

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

The Department seeks to implement these proposed rules in a manner that is the least intrusive and prescriptive as possible, while still maintaining the responsibilities detailed in Iowa Code chapter 418.

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:**

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?

This proposed rulemaking has no direct impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14
FLOOD MITIGATION PROGRAM

605—14.1(418) Purpose. In accordance with Iowa Code section 418.7, the flood mitigation board establishes the policies and procedures for the creation and administration of an Iowa flood mitigation

program and all authorized funding sources detailed in Iowa Code chapter 418 and under control of the flood mitigation board.

605—14.2(418) Definitions.

"Board" means the flood mitigation board created in Iowa Code section 418.5.

"Department" means the same as defined in Iowa Code section 418.1.

"Director" means the same as defined in Iowa Code section 29C.2.

"Governmental entity" means the same as defined in Iowa Code section 418.1.

"Project" means the same as defined in Iowa Code section 418.1.

"Sales tax" means the same as defined in Iowa Code section 418.1.

605—14.3(418) Board.

14.3(1) The board is established and housed, for administrative purposes, within the department. The director may provide office space, staff assistance, supplies and equipment, and budget funds to pay the necessary expenses of the board.

14.3(2) The board shall be established and composed pursuant to Iowa Code section 418.5.

14.3(3) The board shall meet at a time and place determined by the board. Additional meetings may be called by the following:

a. Chairperson,

b. Vice chairperson, or

c. Director.

14.3(4) All meetings of the board are public meetings and shall be conducted in accordance with Iowa Code chapter 21.

605—14.4(418) Flood mitigation project eligibility.

14.4(1) An eligible applicant is a governmental entity as defined in rule 605—14.2(418).

14.4(2) Eligible project types include those defined as "project" in Iowa Code section 418.1.

605—14.5(418) Applications. The board will prescribe the form of the applications, instructions and associated documents. In addition to requirements for applications and project plans detailed in Iowa Code section 418.9, applications, requirements, instructions, programmatic guidance, and forms are available through the department and its website, homelandsecurity.iowa.gov.

605—14.6(418) Sales tax increment calculation and sales tax increment fund. The calculation of the sales tax increment and operation of the fund is addressed in 701—Chapter 272.

605—14.7(418) Reports.

14.7(1) Following the approval of a project application, the governmental entity shall, on or before December 15 of each year, submit a report to the board detailing the following:

a. The current status of the project.

b. The total expenditures and types of expenditures that have been made related to the project.

c. The amount of total project cost remaining as of the date the report is submitted.

d. The amounts, types, and sources of funding being used.

e. The amount of bonds issued or other indebtedness incurred for the project, including information related to the rate of interest, length of term, cost of issuance, and net proceeds. This report will also include the amounts and types of moneys used for payment of such bonds or indebtedness.

14.7(2) The treasurer of state shall report to the department any moneys that are disbursed to a recipient of financial assistance under the program.

14.7(3) Any governmental entity that receives assistance in the form of sales tax revenues under the program shall provide to the board all reports that are mandated as part of receiving federal financial assistance.

These rules are intended to implement Iowa Code chapter 418.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapters 102 through 104
"Emergency Planning and Reporting"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 30
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2370

Public Hearing

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

July 15, 2025 9:30 a.m.	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Homeland Security and Emergency Management Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Blake DeRouchey
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Purpose and Summary

Pursuant to Executive Order 10 and 2024 Iowa Acts, Senate File 2370, the Department proposes to rescind Chapters 102, 103, and 104 and adopt a new combined Chapter 102 in lieu thereof. The proposed chapter describes the structure and guidelines under which local emergency planning and chemical response is administered throughout the State.

The new chapter omits language that is overly restrictive or obsolete and, as a result, shortens the chapters.

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 direct cost associated with the proposed rulemaking.

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

All individuals within the State benefit from a well-run and documented local emergency planning commission and community right-to-know regarding hazardous chemicals.

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:**

This type of planning is tied to various federal preparedness grant programs administered by the Department. One of the annual requirements for federal funding is to maintain planning compliance as detailed in this proposed rulemaking. If this planning is not performed and deemed compliant by

the Department, jurisdictions are not eligible for this federal funding as subrecipients of the grant funding.

- **Qualitative description of impact:**

Failure to complete the planning and preparedness activities outlined in this proposed rulemaking leaves Iowa less prepared for any emergency relating to hazmat transportation, storage, or a separate emergency that inadvertently involves hazmat (e.g., fire, flood of a hazmat facility, or intentional act). The activities delineated in these proposed rules provide awareness of hazardous materials in a jurisdiction, require local officials to coordinate with each other on at least an annual basis, and provide requirements to communicate to the public about these materials and the actions being taken to increase safety and preparedness. Hazardous materials by their nature require specialized handling, training, equipment, planning, and preparedness. Without the actions required in these proposed rules, this kind of preparedness could diminish, leaving Iowa citizens more vulnerable to a hazardous materials incident.

3. **Costs to the State:**

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

There are no costs to the State or the Department associated with this proposed rulemaking; however, there may be federal or civil penalties for noncompliance.

- **Anticipated effect on State revenues:**

There are no anticipated effects on State revenues. However, noncompliance could subject the State and local jurisdictions to a loss of federal funding.

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

Without these proposed rules, local jurisdictions would be subject to denial of federal grant funds, as well as harm caused to citizens through lack of training and preparedness to handle potentially dangerous materials within the communities.

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

The Department seeks to implement these rules in the least intrusive and prescriptive manner as possible, while still maintaining the responsibilities detailed in 42 U.S.C. Section 11022. Where intrusive or prescriptive methods remain in this proposed rulemaking, the Department is following federal guidelines to ensure compliance.

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:**

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?

The rulemaking has no direct impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 102 and adopt the following **new** chapter in lieu thereof:

CHAPTER 102
EMERGENCY PLANNING AND REPORTING

DIVISION I—EMERGENCY PLANNING DISTRICTS

605—102.1(30) Designation and organization of emergency planning districts. The department of homeland security and emergency management (department) is required to designate emergency planning districts. A local emergency planning committee is appointed by the department for each emergency planning district. The local emergency planning committee shall be responsible for the implementation of Emergency Planning and Community Right-to-Know Act (EPCRA) activities in each of the emergency planning districts, including facilitating preparation and implementation of emergency planning for the emergency planning district.

605—102.2(30) Emergency planning districts—counties. Each of the presently existing 99 Iowa counties is designated as the geographic boundaries for an emergency planning district.

605—102.3(30) Application to modify districts. Two or more local emergency planning committees with commonality of interests may petition the department to amend, modify, or combine their districts. Petitions shall specify the geographical district requested, the reasons for the change, the benefit to the public by the designation of the proposed geographical district, and the proposed date for the change in designation.

605—102.4 to **102.10** Reserved.

DIVISION II—LOCAL EMERGENCY PLANNING COMMITTEES

605—102.11(30) Appointment of local emergency planning committees (LEPCs).

102.11(1) *Purpose.* The Iowa emergency response commission (IERC) reviews membership lists of persons to serve on an LEPC. Annually, the LEPC chair will submit a current LEPC membership list with the chair's signature and date the document to verify current and authorized membership. The current verified membership list will be sent to the IERC.

102.11(2) *Representation.* At minimum, each LEPC should be comprised of a representative from each of the following groups or organizations:

a. Elected state and local officials,
b. Law enforcement personnel,
c. Emergency management personnel,
d. Firefighting personnel,
e. First-aid personnel,
f. Health personnel,
g. Local environmental personnel,
h. Hospital personnel,
i. Transportation personnel,
j. Broadcast and print media,
k. Community groups, and

l. Owners and operators of facilities subject to the requirements of EPCRA.

A person may represent one or more of the disciplines listed, provided the person is duly appointed by each group or organization to be represented.

605—102.12(30) LEPC members.

102.12(1) *Appointment of LEPCs.* Nominations to an existing LEPC shall be made by the LEPC, and the department shall be notified. Vacancies on the LEPC shall be filled in accordance with this subrule.

102.12(2) *Meeting participation.* Any member of the local emergency management commission may participate in any meeting of the LEPC. If the local emergency management commission member is not the appointed representative of one of the groups or organizations specified in subrule 102.11(2), the local emergency management commission member shall not be eligible to vote on any issue before the LEPC.

102.12(3) *Member changes.* The department may revise the appointments made as it deems appropriate. Interested persons may petition the department to modify the membership of an LEPC.

605—102.13(30) LEPC duties.

102.13(1) The LEPC shall establish procedures for the functioning of the committee to include:

a. The length of terms of the LEPC members and the selection of a chair and vice chair;

b. The public notification of committee activity (42 U.S.C. 11001(c));

c. The conduct of public meetings to discuss the emergency plan (Iowa Code chapter 21 and 42 U.S.C. 11001(c)); and

d. The procedures for receiving and responding to public comments and the distribution of emergency plans (42 U.S.C. 11001(c)).

102.13(2) The LEPC shall establish procedures for receiving and processing requests from the public for information under EPCRA Section 324, including Form Tier II information under EPCRA Section 312 (42 U.S.C. 11001(c)).

102.13(3) The LEPC shall designate a 24-hour emergency contact point(s) for the immediate receipt of chemical release notifications (42 U.S.C. 11003(c)(3)).

102.13(4) The LEPC shall designate an official to respond to requests for information from the public for safety data sheets (SDSs), chemical lists, chemical inventory forms, emergency response plans, and toxic chemical release forms. The information, including minutes of LEPC meetings and related committee actions, shall be available to the public during normal working hours at a location designated by the LEPC (42 U.S.C. 11044(a)).

102.13(5) The LEPC shall prepare an emergency plan for the district and shall review and revise as necessary the emergency plan at least annually. Both the initial emergency plan and any updates or revisions shall be submitted by the LEPC to the department in accordance with rule 605—102.14(30) (42 U.S.C. 11003(a), 42 U.S.C. 11003(e)).

102.13(6) The LEPC shall evaluate the need for resources in the district necessary to develop, implement, and exercise the emergency plan(s) and make recommendations (42 U.S.C. 11003(b)).

102.13(7) The LEPC shall maintain a current listing of the emergency coordinators designated by each covered facility (42 U.S.C. 11003(d)(1)).

102.13(8) The LEPC shall receive, review and act upon information updates from covered facilities regarding emergency planning.

102.13(9) The LEPC shall annually publish notice that emergency response plans, SDSs, and inventory forms have been submitted and how the public can obtain access to the material for review (42 U.S.C. 11044(b)).

605—102.14(30) Emergency response plan development. The department acknowledges that emergency planning includes more than chemical release planning. The chemical release planning required by this chapter and EPCRA shall be included in the comprehensive emergency planning

conducted by the local emergency management commission per Iowa Code chapter 29C and planning standards of the department.

605—102.15(30) LEPC office. The LEPC shall designate a local government office that will serve as the focal point for receiving nonemergency notifications from facilities that are subject to the law. This office shall also be the depository for SDSs, chemical lists, chemical inventory forms, emergency response plans, and toxic chemical release forms; a point of contact for the public regarding community right-to-know inquiries; and the office of record for minutes of LEPC meetings and related committee actions.

605—102.16(30) LEPC meetings. The LEPC shall meet as frequently as deemed necessary by the chair until the local emergency operations plan is developed and concurred with by the joint administration and reviewed by the department. Subsequent to plan approval, the LEPC is required to meet at least annually to review emergency response procedures, review emergency plans and ensure the actions required are properly administered within the local emergency planning district.

605—102.17(30) Local emergency response plan submission. After completion of the initial emergency response plan and any subsequent revisions thereto, the LEPC shall submit a copy to the department. The department shall review the submission and make recommendations to the LEPC on appropriate revisions that may be necessary to comply with provisions in 42 U.S.C. 11003(c) and state planning standards in 605—Chapter 7 to ensure coordination with emergency response plans of other emergency planning districts, the state of Iowa, and adjacent states. To the maximum extent practicable, the review shall not delay implementation of the plan or revisions thereto. All plans shall be submitted annually by a date determined by the department.

605—102.18 to **102.20** Reserved.

DIVISION III—REPORTS AND RECORDS

605—102.21(30) Department of homeland security and emergency management.

102.21(1) *Emergency planning notification.* The owner or operator of each facility subject to the planning notification requirement shall notify the department that the facility is subject to the requirements of EPCRA Section 302, 42 U.S.C. 11002. The notification is to be on the Tier II form specified in subrule 104.2(4). The facility owner or operator shall submit the notification to the department of natural resources (DNR) by March 1 for covered chemicals in its possession. If the facility is reporting chemicals to the DNR on the Tier II form pursuant to subrule 102.22(4), a duplicate report is not required. The report shall be revised by a notification on the Tier II form within 60 days after the acquisition of chemicals meeting the notification requirements and reported to the department.

102.21(2) *Plan development.* Each LEPC shall prepare a comprehensive emergency response plan pursuant to 42 U.S.C. 11033 that will become an integrated portion of the emergency plan established by the joint administration. Where a local emergency planning district exceeds the jurisdictional boundaries of a single joint administration, a comprehensive emergency response plan shall be developed for each joint administration at least annually. The plan shall be reviewed and revised as necessary. The joint administration shall not change the plan without the approval of the LEPC.

102.21(3) *Submissions.* Plans and notifications required under this rule will be submitted electronically to the department.

605—102.22(30) Department of natural resources.

102.22(1) *Emergency notifications of releases.* Each release subject to the requirements of EPCRA Section 304, 42 U.S.C. 11004, shall be submitted to the DNR. This notification shall be done

in conjunction with the notification required by rule 567—105.5(455B). Notification of a release shall be telephoned to the DNR at 515.725.8694 immediately. A follow-up report shall be made within 30 days.

102.22(2) *Toxic chemical release form.* The owner or operator of a facility subject to the requirements of EPCRA Section 313, 42 U.S.C. 11023, shall submit information required by the federal Environmental Protection Agency regulations to the DNR, if requested. The information for the previous calendar year shall be submitted by July 1 of the following year.

102.22(3) *SDS information.* The owner or operator of a facility required to prepare or have available an SDS for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act shall submit a list of each chemical or an SDS required to be submitted under EPCRA Section 311, 42 U.S.C. 11021. The list/SDS shall be submitted to the DNR and to the appropriate LEPC and the fire department in whose jurisdiction the facility is located. The list/SDS must be submitted to the DNR within 90 days of the facility first acquiring the chemical above reporting thresholds.

102.22(4) *Emergency and hazardous chemical inventory form (Tier II).* The owner or operator of a facility required to prepare or have available an SDS for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act shall submit emergency and hazardous chemical inventory information required to be submitted under EPCRA Section 312, 42 U.S.C. 11022. The information shall be submitted to the DNR, the appropriate LEPC, and the fire department in whose jurisdiction the facility is located by March 1 for the chemicals in its inventory the preceding calendar year. Tier I forms will not be accepted. The information shall be submitted via the DNR online Tier II reporting tool.

102.22(5) *Submissions.* Notifications and reports required under this rule shall be submitted to the Department of Natural Resources, EPCRA, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321, or electronically through online reporting tools as noted in subrule 102.22(4). Additional information can be found in rule 567—131.2(455B).

These rules are intended to implement Iowa Code chapter 30.

ITEM 2. Rescind and reserve **605—Chapter 103**.

ITEM 3. Rescind and reserve **605—Chapter 104**.

Regulatory Analysis

Notice of Intended Action to be published: 265—Chapter 8
"Private Activity Bond Allocation"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 7C.12 and 16.5(1)"r"
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 7C

Public Hearing

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

July 15, 2025	1963 Bell Avenue
2:30 to 2:45 p.m.	Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Iowa Finance 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 8 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the private activity bond allocation administered pursuant to Iowa Code chapter 7C and the Director of the Authority's role as the Governor's designee for the purposes of that chapter.

Analysis of Impact

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

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

Entities that apply for and are approved for an allocation of the State ceiling will bear the costs of the rulemaking.

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

Entities that apply for and are approved for an allocation of the State ceiling will benefit from 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:**

Entities interested in applying for an allocation pursuant to Iowa Code chapter 7C may require staff time to complete an application. Recipients of an allocation may similarly incur costs to comply with reporting and monitoring requirements. Some applicants may choose to rely on an external service provider such as an attorney to complete these tasks. The amount of the costs will vary depending on the compensation of staff or service providers involved.

- **Qualitative description of impact:**

Entities that apply for and are approved for an allocation will benefit from 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, verify issuance of bonds, and communicate with applicants and recipients.

- **Anticipated effect on State revenues:**

This rulemaking has no fiscal impact. The Governor has appointed the Director of the Authority as the Governor's designee for the purposes of Iowa Code chapter 7C.

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

Only the entities that will potentially benefit from an allocation bear the costs of the rulemaking. The costs to the State to administer the allocation are proportional to the activities supported.

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 allocation.

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 alternative methods.

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

The Authority did not consider any alternative 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 proposed rules do not have a substantial impact on small business. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
PRIVATE ACTIVITY BOND ALLOCATION

265—8.1(7C) Authority. Pursuant to Iowa Code section 7C.12, the governor has appointed the director of the authority as the governor's designee responsible for administering the procedures for

allocation of private activity bonds. The governor's designee adopts this chapter pursuant to Iowa Code section 7C.12(2)*"a."*

265—8.2(7C) Definitions.

"Allocation" means the same as defined in Iowa Code section 7C.3.

"Application" means a request submitted for an allocation.

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

"Beneficiary" means an entity that is intended to benefit from issuance of a bond by an issuer.

"Governor's designee" means the same as defined in Iowa Code section 7C.3.

"Issuer" means a political subdivision that proposes to issue bonds for a particular project or purpose for which an allocation of the state ceiling is required and has not already been made under Iowa Code section 7C.4A(1) through 7C.4A(5).

"Political subdivision" means the same as defined in Iowa Code section 7C.3.

"Private activity bonds" means the same as defined in Section 141 of the Internal Revenue Code.

"State ceiling" means the same as defined in Iowa Code section 7C.3.

265—8.3(7C) Forms and applications. Information and forms are available upon request from the governor's designee at the address set forth in rule 265—1.3(16) or on the authority's website.

8.3(1) An issuer or beneficiary, or the duly authorized agent of an issuer or beneficiary, must apply for the allocation of a portion of the private activity bond state ceiling allocated pursuant to Iowa Code chapter 7C in the form and content prescribed by the governor's designee. Applications may be submitted to the governor's designee electronically or via email.

8.3(2) The governing body of an issuer must adopt a resolution evidencing an intent to issue the bonds prior to submission of an application.

8.3(3) An applicant must submit the application fee set forth in rule 265—8.7(7C) and all required attachments to the application before such application is considered for allocation.

8.3(4) Except as provided in subrules 8.3(5) and 8.4(4), the governor's designee shall certify allocations in the order in which applications are received, as indicated in Iowa Code section 7C.5. Applications for any given calendar year may be submitted to the governor's designee beginning on December 1 of the preceding year.

8.3(5) The portion of the state ceiling allocated pursuant to Iowa Code section 7C.4A(1)*"a"*(4) shall be allocated pursuant to subrule 8.4(4).

265—8.4(7C) Certification of current allocation.

8.4(1) The governor's designee shall maintain separate lists of applications for private activity bonds for allocation pursuant to Iowa Code section 7C.4A(2), 7C.4A(4), 7C.4A(5), and 7C.4A(7). If there are additional applications after the state ceiling for the purpose of industries is fully allocated and, before June 30, the state ceiling for the use of political subdivisions is fully allocated to applications, all applications that have not been allocated any state ceiling will be placed on the list for allocation pursuant to Iowa Code section 7C.4A(7) in the chronological order of receipt without regard to the purpose for which such applications were made.

8.4(2) The governor's designee shall promptly certify to the issuer the amount of the state ceiling allocated to the bonds for the purpose of the project for which the application was submitted, in the order as determined by Iowa Code chapter 7C. The governor's designee shall continue to allocate the state ceiling for each purpose separately (or, if the allocation is made under Iowa Code section 7C.4A(7), in the chronological order of applications received) until all the available state ceiling for that purpose is fully allocated. If there is not sufficient available state ceiling to fully fund an application that is next in order for allocation, the governor's designee shall notify the applicant of the amount that is available and the applicant shall have the option to take what is available within five calendar days of receiving notice of availability. If the applicant does not notify the governor's designee of its decision to take the available allocation within five calendar days of receiving notice of

that option, the available state ceiling shall be offered to the next application on the list under the same conditions, and the initial offeree will maintain its position on the list. If the partial allocation is accepted, the applicant may submit a new application for additional state ceiling and that application will be added to the bottom of the applicable list in the chronological order of its receipt.

8.4(3) If the bonds are issued and delivered prior to the expiration date of the allocation, then the issuer or the issuer's attorney shall within ten days following the issuance and delivery of the bonds notify the governor's designee in the form and content prescribed by the governor's designee.

8.4(4) Upon receipt of a complete application for allocation for a qualified residential rental project, the bonds for which will be issued by the authority, the authority may determine in its sole discretion whether to allocate a portion of its allocation under Iowa Code section 7C.4A(1)*"a"*(4) to such application based on factors including but not limited to the readiness, feasibility, and impact of the project.

265—8.5(7C) State ceiling carryforwards. In the event the aggregate principal amount of bonds issued by all issuers in a calendar year is less than the state ceiling for that calendar year, an issuer or beneficiary may apply to the governor's designee for an allocation of a specified portion of the excess state ceiling to be applied to a specified carryforward project. The application must be in writing and shall comply with the carryforward provisions of Section 146(f) of the Internal Revenue Code and regulations promulgated under that section. Any carryforward allocation that has not expired under Section 146 of the Internal Revenue Code released by the original applicant may be allocated to any other applicant for allocation for the same purpose for which the original application was made.

265—8.6(7C) Expiration of allocations and resubmission. Allocations expire as described in Iowa Code sections 7C.7 and 7C.9. If an allocation expires, an issuer may resubmit its application pursuant to Iowa Code section 7C.10.

265—8.7(7C) Use by political subdivisions. For the purposes of the amount of the state ceiling allocated pursuant to Iowa Code section 7C.4A(6), a political subdivision will be considered to use the proceeds of private activity bonds if such proceeds are used to finance a project owned or utilized directly by the political subdivision or to finance a program of the political subdivision that the legislature by statute has authorized or directed the political subdivision to implement.

265—8.8(7C) Application and allocation fees. The governor's designee may charge reasonable fees for providing administrative assistance with regard to the filing of applications and the allocation of the private activity bond state ceiling in accordance with this chapter. A fee of 2 basis points (.02%) of the amount of state ceiling for which application is made shall be paid by the applicant upon filing the application with the governor's designee.

265—8.9(7C) References. All references to the Internal Revenue Code and its implementing regulations in this chapter are to the laws as in effect [effective date of this rulemaking].

These rules are intended to implement Iowa Code chapter 7C.

Regulatory Analysis

Notice of Intended Action to be published: 497—Chapter 8
"Open Meetings"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 23

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 23 and 17A and Executive Order 10

Public Hearing

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

July 15, 2025 9 to 9:30 a.m.	Via virtual meeting/videoconference meet.google.com/quc-bvrw-cnh Or dial: 304.769.9126 Passcode: 822 138 940#

Public Comment

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

Erika Eckley, Director
Iowa Public Information Board
Jessie M. Parker Building, East
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.393.8339
Email: erika.eckley@iowa.gov

Purpose and Summary

This proposed rulemaking includes revised administrative rules based on the requirements of Executive Order 10. Chapter 8 provides information to the public about open meetings. Chapter 8 is proposed to be rescinded and adopted new with revisions to align with Executive Order 10.

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, governmental bodies, or individuals.

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

Citizens of the State and governmental bodies subject to Iowa Code chapters 21 and 22 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:**

No quantitative impact is expected. IPIB will still operate consistent with Iowa Code chapter 17A and the scope of authority granted pursuant to Iowa Code chapter 23.

- **Qualitative description of impact:**

No qualitative impact is expected.

3. **Costs to the State:**

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

No costs will be borne by any agency. IPIB will still operate consistent with Iowa Code chapters 17A and 23.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

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

Not applicable. IPIB will still operate consistent with Iowa Code chapter 17A and the scope of authority granted pursuant to Iowa Code chapter 23.

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

CHAPTER 8
OPEN MEETINGS

497—8.1(21,23) Notice.

8.1(1) *When posted.* As provided in Iowa Code section 21.4, a governmental body will give notice of the time, date, and place of the meeting and the tentative agenda at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical. The notice requirement also applies when there is a change to the original notice, except as provided in Iowa Code section 21.4(3).

8.1(2) *Where posted.* Notice will be posted at those locations designated in Iowa Code section 21.4. The notice will be posted in an area that is easily accessible by the public or in an area where the notice is easily viewable by the public and will be posted for at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical. The posting of a notice in an area that is not normally used for the posting of notices or public announcements will not be deemed proper notice. However, if the posting of a notice in an area normally used for posting of notices is not reasonable or practical, such as the area is under construction or renovation, the notice will be posted in an area that is otherwise easily accessible by the public or in an area where the notice is easily viewable by the public.

8.1(3) *Closed session.* When a governmental body includes a closed session item on the tentative agenda, the notice will include a brief statement of the purpose of the closed session. It will not be deemed sufficient notice for the governmental body to only reference the statute by number and subparagraph without more information. For example, it will not be sufficient notice for the governmental body to list as an agenda item "closed session 21.5(1)'a.'"

The governmental body need not provide more information in the brief statement of purpose than what is required under Iowa Code section 21.5(1)*"a"* through 21.5(1)*"l."* Examples of notice deemed sufficient would be "closed session 21.5(1)'c' discuss litigation with counsel" or "closed session 21.5(1)'l' discuss patient care quality or discuss marketing and pricing strategies."

This rule is intended to implement Iowa Code chapter 21.

497—8.2(21,23) Closed session.

8.2(1) *Who may attend.* A governmental body has the discretion as to who it may invite to attend a closed session. However, if the governmental body holds a closed session under Iowa Code section 21.5(1)*"c"* to discuss strategy with counsel, the legal counsel for the governmental body will be in attendance at the closed session either in person or by electronic means.

8.2(2) Reserved.

497—8.3(21,22) Exempt sessions.

8.3(1) An Iowa Code section 21.9 exempt session is a meeting to discuss strategy concerning employment conditions of employees of a governmental body who are not covered by a collective bargaining agreement under Iowa Code chapter 20.

8.3(2) "Employment conditions" include wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training, and grievance procedures.

8.3(3) An exempt session does not fall under the requirements of Iowa Code chapter 21; therefore, notice, a tentative agenda, minutes, and other requirements of Iowa Code chapter 21 do not apply.

8.3(4) The purpose of an exempt session is to allow a governmental body to formulate its position on the terms and conditions of employment for nonunion employees in private. An exemption from the open meetings law for this purpose parallels the exemption provided by Iowa Code chapter 20 for governmental bodies negotiating with employee unions. Meetings to evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered are subject to the requirements of Iowa Code section 21.5(1)*"i."*

These rules are intended to implement Iowa Code chapters 17A, 21, and 23.

Regulatory Analysis

Notice of Intended Action to be published: rule 701—800.56(422)
"Public Safety Officer Moving Expense Tax Credit"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 422.12P
State or federal law(s) implemented by the rulemaking: Iowa Code section 422.12P

Public Hearing

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

July 15, 2025 2:30 to 3 p.m.	Via videoconference call: meet.google.com/ucv-djpu-ovb

Public Comment

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

Michael Mertens
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.587.0458
Email: michael.mertens@iowa.gov

Purpose and Summary

The purpose of this proposed rulemaking is to implement the Public Safety Officer Moving Expense Tax Credit provided in Iowa Code section 422.12P. The tax credit is available for certain unreimbursed moving expenses incurred by individuals who establish residency in Iowa upon taking full-time employment as a public safety officer in Iowa. The Department is directed under Iowa Code section 422.12P to adopt rules to administer the tax credit. The proposed rule describes how to claim and calculate the tax credit and other restrictions and requirements.

Analysis of Impact

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

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

Individuals who claim the tax credit will bear the costs of the proposed rule.

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

Individuals who claim the tax credit will benefit from the proposed rule.

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:**

Individuals who claim the tax credit will incur tax preparation costs to accurately compute the tax credit in accordance with the proposed rule. These costs will be offset by the monetary value of the tax credit to the individual. Individuals who accurately compute the tax credit will also receive a benefit in

the form of fewer information requests and audits from the Department related to the administration of the tax credit.

- **Qualitative description of impact:**

Beyond the direct benefit of the tax credit to an individual, an individual's employer is likely to indirectly benefit from the tax credit. Nonresidents may be more likely to accept positions in Iowa because this tax credit defrays some moving expenses.

3. **Costs to the State:**

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

The Department will utilize existing staff to review tax credit claims.

- **Anticipated effect on State revenues:**

The proposed rule has no fiscal impact beyond that of the legislation it implements.

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

The proposed rule instructs individuals how to properly calculate and claim the tax credit. The Department will be unable to properly administer the tax credit without the proposed rule. The only individuals that bear the costs of the proposed rule are those that will potentially benefit from the tax credit. The Department is required by Iowa Code section 422.12P to adopt rules to administer this tax credit.

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

None were identified.

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

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

None were identified.

- **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?

The rulemaking does not have a substantial impact on small business since it does not make any special distinctions for small businesses.

Text of Proposed Rulemaking

ITEM 1. Reserve rules **701—800.1** through **701—800.55**.

ITEM 2. Adopt the following **new** rule 701—800.56(422):

701—800.56(422) Public safety officer moving expense tax credit.

800.56(1) *In general—eligibility.* For tax years beginning on or after January 1, 2024, a public safety officer moving expense tax credit is available for certain unreimbursed moving expenses incurred by individuals who establish residency in Iowa upon taking full-time employment as a public safety officer in Iowa as provided in Iowa Code section 422.12P and this rule. The tax credit may be claimed by individuals against the individual income tax.

800.56(2) *Qualifying public safety officer.* The following meet the definition of a public safety officer:

a. Peace officers as described in Iowa Code section 801.4, including:

(1) Sheriff or sheriff's deputy.

(2) City police officer.

(3) Peace officer member of the department of public safety.

(4) Parole officer.

(5) Probation officer.

(6) Sworn special security officer employed by an institution of the board of regents.

(7) Conservation officer.

(8) Employee of the department of transportation who is designated as a peace officer.

(9) Employee of an aviation authority who is designated as a peace officer.

b. Corrections officers as described in Iowa Code section 97B.49B(1)*"e"*(3).

800.56(3) *Tax credit calculation.*

a. Eligible expenses. An expense will qualify as a moving expense if it meets all of the following requirements:

(1) The expense meets the definition of a moving expense under Section 217(b) of the Internal Revenue Code and Treasury Regulation 1.217-2(b)(2) through (4) as amended and in effect on July 1, 2024, or is a reasonable expense for meals incurred during travel from the taxpayer's old home to the taxpayer's new home.

(2) The expense is paid or incurred by the taxpayer, and the expense is attributable to the taxpayer or a member of the taxpayer's household.

(3) The expense is unreimbursed. An expense will be considered reimbursed to the extent of any amount the taxpayer is eligible to receive, directly or indirectly, from the taxpayer's employer or another person as payment for the expense of moving.

(4) The expense is not deducted on the taxpayer's federal income tax return.

b. Taxpayer eligibility. Taxpayers must meet all of the following requirements to be considered a new resident and eligible for the tax credit:

(1) The taxpayer establishes residency in Iowa after July 1, 2024, and has not been a resident of Iowa in the 12-month period prior to establishing residency in Iowa.

(2) The taxpayer becomes employed full-time in a qualifying public safety officer position in Iowa.

(3) The taxpayer becomes a resident of Iowa as a direct result of accepting employment in Iowa as a qualifying public safety officer.

(4) The taxpayer remains employed full-time in a qualifying public safety officer position when claiming the tax credit.

(5) The taxpayer remains a resident of Iowa when claiming the tax credit.

c. Maximum tax credit. The maximum allowable tax credit shall not exceed $2,000 per move.

800.56(4) *Claiming the tax credit.*

a. Filing a claim with the department. The tax credit will be calculated and claimed on Form IA 176. The taxpayer shall submit the form with the taxpayer's Iowa tax return for the tax year in which the tax credit is claimed.

b. When to claim the credit.

(1) For eligible expenses paid or incurred by the taxpayer before beginning full-time qualifying employment or in the same year such employment begins, the credit shall be claimed in the tax year the full-time qualifying employment begins.

EXAMPLE: X, a resident of Illinois, accepts a position as a parole officer in Iowa. X moves to Iowa, establishes Iowa residency, and incurs moving expenses late in tax year 2025 but does not begin X's job as a parole officer until tax year 2026. Because X incurred the costs of X's move in the year before X began full-time employment as a public safety officer, X will claim the tax credit in tax year 2026, the year X began full-time employment.

(2) For eligible expenses paid or incurred by the taxpayer after the tax year full-time qualifying employment begins, the credit shall be claimed in the tax year such expenses are incurred.

EXAMPLE: Y, a resident of Nebraska, accepts a position as a sheriff's deputy in Iowa. Y begins working full-time as a sheriff's deputy in November of tax year 2025, but due to Y's proximity to Y's new employment, Y does not move to Iowa, establish Iowa residency, and incur moving expenses until early the next tax year, in February of tax year 2026. Because Y did not incur moving expenses until the tax year after Y began full-time employment as a public safety officer, Y may claim the tax credit in tax year 2026.

c. Tax credit in excess of tax liability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the excess credited to the taxpayer's estimated tax for the following year in the same manner and under the same conditions as an overpayment of tax.

d. Transferability. The credit shall not be transferred to any other person.

This rule is intended to implement Iowa Code section 422.12P.

ARC 9373C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rulemaking related to benefits and providing an opportunity for public comment

The Administrative Services Department hereby proposes to amend Chapter 64, "Benefits," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 8A.104(5) and 8A.413.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8A.104(5) and 8A.413 and 2024 Iowa Acts, Senate File 2370.

Purpose and Summary

2024 Iowa Acts, Senate File 2370, changed the definition of "governing body" in Iowa Code chapter 509A from the Executive Council of the State to the Director of the Department regarding authority for establishing plans for and procuring group insurance for public employees. This proposed rulemaking updates language to comport with the legislation.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 8, 2025. A public hearing was held on the following date(s):

- January 28, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

The Department will not grant waivers under the provision of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Tami Wiencek
Department of Administrative Services
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Phone: 515.725.2017
Fax: 515.281.6140
Email: tami.wiencek@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Amend rule 11—64.1(8A) as follows:

11—64.1(8A) Health benefits. The director is authorized ~~by the executive council of Iowa~~ to administer health benefit programs for employees of the state of Iowa who are covered under Iowa Code chapter 509A. The ~~executive council of Iowa~~ director shall determine the amount of the state's contribution toward each individual employee's premium cost and shall authorize the remaining premium cost to be deducted from the employee's pay. The state's contribution for each contract-covered employee shall be as provided for in applicable collective bargaining agreements negotiated in accordance with Iowa Code chapter 20.

ITEM 2. Amend rule 11—64.2(8A) as follows:

11—64.2(8A) Dental insurance. The director is authorized ~~by the executive council of Iowa~~ to administer dental insurance programs for employees of the state of Iowa who are covered under Iowa Code chapter 509A.

ITEM 3. Amend rule 11—64.3(8A) as follows:

11—64.3(8A) Life insurance. The director is authorized ~~by the executive council of Iowa~~ to administer life insurance programs for employees of the state of Iowa who are covered under Iowa Code chapter 509A, except for employees of the board of regents.

ITEM 4. Amend rule 11—64.4(8A) as follows:

11—64.4(8A) Long-term disability insurance. The director is authorized ~~by the executive council of Iowa~~ to administer long-term disability insurance programs for employees of the state of Iowa who are covered under Iowa Code chapter 509A, except for employees of the board of regents.

Employees who receive loss of time benefits under the state workers' compensation program shall have those benefits, except for benefits designated as medical costs pursuant to Iowa Code section 85.27 and that portion of benefits paid as attorneys' fees approved pursuant to Iowa Code section 86.39, deducted from any state long-term disability benefits received where the workers' compensation injury or illness was a substantial contributing factor to the award of long-term disability benefits. Disability benefit payments will be further reduced by primary and family social security payments as determined at the time social security disability payments commence, railroad retirement disability income, and any other state-sponsored sickness or disability benefits payable.

ARC 9371C

AGING, DEPARTMENT ON[17]

Notice of Intended Action

Proposing rulemaking related to agency realignment and providing an opportunity for public comment

The Department of Health and Human Services(HHS) hereby proposes to rescind Chapter 1, "Introduction, Abbreviations and Definitions," Chapter 2, "Department on Aging," Chapter 4, "Department Planning Responsibilities," Chapter 5, "Department Fiscal Operations," Chapter 6, "Area Agency on Aging Planning and Administration," Chapter 7, "Area Agency on Aging Service Delivery," Chapter 8, "Long-Term Care Ombudsman," Chapter 14, "Iowa Family Caregiver Support Program," Chapter 15, "Elder Abuse Prevention and Awareness," Chapter 19, "Public Records and Fair Information Practices," Chapter 21, "The Service of Case Management," and Chapter 22, "Office of Public Guardian," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 231.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This proposed rulemaking is being undertaken in response to 2023 Iowa Acts, Senate File 514 (State Government Alignment Act), which realigned the Department on Aging within the HHS. To further effectuate that realignment, HHS is rescinding the chapters within agency [17] herein and repromulgating them in agency [441] in a separate rulemaking. The repromulgation will also take into account changes to the federal Supporting Older Americans Act.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on May 14, 2025. A public hearing was held on the following date(s):

- June 3, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on July 16, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

July 16, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 281 777 413 166 0 Passcode: mg9we9VJ
July 16, 2025 1:30 to 2 p.m.	Microsoft Teams Meeting ID: 214 765 418 271 7 Passcode: wq9Dc7cr

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 Department 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 **17—Chapter 1**.

ITEM 2. Rescind and reserve **17—Chapter 2**.

ITEM 3. Rescind and reserve **17—Chapter 4**.

ITEM 4. Rescind and reserve **17—Chapter 5**.

ITEM 5. Rescind and reserve **17—Chapter 6**.

ITEM 6. Rescind and reserve **17—Chapter 7**.

ITEM 7. Rescind and reserve **17—Chapter 8**.

ITEM 8. Rescind and reserve **17—Chapter 14**.

ITEM 9. Rescind and reserve **17—Chapter 15**.

ITEM 10. Rescind and reserve **17—Chapter 19**.

ITEM 11. Rescind and reserve **17—Chapter 21**.

ITEM 12. Rescind and reserve **17—Chapter 22**.

ARC 9372C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to amount, duration and scope of medical and remedial services and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 249A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 249A.

Purpose and Summary

The purpose of this proposed rulemaking is to eliminate an outdated orthodontia practice standard from administrative rules.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on May 14, 2025. A public hearing was held on the following date(s):

- June 3, 2025

Fiscal Impact

This proposed rulemaking has a positive fiscal impact to the State of $583,469. However, that savings will be reinvested by increasing reimbursement rates for diagnostic and preventive Current Dental Terminology (CDT) codes.

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.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

July 15, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 295 977 061 745 9 Passcode: XL28if9J
July 15, 2025 1:30 to 2 p.m.	Microsoft Teams Meeting ID: 266 930 675 699 6 Passcode: Ka39av7A

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 Department and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Amend paragraph **78.4(8)"c"** as follows:

c. Comprehensive orthodontic treatment when prior approval has been received. Approval is limited to members under 21 years of age and shall be granted when the member has a severe handicapping malocclusion ~~with a score of 26 or above using the index from the "Handicapping Malocclusion Assessment to Establish Treatment Priority," by J.A. Salzmann, D.D.S., American Journal of Orthodontics, October 1968~~ as defined by the department and when determined to be medically necessary.

ARC 9375C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to aging services, state unit on aging responsibilities, area agency on aging responsibilities, and delivery of aging services and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to adopt new Chapter 225, "Aging Services," Chapter 226, "State Unit on Aging Responsibilities," Chapter 227, "Area Agency on Aging Responsibilities," and Chapter 228, "Delivery of Aging Services," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 231.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 231 and the federal Supporting Older Americans Act.

Purpose and Summary

This proposed rulemaking implements amendments to the federal Supporting Older Americans Act, which serves as a backbone for the organization and delivery of social and nutrition services to older individuals and their caregivers. It authorizes a wide array of service programs through a national network of state agencies on aging, area agencies on aging, service providers, and tribal organizations. These proposed chapters aim to remove barriers to accessing the aging network, increase business acumen and capacity building, and identify the roles and responsibilities of the State Unit on Aging and the Area Agencies on Aging. In addition, the proposed chapters provide requirements for service delivery and prioritization, increased flexibilities in the nutrition program, and coordination with tribal organizations and members in the State.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on May 14, 2025. A public hearing was held on the following date(s):

- June 3, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on July 16, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

July 16, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 281 777 413 166 0 Passcode: mg9we9VJ
July 16, 2025 1:30 to 2 p.m.	Microsoft Teams Meeting ID: 214 765 418 271 7 Passcode: wq9Dc7cr

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 Department 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** 441—Chapter 225:

CHAPTER 225
AGING SERVICES

441—225.1(231) Applicability. The rules set forth in the chapters under the jurisdiction of the department apply to all grants awarded to any recipient through the department and to any entities regulated by the department. Compliance with these rules is mandatory unless a waiver is granted in accordance with the procedures in 441—Chapter 6.

441—225.2(231) Definitions. The following definitions apply to 441—Chapters 225 through 229 unless otherwise specified.

225.2(1) *Definitions.*

"Administration on Aging" means the federal agency established to administer the provisions of the federal Act.

"Dietitian" or *"licensed dietitian"* means a person who maintains a license granted by the Iowa board of dietetics.

"Federal Act" means the Supporting Older Americans Act, 42 U.S.C. §3001 et seq., as amended to October 1, 2025, and all references herein are as amended to October 1, 2025.

"Plan of correction" means a plan developed by an area agency on aging and approved by the department that describes the actions the area agency on aging shall take to correct deficiencies arising from the agency's failure to perform and specifies the date by which those deficiencies shall be corrected.

"Title" means a specific title of the federal Act.

225.2(2) *Definitions adopted by reference.* The following terms have the same meaning as defined in the federal Act and 45 CFR 1321 as amended to October 1, 2025:

"Abuse"
"Access" or *"access services"*
"Area agency on aging"
"Area plan on aging"
"Elder abuse"
"Family caregiver"
"Greatest economic need"
"Greatest social need"
"In-home services"
"Legal assistance"
"Multipurpose senior center"
"Neglect"
"Planning and service area (PSA)"
"Service provider"
"State plan on aging"

"Tribal organization"

441—225.3(231) Aging network. Aging services are delivered through the aging network, which consists of:

1. The state unit on aging, 441—Chapter 226;
2. Area agencies on aging, 441—Chapter 227;
3. Service providers;
4. Office of the state long-term care ombudsman, 441—Chapter 230; and
5. Aging and disability resource centers, 441—Chapter 224.

441—225.4(231) Conflict of interest.

225.4(1) Conflict of interest includes any action or failure to act made by the state unit on aging, an area agency on aging, a service provider, a contractor, or a legal representative that may be an actual or perceived conflict between official duties and personal interest. Conflict of interest exists when any action made for program purposes by any entity or individual holding an official position or performing duties:

a. Results in a situation that interferes with a program's or program employee's or representative's ability to provide objective information or act in the best interests of the individual.

b. Uses an official position for private gain (other than salary).

c. Gives preferential treatment to any entity, contractor, or individual or fails to act impartially in the conduct of official duties.

d. Impedes or adversely affects governmental efficiency or economy.

e. Engages in conduct that could adversely affect the confidence of the public in the integrity of the program initiatives.

f. Creates circumstances where it might reasonably be perceived that an entity's or individual's judgment could be influenced by the nature of the circumstances.

g. Uses any property of the individual giving care or the individual receiving care for personal use.

h. Leads to decisions that are or have the appearance of being contrary to duties of the aging network, the state plan, or 45 CFR 1321 as amended to October 1, 2025.

225.4(2) The state unit on aging will have policies and procedures in effect to avoid conflicts of interest in accordance with 45 CFR 1321 as amended to October 1, 2025.

These rules are intended to implement Iowa Code chapter 231.

ITEM 2. Adopt the following **new** 441—Chapter 226:

CHAPTER 226
STATE UNIT ON AGING RESPONSIBILITIES

441—226.1(231) Designated state unit on aging. The department is designated as the sole state unit on aging in Iowa. The department will perform all state unit on aging duties in accordance with the federal Act; 45 CFR 1321 through 1324 as amended to October 1, 2025; and Iowa Code chapter 231.

441—226.2(231) Policies and procedures. The department will develop and maintain policies and procedures in accordance with the federal Act; 45 CFR 1321 and 1324 as amended to October 1, 2025; and Iowa Code chapter 231.

441—226.3(231) Public input. The state unit on aging will establish mechanisms and varied methods to obtain the views of older individuals, family caregivers, service providers, and the public on a periodic basis, with a focus on those in greatest economic need and greatest social need according to 45 CFR 1321 as amended to October 1, 2025.

441—226.4(231) State plan on aging.

226.4(1) *Authority.* As the state unit on aging, the department will develop and administer a state plan on aging or state plan amendment pursuant to the federal Act.

226.4(2) *Multiyear state plan on aging.* The department will develop and submit for approval a two-, three-, or four-year state plan on aging in compliance with the federal Act; 45 CFR 1321 and 1324 as amended to October 1, 2025; Iowa Code chapter 231; and the procedures and associated instructions, guidance, and direction specified by the federal Administration on Aging.

226.4(3) *State plan amendment.* The department may, in its discretion, develop and submit to the federal Administration on Aging for consideration an amendment to the state plan on aging at any time.

226.4(4) *State plan on aging and state plan amendment review process.* Once the department develops the state plan on aging or state plan amendment, the department will comply with the following chronological review and comment process:

a. The department will hold at least one public hearing on the proposed state plan or state plan amendment; and

b. The department will submit the state plan or state plan amendment to the council on health and human services for consideration. The council will make recommendations on the state plan or state plan amendment after reviewing the plan and public comments; and

c. The department will submit a state plan or state plan amendment to the governor or governor's designee for approval and signature; and

d. The department will submit a state plan or state plan amendment approved by the governor to the federal Administration on Aging for approval at least 45 days before the effective date of the state plan or state plan amendment.

226.4(5) *State plan on aging or state plan amendment not approved.* If a state plan or state plan amendment is not approved by the governor or governor's designee or the federal Administration on Aging, the department may, in its discretion, table or revise the proposed state plan or state plan amendment. If the department revises the proposed state plan or state plan amendment, the department will follow the comment and approval process outlined in subrule 226.4(4).

226.4(6) *Technical changes to state plan on aging.* The department or the governor may, at either party's discretion, make technical corrections to a submitted state plan or state plan amendment prior to approving it.

441—226.5(231) Designation of and changes to PSAs. The department will divide the state into distinct PSAs in accordance with the federal Act; 45 CFR 1321 as amended to October 1, 2025; and Iowa Code chapter 231.

226.5(1) Notice of changes to PSAs will be provided in accordance with 441—Chapter 16.

226.5(2) Appeals to designation of and changes to PSAs.

a. Appeals to the department's designation of PSAs may be brought forth by applicants seeking to change existing PSA designation.

b. Appeals will be provided in accordance with 441—Chapter 7, except for rule 441—7.51(17A). Applicants whose appeal rights have been exhausted may appeal that decision to the federal Departmental Appeals Board (DAB) in accordance with the federal Act and with the procedures set forth in 45 CFR Part 16 as amended to October 1, 2025.

441—226.6(231) Designating area agencies on aging. The department will designate an area agency on aging for each PSA in accordance with the federal Act; 45 CFR 1321 as amended to October 1, 2025; and Iowa Code chapter 231. Upon designation, an area agency on aging is considered an instrumentality of the state and will adhere to all state and federal mandates applicable to an instrumentality of the state.

441—226.7(231) Withdrawal of designation of area agency on aging. The department will withdraw an area agency on aging's designation as an area agency when the department determines that the area agency on aging does not meet the requirements of the federal Act, regulations, Iowa Code, Iowa Administrative Code, terms and conditions of grant awards, or department policies and procedures. Notice of withdrawal will be provided in accordance with 441—Chapter 16.

441—226.8(231) Appeals to withdrawal of area agency on aging designation.

226.8(1) An area agency on aging may appeal the department's action or proceeding to withdraw the designation of an area agency on aging. Appeals will be provided in accordance with 441—Chapter 7, except for rule 441—7.51(17A).

226.8(2) An area agency on aging may appeal the department's decision to the federal DAB in accordance with the federal Act and with the procedures set forth in 45 CFR Part 16 as amended to October 1, 2025. The DAB may refer an appeal to its Alternative Dispute Resolution Division for mediation prior to making a decision on the appeal.

441—226.9(231) Area plan on aging reviews and approvals. The department will review new, revised, or amended area plans on aging and may approve once any plan has been reviewed in accordance with the process in 441—Chapter 227.

441—226.10(231) Intrastate funding formula. The department will develop an intrastate funding formula for distribution of funds received under the federal Act and state funds to organizations serving as designated area agencies on aging that complies with 45 CFR 1321.49 as amended to October 1, 2025.

441—226.11(231) Evaluation and compliance. The department will monitor area agencies on aging to ensure quality performance and compliance as set forth in 45 CFR 1321 as amended to October 1, 2025.

226.11(1) *Correction of deficiencies.*

a. Remedies. The purpose of remedies is to ensure prompt action is taken by an area agency on aging to correct deficiencies arising from failure to perform as identified by this rule. The department will determine the remedies to be applied to the area agency on aging for failure to perform.

b. Number of remedies. The department may apply one or more remedies for each deficiency constituting failure to perform or for all deficiencies constituting failure to perform.

c. Notification requirements. The department will give the area agency on aging written notice of the remedy in accordance with 441—Chapter 16. The written notice of remedy will include the following:

(1) The nature of the failure to perform.

(2) The remedy imposed.

(3) The effective date of the remedy.

(4) The right to appeal the determination leading to the remedy.

d. Factors to be considered in selecting remedies. In order to select the appropriate remedy, the department will determine the seriousness of the failure to perform by considering whether the area agency on aging's failure to perform:

(1) Is isolated.

(2) Constitutes a pattern.

(3) Is broad in scope.

(4) Creates a financial burden for the department, other area agencies on aging, or the aging network.

(5) Creates an administrative burden for the department, other area agencies on aging, or the aging network.

226.11(2) *Available remedies.* The department may select one or more of the following remedies with reference to a cited failure to perform. In selecting an appropriate remedy, the department may also consider the area agency on aging's prior history of failure to perform in general and specifically with reference to the cited failure to perform.

a. Directed in-service training. The department may require the staff of an area agency on aging to attend an in-service training program. The area agency on aging is responsible for the payment for the directed in-service training.

b. Department monitoring. The department may require an area agency on aging to receive increased monitoring by the department. The frequency and duration of the monitoring is within the discretion of the department.

c. Directed plan of correction. The department may develop a plan of correction and require an area agency on aging to take action within specified time frames.

d. Mandatory plan of correction. The department may require an area agency on aging to develop a mandatory plan of correction for approval by the department within specified time frames pursuant to subrule 226.11(2).

e. Reduction of funding. The department may reduce the amount of funding distributed.

f. Investigative audit. The department may require an area agency on aging to receive an investigative audit. The area agency on aging is responsible for the payment for this investigative audit.

g. Conditional approval. The department may conditionally approve area plans and amendments with required corrections to be made by the area agency on aging within no more than 90 days. If the plan is not approved, the department may withdraw designation as specified in rule 441—226.7(231).

h. Other remedies. The department may also impose other remedies, as appropriate.

i. Withdrawal of designation. The department may withdraw a designation of an area agency on aging pursuant to rule 441—226.7(231).

226.11(3) *Duration of remedies.* Remedies will continue until the area agency on aging has achieved substantial compliance as determined by the department or the designation as an area agency on aging is withdrawn.

226.11(4) *Appeal of a determination of failure to perform.*

a. An area agency on aging may appeal the department's determination of a failure to perform that leads to a remedy citation. Appeals will be provided in accordance with 441—Chapter 7, except for rule 441—7.51(17A).

b. An area agency on aging may not appeal the choice of remedy, including the factors considered by the department in choosing the remedy.

441—226.12(231) Data management. The director is the principal officer of the state to administer data reporting. The department will maintain data on all individuals served. The department will develop policy and procedures for data management and confidentiality in accordance with 45 CFR 1321 as amended to October 1, 2025.

441—226.13(231) State agency Title III and Title VI coordination responsibilities. The department will coordinate efforts with Title III and Title VI programs, including area agencies on aging and service providers, to ensure outreach is provided to tribal elders and family caregivers regarding services for which they may be eligible under Title III or Title VI or both in accordance with 45 CFR 1321.53 as amended to October 1, 2025.

441—226.14(231) Emergency and disaster requirements.

226.14(1) *Emergency planning.* The department will:

a. Establish emergency plans as set forth in Section 307(a)(28) of the federal Act.

b. Coordinate with area agencies on aging, service providers, and local emergency management.

c. Coordinate efforts among area agencies on aging and Title VI programs in emergency and disaster preparedness planning, response, and recovery. The department will communicate with the relevant Title VI program director(s) as set forth in 45 CFR 1322 as amended to October 1, 2025, to specify how the department and the area agencies on aging will communicate and coordinate with Title VI programs regarding emergency and disaster preparedness planning, response, and recovery.

226.14(2) *Use of Title III funds to address disasters.*

a. The department in its discretion may use Title III funds without regard to its approved intrastate funding formation or funds distribution plan during presidential declared major disaster declarations under the Stafford Act (42 U.S.C. 5121 through 5207 as amended to October 1, 2025) when Title III services as defined in 441—Chapter 228 are impacted by the declaration.

b. When implementing this authority, the department may set aside funds, up to 5 percent of the department's total Title III allocations, if specified as being allowed to be withheld for the purpose in the department's approved intrastate funding formula or funds distribution plan, or with prior approval from the Assistant Secretary for Aging.

c. Set-aside funds that are awarded under this provision must comply with the requirements in 45 CFR 1321.101 as amended to October 1, 2025.

d. If the state or an Indian tribe requests and receives a major disaster declaration under the Stafford Act (42 U.S.C. 5121 through 5207 as amended to October 1, 2025), the department may use disaster relief flexibilities under Title III as set forth in 45 CFR 1321.101 as amended to October 1, 2025, to provide disaster relief services for areas of the state where the specific major disaster declaration is authorized and where older adults and family caregivers are affected.

441—226.15(231) Prevention of elder abuse, neglect, and exploitation. In accordance with Title VII, Chapter 3, of the federal Act, the department will develop, strengthen, and carry out programs for the prevention of, detection of, assessment of, treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation. All programs using Title VII, Chapter 3, funds will meet requirements as set forth in the federal Act and guidance as set forth by the Assistant Secretary for Aging.

441—226.16(231) State legal assistance development program. The department will designate a state legal assistance developer to ensure the provision and monitoring of legal assistance, advice, and technical assistance delivery to older individuals and other service providers. The legal assistance developer activities will be contained in the state plan in accordance with the federal Act; 45 CFR 1324 as amended to October 1, 2025; and department policies and procedures. The state legal assistance developer may provide technical assistance to individuals when other legal assistance is not available.

These rules are intended to implement Iowa Code chapter 231.

ITEM 3. Adopt the following **new** 441—Chapter 227:

CHAPTER 227
AREA AGENCY ON AGING RESPONSIBILITIES

441—227.1(231) Area agency on aging responsibilities. Each area agency on aging will be the lead on all aging issues on behalf of all older individuals and caregivers in each PSA in accordance with the federal Act; 45 CFR 1321 through 1324 as amended to October 1, 2025; Iowa Code chapter 231; and policies and procedures defined by the department. Each area agency on aging is designated by the department as an aging and disability resource center as defined in rule 441—224.1(225A) and subject to the requirements therein.

441—227.2(231) Board of directors. Each area agency on aging will have a board of directors in accordance with 45 CFR 1321 as amended to October 1, 2025; articles of incorporation; and bylaws. Pursuant to Iowa Code section 231.23, the area agency on aging will use the procedures defined by the department for selecting members of the area agency on aging's board of directors. The selection procedure will be incorporated into the bylaws of the board of directors.

441—227.3(231) Staffing. Each area agency on aging will ensure adequate staffing levels to meet the needs of the PSA and the approved area plan. Each area agency on aging must notify the department of changes in management-level staff within seven calendar days. Staff performing area agency on aging functions and services will demonstrate competency and knowledge pertinent to the staff's areas of responsibility and include the following.

227.3(1) *Director.* Each area agency on aging's board of directors will name a qualified director and may employ other staff as necessary to manage and monitor the area plan.

227.3(2) *Fiscal.* Each area agency on aging will have adequate staff or contractors to perform duties to manage and monitor the fiscal responsibilities of an area agency on aging.

227.3(3) *Elder abuse prevention and awareness.* Staff and contractors completing elder abuse prevention and awareness activities must complete dependent adult mandatory reporter training requirements and any mandatory trainings from the department.

227.3(4) *Case management.* Staff and contractors completing case management activities must complete dependent adult mandatory reporter training requirements and any mandatory trainings from the department.

441—227.4(231) Conflicts of interest. Each area agency on aging will have policies and procedures regarding conflicts of interest at organizational and individual levels in accordance with the federal Act; 45 CFR 1321 as amended to October 1, 2025; and department policies and procedures.

441—227.5(231) Policies and procedures. Each area agency on aging will develop and maintain policies and procedures in accordance with the federal Act; 45 CFR 1321 as amended to October 1, 2025; and requirements set forth by the department. All manuals, guidelines, and standards referred to by these rules will be maintained by the area agency on aging and available for public inspection and departmental monitoring.

441—227.6(231) Public participation.

227.6(1) *Advisory council.* Each area agency on aging will establish an advisory council. The council shall carry out advisory functions that further the area agency on aging's mission of developing and coordinating community-based systems of services for all older individuals and family and older relative caregivers specific to each PSA.

a. Composition of council. The council shall include individuals and representatives of community organizations from or serving the PSA who will help to enhance the leadership role of the area agency on aging in developing community-based systems of services prioritizing those in greatest economic need and greatest social need. The advisory council shall be made up of:

(1) More than 50 percent older individuals, including minority individuals who are participants or who are eligible to participate in programs under this rule, with efforts to include individuals identified as in greatest economic need and individuals identified as in greatest social need in 45 CFR 1321.65(b)(2) as amended to October 1, 2025;

(2) Representatives of older individuals;

(3) Family caregivers, which may include older relative caregivers;

(4) Representatives of health care provider organizations, including providers of veterans' health care (if appropriate);

(5) Representatives of service providers, which may include legal assistance, nutrition, evidence-based disease prevention and health promotion, caregiver, long-term care ombudsman, and other service providers;

(6) Persons with leadership experience in the private and voluntary sectors;

(7) Local elected officials;

(8) The general public; and

(9) As available:

1. Representatives from Indian tribes, pueblos, or tribal aging programs; and

2. Older relative caregivers, including kin and grandparent caregivers of children or adults aged 18 to 59 with a disability.

b. Conflicts of interest. Pursuant to 45 CFR 1321 as amended to October 1, 2025, the advisory council shall not operate as a board of directors for the area agency on aging. Individuals may not serve on both the advisory council and the board of directors for the same entity.

227.6(2) *Public input.* Each area agency will have mechanisms and varied methods to obtain periodic views of older individuals, caregivers, service providers, and the public with a focus on those in greatest economic need and greatest social need. Additionally, the views of participants will be obtained about the services participants receive, which will be used to improve services.

441—227.7(231) Advocacy. Each area agency on aging will serve as the public advocate for the development and enhancement of comprehensive and coordinated community-based systems of services in each community throughout and specific to each PSA. Each area agency on aging will carry out this responsibility in accordance with 45 CFR 1321 as amended to October 1, 2025. Advocacy requirements

shall not supersede a prohibition contained in the federal appropriation on the use of federal funds to lobby the Congress or the lobbying provision applicable to private nonprofit agencies and organizations contained in OMB Circular A-122 as amended to October 1, 2025.

441—227.8(231) Area plan on aging. Each area agency on aging will operate under an area plan on aging approved by the department.

227.8(1) *Multiyear area plan on aging.* Each area agency on aging will develop and administer a two-, three-, or four-year area plan on aging specific to each PSA. Each area agency on aging will develop and submit the area plan on aging to the department for approval following the form, format, policies, and procedures specified by the department and in accordance with 45 CFR 1321.9 and 1321.65 as amended to October 1, 2025.

a. Area plan on aging annual update. Each area agency on aging will provide an annual update to its multiyear area plan on aging according to department policies, procedures, and instructions.

b. Area plan on aging amendments. Each area agency on aging will amend the approved area plan on aging and submit it to the department for approval when requested by the department or when necessary, according to 45 CFR 1321 as amended to October 1, 2025.

227.8(2) *Advisory council review and comment.* Each area agency on aging will submit any new area plan on aging, annual updates, or amendments for review and comment to the advisory council before the new plan, annual update, or amendment is sent to the department for approval.

227.8(3) *Public input.* Each area agency on aging will obtain public input in accordance with 45 CFR 1321.65 as amended to October 1, 2025. Each area agency on aging will:

a. Provide a minimum time period of at least 30 calendar days, unless a waiver is provided by the department during an emergency or when a time-sensitive action is otherwise necessary, for public review and comment on a new multiyear area plan on aging and area plan aging amendments;

b. Hold at least one public hearing on the area plan on aging and area plan amendments.

(1) The public hearing(s) will be held prior to submission of the area plan on aging or amendment(s) at a time that permits older individuals, public officials, and other interested parties reasonable opportunity to participate.

(2) The hearing(s) will be conducted in a barrier-free, fully accessible manner virtually or in person or both.

(3) The public hearing agenda and associated documents will be accessible and available to the public prior to the hearing.

1. Direct service waiver requests will be listed as a separate agenda item.
2. Priority services will be listed as a separate agenda item.

(4) Each area agency on aging will provide notice of the hearing in accordance with Iowa Code section 21.4(1) and by sending notice to all known groups of older individuals, PSA public officials, and other interested parties. The notice will be issued 30 days prior to the public hearing and include the time, date, and location of the public hearing. Each area agency on aging will comply with any applicable state or federal laws and regulations governing public hearing processes and procedures.

441—227.9(231) Title III and Title VI coordination. For an area agency on aging where Title VI programs exist within the area agency on aging's PSA, the area agency on aging's policies and procedures, developed in coordination with the relevant Title VI program director(s), as set forth in 45 CFR 1322.13(a) as amended to October 1, 2025, must explain how the area agency on aging's network, including service providers, will coordinate with Title VI programs to ensure compliance with Section 306(a)(11)(B) of the federal Act (42 U.S.C. 3026(a)(11)(B) as amended to October 1, 2025).

441—227.10(231) Fiscal responsibilities.

227.10(1) *Expenditure of state and federal funds.* Each area agency on aging will adhere to the policies and procedures related to expenditure of state and federal funds developed in accordance with the federal Act; 45 CFR 1321 through 1324, 45 CFR 75, and 2 CFR 200, all as amended to October 1, 2025; Iowa Code chapter 231; and department policies and procedures.

227.10(2) *Contracts and commercial relationships.* A contract or agreement between an area agency on aging and an outside entity will not restrict the area agency on aging from contracting with other entities that provide similar services. All contracts and commercial relationships must avoid conflicts of interest as detailed in rule 441—225.3(231).

a. Each area agency on aging will maintain a file of all current contracts and contracts up to three years. These files will be made available for monitoring and assessment by the department.

b. Each area agency on aging must request prior approval from the department 30 days prior to signing the contract for any proposed service contracts with for-profit organizations.

227.10(3) *Program income.* Funds collected and qualifying as program income must be handled in accordance with 45 CFR 1321.9(c)(2) as amended to October 1, 2025.

227.10(4) *Cost sharing.* Area agencies on aging may apply for a waiver using the department's processes to implement cost sharing for allowable services as part of the area plan on aging approval process consistent with 45 CFR 1321 as amended to October 1, 2025. Final approval of a cost sharing plan for each area agency on aging will be at the discretion of the department. If an area agency on aging has been approved by the department to implement cost sharing with consumers, each area agency on aging will follow the regulations of 45 CFR 1321 as amended to October 1, 2025. No eligible individual or family caregiver shall be denied service because the individual or family caregiver will not or cannot contribute to the cost of the service.

227.10(5) *Private pay.* Each area agency on aging or service provider may implement private pay programs in accordance with 45 CFR 1321 as amended to October 1, 2025, and department processes.

227.10(6) *Sectarian use.* Sectarian instruction or religious worship shall not be provided using funds received under the federal Act.

441—227.11(231) Compliance monitoring. Each area agency on aging will develop and implement procedures to monitor the programmatic and fiscal requirements of all programs, service providers and activities. Each area agency on aging will implement procedures to correct deficiencies in programmatic and fiscal performance of all programs, service providers and activities. Each area agency on aging will implement appropriate processes to monitor contracted entities determined to be subrecipients of the area agency on aging's federal funds.

441—227.12(231) Quality performance. Each area agency on aging will develop and implement procedures in accordance with 45 CFR 1321 as amended to October 1, 2025, to evaluate and, when necessary, improve the quality and effectiveness of services provided directly by agency staff or contracted service providers.

441—227.13(231) Data collection, sharing, and confidentiality.

227.13(1) *Data collection.* All data collected as a result of an organization's designation as an area agency on aging is owned and governed by the department's policies and procedures.

227.13(2) *Data protection.* Each area agency on aging will use appropriate administrative, technical and physical safeguards to protect the confidentiality, integrity and availability of data collected. Each area agency on aging will ensure that staff take appropriate confidentiality trainings and will provide documentation of completed trainings when requested by the department.

227.13(3) *Confidentiality.* Each area agency on aging will implement procedures to ensure confidentiality in compliance with 45 CFR 1321 as amended to October 1, 2025, and 441—Chapter 9.

441—227.14(231) Reporting. Each area agency on aging will submit consumer, service, program, and financial reports in accordance with department policies and procedures and with federal and state reporting requirements. Each area agency on aging will:

227.14(1) Complete client assessment and data collection, at a minimum, once each fiscal year per 45 CFR 1321 as amended to October 1, 2025.

227.14(2) Be solely responsible for obtaining and reporting necessary information from subgrantees, contractors and subcontractors.

227.14(3) Complete accurate program or financial reports by the established due dates, even if waiver is granted. Failure to do so may subject an area agency on aging to remedies provided in rule 441—226.5(231).

441—227.15(231) Emergency and disaster requirements.

227.15(1) *Emergency and disaster plans.* Each area agency on aging will establish emergency plans in accordance with 45 CFR 1321.97 as amended to October 1, 2025.

227.15(2) *Service coordination.* For continuity of services to individuals, each area agency on aging will coordinate with federal, local, and state emergency response agencies; service providers; relief organizations; local and state governments; and any other entities that have responsibility for disaster relief service delivery, as well as with tribal emergency management, as appropriate, to plan, respond, and recover from an emergency.

227.15(3) *Coordination with Title VI programs.* Area agencies on aging that have Title VI programs in operation within their PSA will have policies and procedures, developed in communication with the relevant Title VI program director(s) as set forth in 45 CFR 1322 as amended to October 1, 2025, in place for communication and coordination methods with Title VI programs regarding emergency and disaster preparedness planning, response, and recovery.

441—227.16(231) Direct service provisions.

227.16(1) An area agency on aging will not provide a direct service as defined in 45 CFR 1321 as amended to October 1, 2025, except as allowed by the department pursuant to the requirements identified in the federal Act and 45 CFR 1321 as amended to October 1, 2025. The department in its judgment may allow an area agency on aging to provide any service directly when the area agency on aging demonstrates in its direct service request that:

a. Direct provision of service is necessary to ensure an adequate supply of the service and no potential provider was identified during the public hearing process; or

b. The proposed service will be of comparable quality in the view of the area agency on aging advisory council and will meet or exceed service standards developed by the area agency on aging; or

c. Each area agency on aging can provide a service of equal quality at lower cost than another provider.

227.16(2) The department may waive the conditions for direct service provision for case management, information and assistance services, and outreach services per 45 CFR 1321 as amended to October 1, 2025.

441—227.17(231) Grievance. Each area agency on aging will implement grievance procedures in compliance with 45 CFR 1321 as amended to October 1, 2025. Those grievance procedures shall contain at least the following procedures for resolution:

1. Acknowledgment of grievance.
2. Process for attempting to informally resolve dispute.
3. Notification of the outcome of the grievance.
4. Opportunity to submit the grievance to the department.

These rules are intended to implement Iowa Code chapter 231.

ITEM 4. Adopt the following **new** 441—Chapter 228:

CHAPTER 228
DELIVERY OF AGING SERVICES

441—228.1(231) Aging service delivery.

228.1(1) The federal Act authorizes grants to states to deliver a range of services through the area agencies on aging that include:

a. Supportive services and senior centers (Title III, Part B).

b. Nutrition services (Title III, Part C).

c. Evidence-based disease prevention and health promotion services (Title III, Part D).

d. Family caregiver support services (Title III, Part E).

e. Vulnerable elder rights protection activities (Title VII).

f. Programs for prevention of elder abuse, neglect, and exploitation (Title VII, Chapter 3).

g. State legal assistance development program as described in 441—Chapter 226 (Title VII, Chapter 4).

228.1(2) The department in its discretion may include additional services to meet the needs of individuals eligible for services under the federal Act. All services will be planned, approved, offered, monitored and evaluated in accordance with the federal Act; 45 CFR 1321 as amended to October 1, 2025; department policies and procedures; and area agency on aging policies and procedures.

228.1(3) Each area agency on aging will identify in its area plan on aging the services to be provided in the PSA as defined in 441—Chapters 226 and 227. The department in its discretion may identify the mandatory services that an area agency on aging will include in its area plan on aging.

441—228.2(231) Eligibility. Older individuals and informal caregivers are eligible for Supporting Older Americans Act services.

228.2(1) *General eligibility.* Eligibility requirements for services as set forth in Title III of the federal Act and 45 CFR 1321 as amended to October 1, 2025, are as follows.

a. Older individual. An older individual is a person aged 60 or older.

b. Caregivers of older individuals. A family member, or another individual, who is aged 18 or older and is an informal provider of in-home and community care to:

(1) An older individual or

(2) A person of any age with Alzheimer's disease or a disease or related disorder with neurological and organic brain dysfunction as defined in the federal Act.

c. Older relative caregivers. An individual who is aged 55 or older and lives with, is the informal provider of in-home and community care to, and is the primary caregiver for a child or an individual with a disability.

(1) In the case of an older relative caregiver for a child, the older relative caregiver:

1. Is the grandparent, step-grandparent, or other older relative (other than the parent) by blood, marriage, or adoption of the child;

2. Is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregivers of the child; and

3. Has a legal relationship to the child, such as legal custody, adoption, or guardianship, or is raising the child informally.

(2) In the case of an older relative caregiver for an individual with a disability, the older relative caregiver is the parent, grandparent, step-grandparent, or other older relative by blood, marriage, or adoption of the individual with a disability.

228.2(2) *Nutrition services.* Eligibility for nutrition services as set forth in Title III, Part C, of the federal Act includes older individuals and their spouses regardless of age, volunteers during meal hours, and individuals with disabilities who are not older individuals but who live with an older individual or reside in housing facilities occupied primarily by older individuals and at which congregate nutrition services are provided.

228.2(3) *Elder abuse prevention and awareness.* An older individual is eligible for elder abuse prevention and awareness activities if the older individual has experienced elder abuse or neglect or is at risk for elder abuse or neglect. The older individual cannot be a current resident in a "nursing facility" as defined in Iowa Code section 135C.1(15).

441—228.3(231) Supportive services and senior centers.

228.3(1) *Authorized services.* Supportive services are access services, in-home supportive services, multipurpose senior centers, and legal services as set forth in the federal Act and 45 CFR 1321.85 as amended to October 1, 2025. Specific supportive services that may be offered in Iowa are adult day, assisted transportation, case management, chore, homemaker, information and assistance, legal

assistance, outreach, personal care, transportation, and other supportive services identified by the department.

228.3(2) *Priority services.* In accordance with the federal Act and 45 CFR 1321 as amended to October 1, 2025, the department will identify and categorize specific Title III-B supportive services to be considered priority access services, in-home services, or a legal assistance service with a specified minimum percentage of Title III-B supportive services funds, less administrative costs, to be expended on priority services. An area agency on aging may request a waiver to the specified minimum percentage of Title III-B supportive services funds to be expended on the Title III-B priority services.

228.3(3) *Legal assistance.* Legal assistance providers shall provide effective administrative and judicial representation to older individuals and demonstrate expertise in areas of law that are given priority in the federal Act for non-fee-generating issues affecting older individuals with greatest economic or social needs, including income and public entitlement benefits, health care, long-term care, nutrition, consumer law, housing, utilities, protective services, abuse, neglect, age discrimination, and defense of guardianship.

441—228.4(231) Nutrition services.

228.4(1) *Authorized services.* Nutrition services are home-delivered nutrition, congregate nutrition, nutrition education, nutrition counseling and other nutrition services.

228.4(2) *Nutrition project.* Nutrition project means congregate and home-delivered meals provided five or more days per week in a PSA by a qualified nutrition service provider under the state plan or area plan. Nutrition education, nutrition counseling, and other nutrition services are provided based on individual and community need and in coordination with other nutrition services available in the community.

228.4(3) *Licensed dietitian.* Each area agency on aging will utilize the services of a licensed dietitian to provide technical assistance in nutrition program management and to ensure that the nutrition project provides meals that comply with the nutrition guidelines outlined in the federal Act and further defined by the department.

228.4(4) *Food safety.* Nutrition service providers shall comply with all applicable state and local food and consumer safety and food establishment licensing, operating and inspection requirements. The occurrence or suspected occurrence of a foodborne illness by congregate nutrition or home-delivered nutrition services should be reported to the department within 24 hours.

228.4(5) *Ineligible individuals.* An individual who is not eligible for nutrition services may receive a meal by paying the full cost of the meal, including all programmatic and administrative costs, if the ineligible individual's receipt of the meal does not deprive an eligible participant of a meal.

228.4(6) *Nutrition education.* Nutrition education shall be offered in accordance with the federal Act and under the supervision of a licensed dietitian. Nutrition education shall be offered to all nutrition services consumers on a monthly basis, and recipients of home-delivered meals shall be offered nutrition education pertaining to safe food handling of the delivered meals twice annually.

441—228.5(231) Evidence-based disease prevention and health promotion services. Evidence-based disease prevention and health promotion are provided in accordance with the federal Act and 45 CFR 1321 as amended to October 1, 2025.

441—228.6(231) Family caregiver support services.

228.6(1) *Authorized services.* Family caregiver support services include information and service assistance, case management, counseling and training, support groups, respite, supplemental services, and other caregiver services as identified by the department.

228.6(2) *Supplemental services.* Supplemental services may be provided to family caregivers on a limited basis to complement the care provided by family caregivers. The department will define a maximum percentage to be expended on supplemental services.

441—228.7(231) Prevention of elder abuse, neglect, and exploitation. Area agencies on aging will directly provide older adult abuse prevention and awareness activities and coordinate assessment services for older individuals experiencing or at risk for experiencing abuse, neglect, or exploitation.

441—228.8(231) Service prioritization. In the event that an area agency on aging or service provider is unable to provide service to eligible individuals in need of assistance and needs to implement a wait list, the area agency on aging will prioritize service delivery to eligible individuals with greatest social need, eligible individuals with greatest economic need, and those at risk for institutional placement in accordance with the federal Act, state plan, area plans, and department policies and procedures.

441—228.9(231) Service wait lists, unmet needs, and other changes to service. The area agency on aging will assess, request, and obtain department approval for service wait lists, meal site closures, reduction in the number of meal site and home-delivered nutrition serving days, or opening or relocating nutrition projects prior to implementation in accordance with department policies and procedures. The request must include:

1. Reasons for the action, including an evaluation in a format prescribed by the department of the use of resources in meeting the needs of those in greatest social need and greatest economic need; and
2. Impact on eligible individuals, including identifying new service gaps or filling service gaps by county or PSA.

441—228.10(231) Voluntary contributions. All eligible individuals will be provided an opportunity to make a voluntary, confidential contribution to the cost of the service. No eligible individual or family caregiver will be denied service because the individual or family caregiver will not or cannot contribute to the cost of the service. Area agencies on aging will follow the regulations on voluntary contributions found in 45 CFR 1321.9(c)(2)(x) as amended to October 1, 2025.

441—228.11(231) Membership fees. Payment of a membership fee cannot be required of eligible participants to access programs and services that receive or have received funds under the federal Act.

441—228.12(231) Prohibition against means testing. No area agency on aging or its service provider may means test for service eligibility. Income from means-tested programs may not be used as a match for federal funds.

These rules are intended to implement Iowa Code chapter 231, subchapter VI.

ARC 9385C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to long-term care ombudsman and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to adopt new Chapter 230, "Long-Term Care Ombudsman," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 231.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 231 and Section 712 of the federal Supporting Older Americans Act as amended to October 1, 2025.

Purpose and Summary

This proposed rulemaking moves 17—Chapter 8 from agency [17] to agency [441] and revises the chapter. 17—Chapter 8 is being rescinded in a separate rulemaking. This proposed chapter establishes procedures for notice and appeal of penalties imposed for interference with the official duties of a long-term care ombudsman, which are established in Iowa Code sections 231.42 and 231.45 and in accordance with Section 712 of the federal Supporting Older Americans Act. This proposed chapter also establishes criteria for serving under the certified volunteer long-term care ombudsman program. The long-term care ombudsmen investigate complaints related to the actions or inactions of long-term care providers that may adversely affect the health, safety, welfare, or rights of residents and tenants who reside in long-term care facilities, assisted living programs, and elder group homes. In addition, this proposed chapter establishes the process for representatives of the office of the state long-term care ombudsman performing managed care ombudsman services to provide assistance and advocacy related to long-term services and supports under the Medicaid program.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on May 14, 2025. A public hearing was held on the following date(s):

- June 3, 2025

No changes from the Regulatory Analysis have been made.

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.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on July 16, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

July 16, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 281 777 413 166 0 Passcode: mg9we9VJ

July 16, 2025 1:30 to 2 p.m.	Microsoft Teams Meeting ID: 214 765 418 271 7 Passcode: wq9Dc7cr

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 Department 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** 441—Chapter 230:

CHAPTER 230
LONG-TERM CARE OMBUDSMAN

441—230.1(231) Definitions.

"Certified volunteer" means a certified volunteer long-term care ombudsman as authorized under Iowa Code section 231.45. A certified volunteer is considered a representative of the office.

"Federal Act" means the federal Supporting Older Americans Act, 42 U.S.C. §3001 et seq., as amended to October 1, 2025.

"Office" means the office of the state long-term care ombudsman established pursuant to the federal Act and Iowa Code section 231.42.

"Ombudsman" means the state long-term care ombudsman appointed by the director.

"Representative of the office" means the same as defined in 45 CFR §1324.1 as amended to October 1, 2025.

441—230.2(231) Interference. A representative of the office who is denied access to a resident or tenant in a long-term care facility, assisted living program, or elder group home or to medical and social records while in the course of conducting official duties pursuant to Iowa Code section 231.42 or whose work is interfered with during the course of an investigation shall report such denial or interference to the office, which will report the interference to the director.

441—230.3(231) Monetary civil penalties—basis. The director, in consultation with the ombudsman, may impose a monetary civil penalty of not more than $1,500 on an officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the duties of the state, ombudsman, or representative of the office pursuant to Iowa Code section 231.42(8).

441—230.4(231) Monetary civil penalties—notice of penalty. The office will notify the officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home in writing by certified mail of the intent to impose a civil penalty pursuant to 441—Chapter 16. The notice will include, at a minimum, the following information:

1. The nature of the interference and the date the action occurred.
2. The statutory basis for the penalty.
3. The amount of the penalty.

4. The date the penalty is due.

5. Instructions for responding to the notice, including information on the individual's right to appeal.

441—230.5(231) Monetary civil penalties—appeals. An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who is assessed a monetary civil penalty for interference with the official duties of a long-term care ombudsman may appeal the penalty as set forth in 441—Chapter 7.

441—230.6(231) Certified volunteer long-term care ombudsman program.

230.6(1) Application. Any individual may apply to the office to become a certified volunteer.

a. Application forms. Application forms may be accessed on the department's website.

b. Submission of forms. Each applicant shall complete an application and submit it to the office at the address listed on the form.

230.6(2) Applicants shall not be accepted into the program if:

a. It is determined that the applicant has a conflict of interest as defined in the federal Act; or

b. The applicant has unfavorable references, which will include a criminal background check and abuse check.

230.6(3) Training. Prior to certification, applicants must successfully complete the required training as approved by the office. Successful completion means completion of all assignments and tasks during training, demonstration of proper techniques and skills, and an understanding of the role of the certified volunteer in the long-term care setting.

230.6(4) Approval for certification. Final approval for certification as a certified volunteer will be made by the office and will be subject to the applicant's successful completion of the required training. The office has the right to require that the applicant receive additional personal training prior to certification and has the right to deny certification to applicants not meeting the training criteria.

230.6(5) Certification.

a. Notification. A certified volunteer will be notified in writing within 14 days following the conclusion of the training program if certification has been continued or revoked.

b. Certification will initially be for one year, with recertification available following the certified volunteer's completion of a minimum of 18 hours of approved continuing education in the first year and completion of a progress review by the office.

230.6(6) Continuing education.

a. All certified volunteers shall complete a minimum of 18 hours of approved continuing education annually.

b. Certified volunteers are responsible for reporting continuing education hours to the office or designee within 30 days following the completion of the continuing education event.

230.6(7) Decertification.

a. Reasons for decertification. A certified volunteer may be decertified by the office for any of the following reasons:

(1) Falsification of information on the application;

(2) Breach of confidentiality;

(3) Acting as a certified volunteer without proper certification;

(4) Attending less than the required continuing education training;

(5) Voluntary termination;

(6) Unprofessional conduct;

(7) Failure to carry out the duties as assigned; or

(8) Actions that are found by the office to violate the rules or intent of the program.

b. Notice of decertification. The office will notify the certified volunteer and the facility in writing of a decertification pursuant to 441—Chapter 16.

c. Request for reconsideration. A request for reconsideration or reinstatement of certification may be made in writing to the office. The request must be filed within 14 days after receipt of the notice of revocation.

d. Response time. The office will investigate and consider the request and notify the requesting party and the facility of the decision within 30 days of receipt of the written request.

230.6(8) Duties. The certified volunteer shall assist the office or designee in carrying out the duties described in the federal Act.

441—230.7(231) Managed care ombudsman services.

230.7(1) The office may provide advocacy and assistance to eligible recipients, or the families or legal representatives of such eligible recipients, of long-term services and supports provided through the Medicaid program who are receiving services in a long-term care facility or under one of the home- and community-based services waivers.

230.7(2) Representatives of the office providing an individual with assistance and advocacy services authorized under Iowa Code section 231.44 shall be provided access to the individual and to the individual's medical, social, and administrative records related to the provision of the long-term services and supports to the individual, as authorized by the individual or the individual's legal representative, as necessary to carry out the duties specified by Iowa Code section 231.44.

230.7(3) The office and representatives of the office, when providing assistance and advocacy services under Iowa Code section 231.44, will be considered a health oversight agency as defined in 45 CFR §164.501 as amended to October 1, 2025, for the purposes of health oversight activities described in 45 CFR §164.512(d) as amended to October 1, 2025. Recipient information available to the office and representatives of the office under this subrule shall be limited to the recipient's protected health information as defined in 45 CFR §160.103 as amended to October 1, 2025, for the purpose of recipient case resolution.

These rules are intended to implement Iowa Code sections 231.41, 231.42, 231.44, and 231.45.

ARC 9380C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to office of public guardian and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to adopt new Chapter 231, "Office of Public Guardian," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 231E and 633.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 231E and 633.

Purpose and Summary

This proposed chapter implements the Office of Public Guardian as created in Iowa Code chapter 231E and establishes standards and procedures for those appointed as public guardians. It also establishes the qualifications of consumers eligible for services. This proposed chapter is being moved from agency [17] to agency [441] pursuant to 2023 Iowa Acts, Senate File 514. In addition, certain service fees have been eliminated.

The Office of Public Guardian provides assistance to both public and private guardians, conservators, and representative payees throughout the State in securing necessary services for their protected persons

and clients and to assist guardians, conservators, representative payees, protected persons, clients, courts, and attorneys in the orderly and expeditious handling of guardianship, conservatorship, and representative payee proceedings.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on May 14, 2025. A public hearing was held on the following date(s):

- June 3, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on July 16, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

July 16, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 281 777 413 166 0 Passcode: mg9we9VJ
July 16, 2025 1:30 to 2 p.m.	Microsoft Teams Meeting ID: 214 765 418 271 7 Passcode: wq9Dc7cr

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 Department 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** 441—Chapter 231:

CHAPTER 231
OFFICE OF PUBLIC GUARDIAN

441—231.1(231E,633) Purpose. This chapter implements the office of public guardian as created in Iowa Code chapter 231E and establishes standards and procedures for the state office of public guardian and local offices of public guardian. It also establishes the qualifications of consumers eligible for services.

441—231.2(231E,633) Definitions. Words and phrases used in this chapter are as defined in Iowa Code chapter 231E or 633 unless the context indicates otherwise. The following definitions also apply to this chapter:

"Evaluation" means a comprehensive, in-depth evaluation to identify an individual's current situation, ability to function, strengths, problems, and care needs in the following major functional areas: physical health, medical care utilization, activities of daily living, instrumental activities of daily living, mental and social functioning, financial resources, physical environment, and utilization of services and support.

"Fee" or *"fees"* means any costs assessed by the state office or a local office against a protected person or a client for public guardianship services.

"Guardian case manager" means an employee of the state office or a local office, or a contractor of a local office, who provides public guardianship services to protected persons or clients or who supervises employees, contractors, or volunteers who provide public guardianship services to protected persons or clients. "Guardian case manager" does not include employees or contractors whose responsibilities are strictly administrative in nature.

"Program" means the activities and services offered by the office of public guardian pursuant to Iowa Code chapter 231E.

"Record" means any information obtained by the state or local office in the performance of its duties.

441—231.3(231E,633) Public guardian qualifications. All public guardians shall have graduated from an accredited four-year college or university or shall have an equivalent combination of education and full-time equivalent work experience working with older adults, people with disabilities, or people overcoming social, economic, psychological or health problems. All guardian case managers shall be certified by the Center for Guardianship Certification within 12 months of assuming duties as a guardian case manager. This certification shall be kept current while the person is serving as a guardian case manager.

441—231.4(231E,633) Ethics and standards of practice. The state office adopts the National Guardianship Association Standards of Practice adopted in 2000, and revised in 2022, and as amended to October 1, 2025, as a statement of the best practices and the highest quality of practice for persons serving as guardians or conservators. The adoption of standards of practice in this document is not intended to amend or diminish the statutory scheme but rather to supplement and enhance the understanding of the statutory obligations to be met by public guardians when serving as a public guardian. Upon appointment to serve a protected person or client, the public guardian shall perform all duties imposed by the court or other entity having jurisdiction and imposed by applicable law and, as appropriate, shall utilize standards found in the National Guardianship Association Standards of Practice

as amended to October 1, 2025. Representative payees will adhere to the standards of the Social Security Administration, as well as any service contracts or grants established by the department.

441—231.5(231E,633) Staffing ratio. The state office or a local office will be responsible for no more than 40 protected persons per full-time equivalent guardian case manager at any one time. In the state office's sole discretion, the state office or a local office may exceed staffing ratios only under the following circumstances:

1. A priority situation exists as defined in subrule 231.7(2), and
2. Acceptance of case(s) will not adversely affect services to current protected persons or clients.

441—231.6(231E,633) Conflict of interest. A conflict of interest arises when the state office or a local office serving a protected person or client has any personal or departmental interest that is or may be perceived as self-serving or adverse to the position or best interest of the protected person or client. When assigning the state office or a local office, all reasonable efforts shall be made to avoid a conflict of interest or the appearance of a conflict of interest.

231.6(1) The assigned state office or local office shall not:

a. Provide direct services to the protected person or client receiving public guardianship services;

b. Enter into any transaction, take any action, or make any decision related to the protected person's or client's finances that would benefit the state office or a local office; any of the state office's or a local office's employees, volunteers, or contractors; or any relatives of any of the state office's or a local office's employees, volunteers, or contractors;

c. Employ friends or family to provide services to the protected person or client for a fee; or

d. Solicit or accept incentives from service providers.

231.6(2) The state office or a local office shall be independent from all service providers, thus ensuring that the public guardian remains free to challenge inappropriate or poorly delivered services and to advocate on behalf of the protected person or client.

441—231.7(231E,633) Individuals eligible for services. The office of public guardian will seek to restrict appointments to only those necessary. The state office or a local office will not accept an appointment based upon a voluntary petition unless that appointment is as a successor guardian or conservator and the court has, after notice and hearing, found by clear and convincing evidence that the protected person meets the legal standard for appointment of a guardian in Iowa Code section 633.552, the legal standard for appointment of a conservator in Iowa Code section 633.553, or both.

231.7(1) In order to qualify for services, an individual shall meet all of the following criteria:

a. Is a resident of the state of Iowa;

b. Is aged 18 or older or is at least 17 years and six months of age for appointment of a guardian or conservator on a standby basis for a minor approaching majority pursuant to Iowa Code section 633.567;

c. Does not have a suitable individual or appropriate entity willing and able to serve as guardian, conservator, or representative payee;

d. Is "incompetent" as defined in Iowa Code section 633.3(25) (for appointment of a guardian or conservator) or is incapable of managing social security or supplemental security income (SSI) payments as determined by the Social Security Administration (for representative payee);

e. Is an individual for whom guardianship, conservatorship, or representative payee services are the least restrictive means of meeting the individual's needs; and

f. A viable plan for improving the care and safety of the individual is possible.

231.7(2) The following cases shall be given priority:

a. Those involving abuse, neglect or exploitation that public guardianship services can address;

b. Those in which a critical medical decision must be made; or

c. Any situation that may cause serious or irreparable harm to the individual's mental or physical health or finances.

441—231.8(231E,633) Application and intake process—guardianship, conservatorship, and representative payee.

231.8(1) Any person may submit an application for services on behalf of an individual believed to be in need of public guardianship services. Applications are available on the department's website. Incomplete applications will not be considered. Communication with the state office or a local office or the submission of an application does not guarantee eligibility for public guardianship services and does not create any type of fiduciary relationship between the state office and the individual on whose behalf the application is submitted.

231.8(2) The state office will make a determination regarding eligibility of the individual and acceptance or denial of the case based on a review of the completed application.

231.8(3) The state office will grant or deny an application for services as soon as practicable but, in any event, within 60 days of receipt of the application.

231.8(4) Failure of the state office to grant or deny an application within the specified time period may be deemed a denial of the application by the state office.

231.8(5) In the event that the state office or a local office does not have sufficient resources to accept new cases, the state office will place applications that are eligible for public guardianship services on a waiting list.

a. Cases will be taken off the waiting list in the order in which they were received.

b. Cases that meet the priority criteria outlined in subrule 231.7(2) will be moved to the top of the waiting list and will be taken off the waiting list in the order in which they were received.

231.8(6) The state office or a local office will only file a petition to be appointed as guardian or conservator of an eligible individual if there is no person or entity that has an interest in the welfare of the adult who could file the petition pursuant to Iowa Code section 633.556(1).

441—231.9(231E,633) Case records.

231.9(1) The state office or a local office will establish a case record for each protected person or client the state office or a local office is appointed to serve. At a minimum, the case record must contain demographic information, including:

a. Copies of the evaluations, medical records, and updates, if any;

b. A separate financial management folder containing an inventory, an individual financial management plan, a record of all financial transactions made on behalf of the protected person or client by the public guardian, copies of receipts for all expenditures made by the public guardian on behalf of the protected person or client, and copies of all other documents pertaining to the protected person or client's financial situation as required by the state office;

c. Itemized statements of costs incurred in the provision of services for which the public guardian received court-authorized reimbursement directly from the protected person or client's estate; and

d. Other information as required by the state office.

231.9(2) All case records maintained by the public guardian shall be confidential as provided in Iowa Code section 231E.4(6)*"g."*

441—231.10(231E,633) Confidentiality. Notwithstanding Iowa Code chapter 22, the following provisions shall apply to records obtained by public guardians in the course of their duties.

231.10(1) Unless otherwise provided by rule or law, records and information of the state office of public guardian are governed by 441—Chapter 9.

231.10(2) Records and information obtained as part of an application for public guardianship services are confidential.

a. If more than one application for public guardianship services is submitted on behalf of the same individual, the state office may disclose the following information to the applicants:

(1) The date of any other application submitted on behalf of the individual;

(2) The name and contact information of the other applicant or applicants;

(3) The status of the other application or applications, including copies of any notices sent to the other applicant or applicants.

b. The state office or a local office may disclose the existence of an application and information contained in an application to family members, service providers, case managers, or others named in an application for public guardianship services in order to gather supplemental information necessary to determine eligibility for public guardianship services or to attempt to locate an individual for whom an application was submitted.

c. The state office may release records and information obtained as part of an application for public guardianship services to a local office of public guardian in anticipation of the local office providing public guardianship services to the individual.

231.10(3) Records and information about a protected person or client obtained or maintained for use by the state office or a local office of public guardian are confidential. Once appointed as an individual's guardian, conservator, or representative payee, the state office or a local office may, at the state office's or a local office's sole discretion, exercise the authority granted by the court or federal agency to obtain, disclose, or consent to the release of confidential records or information about the protected person or client if doing so is necessary and in the best interest of the protected person or client. The state office or a local office will obtain the written consent of the protected person or client or the person's or client's legal representative prior to obtaining or disclosing confidential records or information outside the scope of the state office's or a local office's authority. Disclosure of a record or information under this rule does not affect the confidential nature of the record.

231.10(4) Records and information may be redacted so that personally identifiable information is kept confidential.

231.10(5) The state office or a local office may enter into contracts or agreements with public or private entities in order to carry out the state office's or a local office's official duties. Information necessary to carry out these duties may be shared with these entities.

441—231.11(231E,633) Termination or limitation. Either a local office or the state office may seek the termination or limitation of a local office's duties under circumstances including:

1. Public guardianship services are no longer needed or do not benefit the protected person or client;
2. The protected person's or client's assets allow for hiring a paid guardianship or conservatorship service provider;
3. A conflict of interest or the appearance of a conflict of interest arises;
4. The state or a local office lacks adequate staff or financial resources;
5. The protected person or client moves outside the state or outside the local office's service area;
6. Public guardianship is no longer the last resort for assistance;
7. The contract between the state office and a local office is terminated by either party and there is no other local office that can be appointed as a successor;
8. Termination of the program by law; or
9. Other circumstances that indicate a need for termination or limitation.

441—231.12(231E,633) Service fees.

231.12(1) The state office and a local office shall be entitled to reasonable compensation for their public guardianship services as determined by using the following criteria:

a. Such compensation shall not exceed actual costs.

b. Collection of fees may be adjusted or waived based upon the ability of the protected person or client to pay, upon whether financial hardship to the protected person or client would result, or upon a finding that collection of such fees is not economically feasible.

c. The state office may collect a fee from the estate of a deceased consumer.

231.12(2) Fees for guardianship and conservatorship services provided by the state office will be assessed according to the following fee schedule:

Action or Responsibility	**Fee**
One-time case opening: Guardianship	 $200

Action or Responsibility	**Fee**
Conservatorship	$300
Guardian and conservatorship	$500
Monthly guardianship and/or conservatorship services.	
Total value of liquid assets:	
$1,500 - $9,999	$100
$10,000 - $19,999	$125
$20,000 - $29,999	$150
$30,000 - $39,999	$175
$40,000 - $49,999	$200
$50,000 - $59,999	$225
$60,000 - $69,999	$250
$70,000 - $79,999	$275
$80,000 - $89,999	$300
$90,000 - $99,999	$325
$100,000 or above	$350

231.12(3) Fees for guardianship and conservatorship services provided by a local office will be assessed at the rates established by contract between the state office and a local office. Contracts between the state office and local offices are public records.

231.12(4) Fees for representative payee services will be as established by the federal governmental agency that appoints the representative payee.

231.12(5) Notwithstanding the foregoing, the state office or a local office may collect fees pursuant to court order for other actual, necessary and extraordinary services or expenses, including legal fees. Necessary and extraordinary services or expenses may include but are not limited to services or expenses related to:

a. Recovering real or personal property or funds belonging to the protected person,

b. Bringing or defending against a suit or claim on behalf of the protected person,

c. Challenging the actions or accounting of a prior fiduciary, or

d. Establishing a trust for the benefit of the protected person.

231.12(6) The state office or a local office may collect fees even when claims of creditors of the consumer may be compromised.

441—231.13(231E,633) Denial of services—appeal.

231.13(1) An application for services will be denied when it is determined by the state office that:

a. The application is incomplete;

b. The individual is not a resident of Iowa;

c. The individual is not aged 18 or older (or at least 17 and 6 months of age for appointment of a guardian or conservator on a standby basis for a minor approaching majority pursuant to Iowa Code section 633.567);

d. The individual has a suitable individual or appropriate entity willing and able to serve as guardian, conservator, or representative payee;

e. The individual has adequate financial resources available to compensate a professional guardian, conservator, or representative payee;

f. The individual is not incompetent as defined in Iowa Code section 633.3(25) (for appointment of a guardian or conservator);

g. The individual is not incapable of managing the individual's social security or SSI payments as determined by the Social Security Administration (for representative payee);

h. The individual is not an individual for whom guardianship, conservatorship, or representative payee services are the least restrictive means of meeting the individual's needs; or

i. A viable plan for improving the care and safety of the individual is not possible.

231.13(2) Notice of denial will be provided in accordance with 441—Chapter 16.

231.13(3) Applicants wishing to challenge a denial based on paragraph 231.13(1)*"f"* may file a petition pursuant to Iowa Code section 633.556 within 30 days of the date of the denial and give notice of the filing of the petition to the state office of public guardian.

231.13(4) Applicants wishing to challenge a denial for any other reason listed in subrule 231.13(1) may appeal in accordance with 441—Chapter 7.

231.13(5) If the state office or a local office petitions to terminate services, a protected person or client may challenge that decision in the appropriate court or federal agency.

441—231.14(231E,633) Contesting the actions of a guardian, conservator, or representative payee.

231.14(1) Each local office shall develop a complaint procedure for the internal investigation and resolution of complaints. The complaint procedure shall be made available on the local office's website. The local office will provide a copy of the complaint procedure to each protected person and client.

231.14(2) If a complaint is not resolved by the local office to the satisfaction of the complainant, the complainant may express the complainant's concerns to the state office in writing or verbally.

231.14(3) The state office will advise the complainant that the complainant may also raise any concerns with the court or with the federal governmental agency with oversight of the representative payee.

These rules are intended to implement Iowa Code chapters 231E and 633.

ARC 9374C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to continuing education and providing an opportunity for public comment

The Board of Respiratory Care and Polysomnography hereby proposes to amend Chapter 721, "Continuing Education for Respiratory Care Practitioners and Polysomnographic Technologists," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 148G, 152B and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 148G, 152B and 272C.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapters 148C, 152B and 272C as amended by 2024 Iowa Acts, House File 2686. Chapter 721 sets forth continuing education and training requirements for respiratory care therapists and polysomnographists. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrule 721.2(4) is proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant respiratory care therapists and polysomnographists the ability to carry over up to 12 hours of continuing education earned in excess of the 24 hours required every two years.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 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 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Michele Royer
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.229.3939
Fax: 515.281.7969
Email: michele.royer@dia.iowa.gov

Public Hearing

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

July 15, 2025	6200 Park Avenue
9 to 9:30 a.m.	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 Department of Inspections, Appeals, and Licensing and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Amend subrule 721.2(4) as follows:

721.2(4) ~~No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.~~ Up to 50 percent of continuing education hours can be carried over into the next biennium if there was an amount of continuing education completed during the prior period that exceeded the minimum requirement. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

ARC 9377C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to licensure of physician assistants and providing an opportunity for public comment

The Board of Physician Assistants hereby proposes to rescind Chapter 780, "Licensure of Physician Assistants," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 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

Chapter 780 sets minimum standards for licensure as a physician assistant in Iowa. Iowa residents, licensees, and employers benefit from the rulemaking since it articulates the processes by which individuals apply for licensure, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency.

This proposed chapter also incorporates provisions directed by 2023 Iowa Acts, House File 424, now codified as Iowa Code section 148C.3(2), which includes the joint rulemaking with the Iowa Board of Medicine for rules on the independent practice of physician assistants.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on March 5, 2025. A public hearing was held on the following date(s):

- March 25, 2025

No public comments were received.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Emily DeRonde
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

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

July 15, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa
July 16, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department's website prior to the hearings.

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 Department 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 481—Chapter 780 and adopt the following **new** chapter in lieu thereof:

CHAPTER 780
LICENSURE OF PHYSICIAN ASSISTANTS

481—780.1(148C) Definitions. In addition to the definitions herein, and unless otherwise stated, the board adopts by reference the definitions found in Iowa Code section 148C.1.

"Active license" means a license that is current and has not expired.

"Approved program" means a program for the education of physician assistants that has been accredited by the Accreditation Review Commission on Education for the Physician Assistant, or its successor, or, if accredited prior to 2001, either by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.

"CME" means continuing medical education.

"Collaboration" means consultation with or referral to the appropriate physician or other health care professional by a physician assistant as indicated by the patient's condition; the education, competencies, and experience of the physician assistant; and the best practice guidelines.

"Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat 1936.

"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.

"Licensee" means a person licensed by the board as a physician assistant to provide medical services.

"Licensure by endorsement" means the issuance of an Iowa license to practice as a physician assistant to an applicant who is or has been licensed in another state.

"Locum tenens" means the temporary substitution of one licensed physician assistant for another.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of physician assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"NCCPA" means the National Commission on Certification of Physician Assistants.

"Opioid" means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain or opioid use disorder.

"Other health care provider" means a person licensed as a physician assistant under Iowa Code chapter 148C or an advanced registered nurse practitioner licensed under Iowa Code chapter 152.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery. A physician supervising a physician assistant practicing in a federal facility or under federal authority will not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

"Prescription monitoring program database" or *"PMP database"* means the Iowa prescription monitoring program database administered by the board of pharmacy pursuant to Iowa Code chapter 124, subchapter VI, and 657—Chapter 37.

"Reactivate" or *"reactivation"* means the process as outlined in rule 481—780.9(17A,147,272C) by which an inactive license is restored to active status.

"Reinstatement" means the process as outlined in rule 481—506.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Supervising physician" means a physician who supervises the medical services provided by the physician assistant engaged in independent practice consistent with the physician assistant's education, training, or experience. Supervision shall not be construed as a requirement to be applied to those physician assistants who (1) are not engaged in an independent practice arrangement, (2) have already met the requirements to practice independently, or (3) are not required by law to be supervised. Supervision shall not be construed as requiring the personal presence of a supervising physician at the place where such services are rendered, except insofar as the personal presence is expressly required by these rules or by Iowa Code chapter 148C.

"Supply prescription drugs" means to deliver to a patient or the patient's representative a quantity of prescription drugs or devices that are properly packaged and labeled.

481—780.2(148C) Initial licensure.

780.2(1) The following criteria shall apply to the initial licensure of physician assistants:

a. The applicant for licensure will complete an online application packet and pay the nonrefundable application fee.

b. The applicant for licensure will successfully pass the certifying examination conducted by the NCCPA or a successor examination approved by the board. The applicant will request the NCCPA, or its successor agency, to send a copy of the initial certification to the board office.

c. The applicant for licensure will request the approved program for education of physician assistants to submit official copies of the applicant's transcript to the board office.

EXCEPTION: An applicant who is not a graduate of an approved program but who passed the NCCPA initial certification examination prior to 1986 is exempt from the graduation requirement.

d. In lieu of paragraphs 780.2(1)*"b"* and *"c,"* an applicant for licensure may provide documentation from the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards as primary source verification for identity, education and national certification information.

780.2(2) If licensed in another jurisdiction, an applicant for licensure will:

a. Complete the licensure by endorsement application;

b. Submit a license verification document that discloses any disciplinary action taken in all jurisdictions where the applicant was previously licensed; and

c. Submit proof of completion of 100 CME hours for each biennium since the licensee was initially certified.

780.2(3) An applicant for licensure who is licensed in another jurisdiction who cannot satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

780.2(4) An application not completed according to guidelines will not be reviewed by the board.

780.2(5) Incomplete applications that have been on file in the board office for more than two years will be:

a. Considered invalid and destroyed; or

b. Maintained upon written request from the applicant for licensure.

481—780.3(148C) Temporary licensure.

780.3(1) A temporary license may be issued for an applicant for licensure who has not taken the NCCPA initial certification examination or successor agency examination or is waiting for the results of the examination.

780.3(2) An applicant for licensure must comply with subrule 780.2(1), with the exception of paragraphs 780.2(1)*"b"* and *"c."*

780.3(3) A temporary license will be valid for one year from the date of issuance.

780.3(4) The temporary license will be renewed only once upon an applicant for licensure's showing proof that, through no fault of the applicant, the applicant was unable to take the certification examination recognized by the board. Proof of inability to take the certification examination will be submitted to the board office with written request for renewal of a temporary license, accompanied by the temporary license renewal fee.

780.3(5) If the temporary licensee fails the certification examination, the temporary licensee must cease practice immediately and surrender the temporary license by the next business day.

780.3(6) There is no additional fee for converting temporary licensure to permanent licensure.

780.3(7) An applicant for licensure will ensure that certification of completion is sent to the board directly from an approved program for the education of physician assistants. The certification of completion must be signed by a designee from the approved program.

481—780.4(148C) Physician supervision not required. A physician assistant is not required to be supervised by a physician when:

780.4(1) The physician assistant is licensed in the state of Iowa or eligible to become licensed in the state of Iowa; and

780.4(2) The physician assistant has previously practiced under a supervising physician or in collaboration with an Iowa-licensed physician or other licensed health care professional for a period of at least two years; or

780.4(3) The physician assistant is not practicing in an independent practice arrangement as defined in Iowa Code section 148C.1(5).

481—780.5(148C) Physician supervision required.

780.5(1) A physician assistant is required to be supervised by a physician when the physician assistant is practicing in an independent practice arrangement as defined in Iowa Code section 148C.1(5) and the physician assistant has not previously practiced under a supervising physician or in collaboration with the appropriate physician or other health care professional for a period of at least two years.

780.5(2) Requirements for a physician assistant and supervising physician.

a. A physician assistant will use the jointly approved board forms to notify the board of the identity of the physician assistant's supervising physician prior to beginning practice in Iowa. The physician assistant will notify the board of the identity of each of the physician assistant's supervising physicians and of any change in the status of the supervisory relationships during the physician assistant's required supervisory biennium.

b. A physician assistant and a supervising physician will utilize the board form to show a mutual understanding of the physician assistant's scope of practice, identified medical procedures and the areas of medicine performed.

c. A physician assistant will maintain documentation of current supervising physicians, which will be made available to the board upon request.

d. It shall be the joint responsibility of a physician assistant and a supervising physician to ensure the physician assistant is adequately supervised. Upon agreeing to supervise the physician assistant, the supervising physician will be advised that the physician's name will be listed with the board as a supervising physician. The physician assistant and the supervising physician are each responsible for knowing and complying with the supervision provisions of these rules.

e. Patient care provided by a physician assistant will be reviewed with a supervising physician determined at the practice level, ensuring each patient has received the appropriate medical care.

f. Patient care provided by a physician assistant may be reviewed with a supervising physician in person, by telephone or by other means of telecommunication and determined at the practice level.

481—780.6(148C) Physician eligibility to supervise physician assistants. Information on physician eligibility to supervise physician assistants is contained in 653—subrules 21.1(1) through 21.1(4).

481—780.7(148C) Collaborative practice.

780.7(1) After the conclusion of two years of practice under a supervising physician as required by rule 481—780.5(148C), a physician assistant will continue collaboration with a physician or other health care provider as defined in rule 481—780.1(148C), which will be determined at the practice level. This rule shall not be construed to apply to physician assistants in independent practice who did not previously meet the criteria of rule 481—780.5(148C).

780.7(2) A collaborating physician or other health care provider defined in rule 481—780.1(148C) and a physician assistant should follow best practice guidelines and discuss cases as determined at the practice level. If there are any deficiencies in care noted, the collaborating health care provider will educate the physician assistant on best practice guidelines.

780.7(3) The scope of practice for a physician assistant shall be limited to medical care that is within the physician assistant's education, training, and experience.

780.7(4) Documentation of the collaboration between a physician assistant and a physician or other health care provider shall be kept by the physician assistant and provided to the board upon request.

780.7(5) Eligibility of other health care provider for collaboration. During the two-year period of collaboration, the other health care provider as defined in rule 481—780.1(148C) shall be a provider who has been in practice for a minimum of five years and is not subject to discipline by the provider's respective licensing authority.

481—780.8(148C) License renewal.

780.8(1) The license renewal period for a license to practice will begin on October 1 and end on September 30 two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

780.8(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

780.8(3) A licensee applying for renewal will:

a. Meet the continuing education requirements of 481—Chapter 782 and the mandatory reporting requirements of subrule 780.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Complete the online renewal application, pay the fee, and attach certificate of completion of continuing education hours before the expiration date.

780.8(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa will indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)*"b"* in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 780.8(4)*"e."*

b. A licensee who, in the course of employment responsibilities, examines, attends, counsels or treats adults in Iowa will indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)*"b"* in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 780.8(4)*"e."*

c. The course(s) will be the curriculum provided by the department of health and human services.

d. The licensee will maintain written documentation for three years after mandatory training as identified in paragraphs 780.8(4)*"a"* through *"c,"* including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse will be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements.

f. The board may select licensees for audit of compliance with the requirements in paragraphs 780.8(4)*"a"* through *"e."*

780.8(5) Upon receiving the information required by this rule and the required fee, a two-year license will be issued. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

780.8(6) A person licensed to practice as a physician assistant will keep the license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

780.8(7) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. A licensee will be assessed a late fee as specified in 481—subrule 507.14(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

780.8(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice as a physician assistant in Iowa until the license is reactivated. A licensee who practices as a physician assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

481—780.9(17A,147,272C) Requirements for reactivation. To apply for reactivation, a licensee will:

780.9(1) Complete an online reactivation application and pay the nonrefundable reactivation fee.

780.9(2) Provide verification of current competence to practice as a physician assistant by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must:

(1) Submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

(2) Submit proof of completing 100 hours of continuing education within two years of application for reactivation or NCCPA or successor agency certification.

b. If the license has been on inactive status for more than five years, an applicant must:

(1) Submit a license verification document that discloses if disciplinary action was taken against the applicant from every jurisdiction in which the applicant has been licensed.

(2) Submit proof of completing 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed will be in Category I, or NCCPA or successor agency certification.

481—780.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—780.9(17A,147,272C) prior to practicing as a physician assistant in this state.

481—780.11(148C) Use of title. A physician assistant licensed under Iowa Code chapter 148C may use the words "physician assistant" after the person's name or signify the same by the use of the letters "PA." A person who meets the qualifications for licensure under Iowa Code chapter 148C but does not possess a current license may use the title "PA" or "physician assistant" but may not act or practice as a physician assistant unless licensed under Iowa Code chapter 148C.

481—780.12(148C) Address change. A physician assistant will notify the board of any change in permanent address within 30 days of its occurrence.

481—780.13(148C) Student physician assistant.

780.13(1) Any person who is enrolled as a student in an approved program will comply with the rules set forth in this chapter. A student is exempted from licensure requirements.

780.13(2) Notwithstanding any other provisions of these rules, a student may perform medical services when the medical services are rendered within the scope of an approved program.

These rules are intended to implement Iowa Code chapters 17A, 147, 148C and 272C.

ARC 9379C

MEDICINE BOARD[653]

Amended Notice of Intended Action

Providing for a public hearing on rulemaking related to physician supervision of a physician assistant

The Notice of Intended Action published in the Iowa Administrative Bulletin on May 28, 2025, as **ARC 9296C**, proposes to rescind and adopt new Chapter 21, "Physician Supervision of a Physician Assistant," Iowa Administrative Code. In order to receive oral comments concerning **ARC 9296C**, the Board of Medicine hereby gives notice that public hearings will be held as follows:

July 15, 2025	6200 Park Avenue
8 to 8:30 a.m.	Des Moines, Iowa

July 16, 2025	6200 Park Avenue
8 to 8:30 a.m.	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.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 148, 148C and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 148C.3 and 272C.3.

Purpose and Summary

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 28, 2025, as **ARC 9296C.** The Notice contained the wrong date for the public hearings. This amended Notice is being filed and published to provide appropriate notice of the public hearing dates and public comment period.

Fiscal Impact, Jobs Impact, Waivers

Statements related to the fiscal impact, jobs impact, and waiver of this rulemaking may be found in the preamble of **ARC 9296C**.

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).

ARC 9376C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to licensure standards for substance use disorder and problem gambling treatment programs and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 155, "Licensure Standards for Substance Use Disorder and Problem Gambling Treatment Programs," 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 chapters 125 and 135.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 125 and 135.

Purpose and Summary

This proposed chapter provides licensure requirements for substance use disorder/problem gambling (SUD/PG) treatment programs throughout the State of Iowa. The proposed chapter also sets forth the specific standards required for opioid use disorder treatment programs. Finally, it outlines the process and requirements for tuberculosis screening for individuals working at SUD/PG treatment program facilities as well as for residents of those facilities.

This proposed chapter underwent a Red Tape Review pursuant to Executive Order 10. The Department deleted restrictive terms, added dates certain, and consolidated appeals language to refer to 441—Chapter 7, the Department's appeals chapter.

The Department also used this opportunity to implement changes necessitated by 2024 Iowa Acts, House File 2673, and government realignment under 2023 Iowa Acts, Senate File 514.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on May 14, 2025. A public hearing was held on the following date(s):

- June 3, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

July 15, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 295 977 061 745 9 Passcode: XL28if9J
July 15, 2025 1:30 to 2 p.m.	Microsoft Teams Meeting ID: 266 930 675 699 6 Passcode: Ka39av7A

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 Department 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 641—Chapter 155 and adopt the following **new** chapter in lieu thereof:

CHAPTER 155
LICENSURE STANDARDS FOR SUBSTANCE USE DISORDER
AND PROBLEM GAMBLING TREATMENT PROGRAMS

641—155.1(125,135) Definitions. Unless otherwise indicated, the following definitions apply to the specific terms used in these rules:

"Accredited opioid treatment program" means an opioid treatment program that is the subject of a current, valid accreditation from an accreditation body approved by the Substance Abuse and Mental Health Services Administration (SAMHSA).

"Addictive disorder" means a substance use disorder and problem gambling.

"Addictive disorder professional" means an individual who is qualified by virtue of certification or license and education, training and experience to provide program services.

"Administration" means the direct application of a prescription medication to a patient by a prescriber or the prescriber's authorized agent.

"Admission" means the point at which an initial assessment has been completed sufficient to determine the patient's need and eligibility for program services and the patient has agreed to begin treatment.

"Admission, continued service, and discharge criteria" means the ASAM criteria dimensions to be considered in determining the level of care appropriate for the patient.

"Applicant" means a person, facility, or legal entity that has applied for an initial license, renewal of a license, or a license under deemed status pursuant to these rules.

"Application" means the process through which an applicant requests an initial license, renewal of a license, or a license under deemed status pursuant to these rules.

"ASAM criteria" means the clinical guide for the treatment of addictive, substance use and co-occurring conditions as published by the American Society of Addiction Medicine (ASAM) and as amended to August 1, 2025.

"Assessment" means the ongoing process of evaluating a patient's strengths, resources, preferences, limitations, problems, and needs; determining the licensed program services needed by the patient; determining the patient's eligibility for program services; and identifying treatment plan priorities, in accordance with the ASAM criteria and accepted standards of practice.

"Care coordination" or *"case management"* means the collaborative process that assesses, plans, implements, coordinates, monitors and evaluates the options and services, both internal and external to the program, to meet patient needs, using communication and available resources to promote quality care and effective outcomes.

"Certification" means the process by which SAMHSA determines that an opioid treatment program is qualified to provide opioid treatment under the federal opioid treatment standards.

"Certification application" means the application filed by an opioid treatment program for purposes of obtaining certification from SAMHSA.

"Certified opioid treatment program" means an opioid treatment program that is the subject of a current, valid certification.

"Chemical substance" means alcohol, wine, spirits and beer as defined in Iowa Code chapter 123 and controlled substances as defined in Iowa Code section 124.101.

"Clinically managed" means that program services are directed by addictive disorder professionals.

"Clinically managed high-intensity residential treatment" means the ASAM criteria level of care totaling at least 50 hours of clinically managed inpatient treatment services per week.

"Clinically managed low-intensity residential treatment" means the ASAM criteria level of care totaling at least five hours of clinically managed inpatient treatment services per week.

"Clinically managed medium-intensity residential treatment" means the ASAM criteria level of care totaling at least 30 hours of clinically managed inpatient treatment services per week.

"Clinical oversight" means oversight provided by an individual who, by virtue of certification or license and education, training and experience is qualified to oversee treatment services in accordance with subrule 155.21(3).

"Comprehensive maintenance treatment" means maintenance treatment provided in conjunction with a comprehensive range of appropriate medical and rehabilitative services.

"Concerned person" means an individual who is seeking treatment services due to problems arising from a personal relationship with an individual with an addictive disorder.

"Confidentiality" means protection of patient information in compliance with state and federal law.

"Crisis stabilization" means medically monitored subacute inpatient services for individuals with urgent addictive disorder needs requiring immediate intervention, assessment, and mobilization of family, community and program resources.

"Data reporting" means the required submission of certain patient demographic and program services information to the department by a program.

"Dimension" means one of the six ASAM criteria patient biopsychosocial areas to be considered in the assessment process to identify patient needs and determine the appropriate level of care for admission and continued services.

"Discharge" means the point at which the patient ceases participation in licensed program services, marking the end of a specific encounter or episode of care. Discharge does not require termination of the relationship between the patient and the program.

"Discharge planning" means the process, begun at admission, of determining a patient's continued need for licensed program services and of developing a plan to address ongoing patient needs following discharge.

"DSM" means the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association as amended to August 1, 2025, and all references to the DSM herein are as amended to August 1, 2025.

"Early intervention" means the ASAM criteria level of care that explores and addresses problems or risk factors that appear to be related to an addictive disorder and that helps the individual recognize potential harmful consequences.

"Enhanced program" means a licensee that provides enhanced treatment services in accordance with paragraph 155.2(2)*"j"* and rule 641—155.34(125,135).

"Enhanced treatment services" means licensed program services provided in accordance with paragraph 155.2(2)*"j"* and rule 641—155.34(125,135).

"Facility" means an institution or an installation providing care, maintenance or treatment for persons with substance use disorders licensed by the department under Iowa Code section 125.13, hospitals licensed under Iowa Code chapter 135B, or the state mental health institutes designated by Iowa Code chapter 226. "Facility" also means the physical areas such as grounds, buildings, or portions thereof under administrative control of the program.

"Governing body" means the person, group, or legal entity that has ultimate authority and responsibility for the overall operation of the program.

"Inpatient" means 24-hour licensed program services.

"Intensive outpatient treatment" means the ASAM criteria level of care totaling a minimum of nine hours of clinically managed outpatient treatment services per week for adults or a minimum of six hours of clinically managed outpatient treatment services per week for juveniles.

"Interim maintenance treatment" means withdrawal management for a period of more than 30 days but not in excess of 180 days.

"Level of care" or *"level of service"* means the different ASAM criteria service options. "Level of care" also means certain licensed program services under these rules.

"Licensed program services" means the services a licensee may be authorized to provide under these rules.

"Licensee" means a program licensed by the department pursuant to these rules.

"Licensure" means the issuance of a license by the department pursuant to these rules that validates the licensee's compliance with these rules and authorizes the licensee to operate a program in the state of Iowa.

"Licensure weighting report" means the department's report that is used to determine an applicant's level of compliance with these rules and the length of time a license will be in effect.

"Maintenance" means the prolonged, scheduled administration of an opiate agonist medication such as buprenorphine or methadone by an opioid treatment program in accordance with federal and state laws, rules and regulations.

"Maintenance treatment" means the dispensing of a medication for opioid use disorder (MOUD) at stable dosage levels for a period in excess of 21 days in the treatment of an individual for opioid addiction.

"Management of care" means the ongoing application of the ASAM criteria and the coordination of care to ensure the appropriate provision of licensed program services to a patient.

"Medical and rehabilitative services" means services such as medical evaluations, counseling, and rehabilitative and other social programs (e.g., vocational and educational guidance, employment placement) that are intended to help patients in opioid treatment programs become or remain productive members of society.

"Medical director" means a physician who is licensed to practice medicine in accordance with Iowa Code chapter 148, 150, or 150A and who assumes responsibility for administering all medical services performed by the program, either by performing them directly or by delegating specific responsibility to authorized program physicians and health care professionals functioning under the medical director's direct supervision. Such delegations will not eliminate the medical director's responsibility for all medical and behavioral health services provided by the OTP.

"Medically managed" means that the inpatient program services that involve daily medical care in a hospital setting are directed by a prescriber.

"Medically managed intensive inpatient treatment" means the ASAM criteria level of care for medically managed inpatient treatment services.

"Medically monitored" means that the program services are directed by addictive disorder professionals with medical oversight by a prescriber.

"Medically monitored intensive inpatient treatment" means the ASAM criteria level of care for medically monitored subacute inpatient treatment services.

"Medication-assisted treatment" means the medically monitored use of certain substance use disorder medications in combination with other treatment services.

"Medication unit" means an entity that is established as part of, but geographically separate from, an OTP from which appropriately licensed OTP practitioners, contractors working on behalf of the OTP, or community pharmacists may dispense or administer MOUD, collect samples for drug testing or analysis, or provide other OTP services. Medication units can be a brick-and-mortar location or mobile unit.

"Opioid addiction" means a cluster of cognitive, behavioral, and physiological symptoms in which the individual continues use of opioids despite significant opiate-induced problems. Opioid dependence is characterized by an individual's repeated self-administration of opioids that usually results in opioid

tolerance, withdrawal symptoms, and compulsive drug-taking. Dependency may occur with or without the physiological symptoms of tolerance and withdrawal.

"Opioid agonist treatment medication" means any opioid agonist drug that is approved by the Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 as amended to August 1, 2025) for use in the treatment of opiate addiction.

"Opioid drug" means any drug having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

"Opioid treatment program" or *"OTP"* means a substance use disorder treatment program or a substance use disorder and problem gambling treatment program licensed to provide opioid treatment services in accordance with Iowa Code section 125.21 and rules 641—155.2(125,135) and 641—155.35(125,135).

"Opioid treatment services" means medically monitored outpatient maintenance services provided in accordance with federal and state laws, rules and regulations.

"Opioid use disorder treatment" or *"OUD treatment"* means the dispensing of MOUD, along with the provision of a range of medical and behavioral health services, as clinically necessary and based on an individualized assessment and a mutually agreed-upon care plan, to an individual to alleviate the combination of adverse medical, psychological, or physical effects associated with an OUD.

"Outpatient" means non-24-hour licensed program services.

"Outpatient treatment" means the ASAM criteria level of care totaling less than nine hours of clinically managed outpatient treatment services per week for adults and less than six hours of clinically managed outpatient treatment services per week for juveniles.

"OWI evaluation" means an assessment completed solely for the purpose of compliance with the substance abuse evaluation requirements of Iowa Code chapter 321J.

"Partial/day treatment" means the ASAM criteria level of care totaling 20 or more hours of clinically managed outpatient treatment services per week.

"Patient" means an individual who participates in licensed program services.

"Placement" means selection of an appropriate licensed program service, based on ongoing assessment.

"Prescriber" means a licensed health care professional with the authority to prescribe medication in accordance with Iowa law.

"Prevention" means activities aimed at minimizing the use of potentially addictive substances, lowering risk in at-risk individuals, or minimizing potential adverse consequences of substance use or gambling.

"Prime programming time" means any period of the day, as determined by a program treating juveniles, when special attention or supervision is necessary.

"Problem gambling" means a gambling disorder that results in a functional impairment of sufficient impact and duration to meet diagnostic criteria specified within the DSM.

"Program" means a person, facility, institution, building, agency or legal entity that provides one or more of the services stated in subrule 155.2(2) and is required to be licensed under these rules.

"Program sponsor" means the person responsible for the operation of the opioid treatment program and who assumes responsibility for all its employees, including any practitioners, agents, or other persons providing medical, rehabilitative, or counseling services at the program or any of its medication units. The program sponsor need not be a licensed physician but shall employ a licensed physician for the position of medical director.

"Quality improvement" means the process of objectively and systematically monitoring and evaluating the quality and appropriateness of patient care and program services and operations to resolve identified problems and to make continued improvements.

"Recovery" means the process of addressing an addictive disorder and working toward personally defined health and well-being.

"Recovery supports" means the broad range of nontreatment services, such as transportation, that assists patients in their recovery efforts.

"Rehabilitation" means the restoration of an optimal state of health by medical, psychological, and social means, including peer group support.

"Residential" means clinically managed inpatient treatment services.

"Screening" means the brief review of a patient's or potential patient's current risk factors for an addictive disorder or medical or mental health condition to determine if they indicate a need for immediate admission or referral. Screening is not an assessment and is not sufficient to develop a treatment plan, rule out an addictive disorder, or determine that admission to treatment or referral to other services is not indicated.

"Short-term withdrawal management treatment" means withdrawal management treatment for a period not in excess of 30 days.

"Self-administration of medication" means the process whereby a properly trained and qualified staff person observes a patient take medication prescribed by a prescriber.

"Staff" means any individual who conducts an activity on behalf of a program as an employee, agent, consultant, contractor, volunteer or other status.

"Standards category" means the grouping of standards, such as clinical, administrative or programming, in the licensure weighting report.

"State authority" means the department, which regulates the treatment of opioid addiction with opioid drugs.

"Subacute" means medically monitored inpatient services for individuals who require management, supervision and treatment to reduce immediate risk of danger to self or others or severe disability or complication of an addictive disorder or an addictive disorder and a medical or mental health condition.

"Substance abuse treatment and rehabilitation facility" or *"substance abuse treatment program"* means a program required to be licensed under these rules.

"Substance use disorder" means a substance use disorder that results in a functional impairment of sufficient impact and duration to meet diagnostic criteria specified within the DSM.

"Telehealth" means the same as defined in Iowa Code section 514C.34(1).

"Time frames" means the periods of time specified throughout the standards.

"Treatment" means the broad range of planned services to identify and change patterns of behavior that are maladaptive, destructive or injurious to health or to restore appropriate levels of physical, psychological or social functioning. Such services may include assessment; care coordination; crisis stabilization; withdrawal management; early intervention; health promotion; individual, group and family counseling; management of care; and medication administration, provided by addictive disorder professionals and a mix of medical, mental health and peer professionals as appropriate to the structure of the program.

"Treatment plan" means a plan which outlines for each patient attainable short-term treatment goals that are mutually acceptable to the patient and the opioid treatment program and which specifies the services to be provided and the frequency and schedule for their provision.

"Treatment planning" means the process, based on ongoing assessment, by which a patient and qualified staff identify and rank problems, establish agreed-upon goals, and decide on the treatment services and resources to be utilized.

"Withdrawal management" means the safe management of intoxication states and withdrawal states in accordance with the ASAM criteria and accepted standards of practice.

641—155.2(125,135) Licensing. In accordance with Iowa Code section 125.13, a person shall not maintain or conduct a substance use disorder program without having first obtained a license for the program from the department, and in accordance with Iowa Code section 135.150, a person shall not maintain or conduct a problem gambling treatment program funded by the department unless the person has obtained a license for the program from the department. The provision of treatment to a patient through any electronic means, regardless of the location of the program or facility, shall constitute the practice of treatment in the state of Iowa and shall be subject to regulation in accordance with Iowa Code chapter 125, Iowa Code section 135.150, and these rules. An applicant shall apply for one license only. The department will award one license only to an applicant or licensee.

155.2(1) *Program licenses.* The department will offer the following program licenses:

a. A substance use disorder assessment and OWI evaluation-only program license.

b. A substance use disorder treatment program license.

c. A problem gambling treatment program license.

d. A substance use disorder and problem gambling treatment program license.

155.2(2) *Licensed program services.* The license will delineate the licensed program service(s) the program is authorized to provide and will specify that each licensed program service is licensed for adults, juveniles, or adults and juveniles. Licensed program services are:

a. Substance use disorder assessment and OWI evaluation only, provided by a substance use disorder assessment and OWI evaluation-only program;

b. Outpatient treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;

c. Intensive outpatient treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;

d. Partial/day treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;

e. Clinically managed low-intensity residential treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;

f. Clinically managed medium-intensity residential treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;

g. Clinically managed high-intensity residential treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;

h. Medically monitored intensive inpatient treatment, provided by a substance use disorder treatment program or a substance use disorder and problem gambling treatment program;

i. Medically managed intensive inpatient treatment, provided by a substance use disorder treatment program or a substance use disorder and problem gambling treatment program;

j. Enhanced treatment services, provided by a substance use disorder treatment program or a substance use disorder and problem gambling treatment program;

k. Opioid treatment services, provided by a substance use disorder treatment program or a substance use disorder and problem gambling treatment program.

155.2(3) *Licensing body.* The department will consider and approve or deny all license applications, suspensions and revocations.

641—155.3(125,135) Types of licenses.

155.3(1) The department may issue an initial license for 270 days to a new applicant scoring a minimum rating of 70 percent in each standards category on the licensure weighting report. An initial license shall expire in 270 days and shall not be extended or renewed.

155.3(2) The department may issue a license subsequent to an initial license for one, two, or three years based on the applicant's rating on the licensure weighting report.

a. An applicant achieving a rating of 95 percent or higher in each standards category may qualify for a three-year license.

b. An applicant achieving a rating of less than 95 percent but not less than 90 percent in each standards category may qualify for a two-year license.

c. An applicant achieving a rating of less than 90 percent but not less than 70 percent in each standards category may qualify for a one-year license.

d. A license for one, two, or three years shall expire on the date noted on the license and shall not be extended but may be renewed upon application.

155.3(3) The department may issue a license under deemed status to an applicant providing required documentation of accreditation by a recognized accreditation body. A deemed-status license will be effective for the same time frame as that of the accreditation granted by the accreditation body, up to three years.

641—155.4(125,135) Nonassignability.

155.4(1) A license issued by the department for the operation of a program applies both to the licensee and the facility in which the program is operated. A license is not transferable.

155.4(2) A closing program is one that intends to cease providing licensed program services. The licensee shall notify the department 30 days before ceasing service provision. The licensee shall be responsible for the transition of patients to another program and for the preservation of all records. The licensee shall include in its notice to the department its plan to transition patients and locate records. When a program closes, the program's license is void on the date the program ceases providing licensed program services and the license shall be returned to the department.

155.4(3) A closed program is one that has ceased providing licensed program services. The licensee shall notify the department immediately of ceased service provision. The licensee shall be responsible for the transition of patients to another program and for the preservation of all records. The licensee shall include in its notice to the department its plan to transition patients and locate records. When a program is closed, the program's license is void on the date the program ceased providing licensed program services and the license shall be returned to the department.

155.4(4) A person, facility or legal entity acquiring a licensed, closing or closed program for the purpose of operating a program shall apply for a license.

641—155.5(125,135) Application procedures. The department will provide license application forms on its website and at its office. An applicant shall submit application materials to the department. The department will proceed with inspection of the applicant upon receipt of a complete application. To be complete, an application must include all required materials and be responsive to all licensure standards, as described in these rules.

155.5(1) *Application information.* An applicant shall submit application materials on the forms provided and in the required format. Application materials shall include but may not be limited to:

a. The name and address of the applicant and, if the applicant is part of a larger organization, the name and address of the larger organization.

b. The name and address of the applicant's executive director and, if the applicant is part of a larger organization, the name and address of the executive director of the larger organization.

c. The names, titles, dates of employment, education, and years of current job-related experience of the applicant's staff and the table of organization. If the applicant is part of a larger organization or has multiple organizational components and physical facilities, the relationships between the larger organization, organizational components and physical facilities must be shown on the table of organization, with the applicant and applicant's staff positions clearly delineated.

d. The names and addresses of members of the applicant's governing body, sponsors, and advisory boards and the current articles of incorporation and bylaws.

e. The names and addresses of individuals, facilities, organizations, and legal entities with which the applicant has a contractual or affiliation agreement pertaining to licensed program services.

f. A description of the licensed program services to be provided by the applicant and a calendar showing program services each week.

g. For each physical facility, copies of reports substantiating compliance with federal, state and local laws, rules and regulations, to include appropriate department of inspections, appeals, and licensing rules; state fire marshal rules and fire ordinances; and local health, fire, occupancy, and safety regulations.

h. Information required for programs admitting juveniles as described under Iowa Code section 125.14A.

i. Fiscal management information, to include a recent audit or opinion of auditor and program board minutes to reflect approval of the program's budget and insurance.

j. Insurance coverage related to professional and general liability; building, if the applicant has a physical location; and workers' compensation and fidelity bond, if the applicant has employees.

k. The address of each physical facility, if applicable.

l. The written policies and procedures manual that covers all the requirements of these rules.

155.5(2) *Application time frame.* An applicant seeking to be licensed subsequent to a 270-day initial license or a licensee seeking to renew a one-, two-, or three-year license or to significantly change a currently licensed program shall submit an application at least 90 days before expiration of the current license or before the program change.

155.5(3) *License under deemed status.* An organization seeking to be licensed under deemed status shall submit an application.

641—155.6(125,135) Technical assistance. The department may provide technical assistance to an applicant or licensee.

155.6(1) An applicant may request technical assistance regarding these rules and the licensure process.

155.6(2) A licensee may request technical assistance regarding these rules and the licensure process or to bring areas of noncompliance with these rules into compliance.

155.6(3) The department may require a licensee to receive technical assistance to bring areas of noncompliance with these rules into compliance.

641—155.7(125,135) Inspection of applicants.

155.7(1) *Inspection of applicants.* The department will inspect each applicant. Inspection will include review of the complete application and may include but may not be limited to review of patient records, review of applicant data reporting, and interviews with staff and patients. Inspection will include on-site inspection unless specifically waived as allowed under these rules. The department will send the applicant a report of inspection findings within 30 business days of the inspection.

155.7(2) *On-site inspection.* The department will schedule an on-site inspection of an applicant within 60 business days of receipt of the applicant's complete application.

a. The department may waive on-site inspection of an applicant that is:

(1) A licensee applying to renew a license when the applicant's licensed program services are limited to substance use disorder assessment and OWI evaluation services only, outpatient treatment, or intensive outpatient treatment.

(2) An applicant applying for a license under deemed status.

b. The department is not required to provide advance notice of the on-site inspection to the applicant.

c. The on-site inspection team will consist of designated employees or agents of the department.

d. The on-site inspection team will inspect the applicant to verify application information and determine compliance with all laws, rules and regulations.

641—155.8(125,135) License—approval. The department will issue a license upon approval of an application. The license will be effective upon approval.

641—155.9(125,135) Written corrective action plan.

155.9(1) A program approved for a license shall submit a written corrective action plan to the department within 30 days following approval to bring any area of noncompliance with these rules into compliance.

155.9(2) The written corrective action plan shall include but may not be limited to:

a. Any area of noncompliance specified in the inspection findings report;

b. The corrective measures to be taken by the program for each area of noncompliance; and

c. The completion date for each corrective measure.

641—155.10(125,135) Grounds for denial of license. The department may deny an application for a license for any of the following reasons:

155.10(1) The application is not complete, is not timely or otherwise does not meet the requirements of these rules.

155.10(2) The applicant fails to achieve the minimum licensure weighting report rating required for a 270-day initial license or a one-, two- or three-year license.

155.10(3) Lack of patients or patient records for review.

155.10(4) Violation of any of the following grounds for discipline:

a. Submission of fraudulent or misleading information.

b. Violation by a program or staff of any statute or rule pertaining to programs, including violation of any provision of these rules, or failure to adhere to program policies and procedures adopted pursuant to these rules.

c. Failure to comply with licensure, inspection, health, fire, occupancy, safety, sanitation, zoning, or building codes or regulations required by federal, state or local law.

d. Sanction, modification, termination, withdrawal, refused renewal, suspension, or revocation of accreditation by an accreditation body.

e. Sanction, modification, termination, withdrawal, refused renewal, suspension, revocation, or refused issuance of a federal registration to distribute or dispense controlled substances.

f. Commission of or permitting, aiding or abetting commission of an unlawful act.

g. Conviction of a member of the governing body, a director, administrator, chief executive officer, or other managing staff person of a felony or misdemeanor related to the management, operation or integrity of the program.

h. Use of untruthful or improbable statements in advertising.

i. Conduct or practices determined to be detrimental to the general health, safety, or welfare of a patient, potential patient, concerned person, visitor, staff or member of the public.

j. Violation of a patient's confidentiality or willful, substantial, or repeated violation of a patient's rights.

k. Defrauding a patient, potential patient, concerned person, visitor, staff or third-party payor.

l. Inappropriate conduct by staff, including sexual or other harassment or exploitation of a patient, potential patient, concerned person, visitor or staff.

m. Utilization of treatment techniques that endanger the health, safety, or welfare of a patient, potential patient, concerned person, visitor, staff or member of the public.

n. Discrimination or retaliation against a patient, potential patient, concerned person, visitor, staff, or member of the public who has submitted a complaint or information to the department.

o. Failure to allow an employee or agent of the department access to the program or facility for the purpose of inspection, investigation, or other activity necessary to the performance of the department's duties.

p. Failure to submit an acceptable written corrective action plan or failure to comply with a corrective action plan issued pursuant to rule 641—155.9(125,135) or 641—155.16(125,135).

q. Violation of an order of the department or violating the terms or conditions of a consent agreement or informal settlement between a program and the department.

641—155.11(125,135) Denial, suspension or revocation of a license. The department may deny an application for a license. The department may suspend or revoke a license for any of the grounds for discipline pursuant to subrule 155.10(4).

155.11(1) *Initial notice from the department.* When the department determines to deny, suspend or revoke a one-, two-, or three-year license or a license under deemed status, the department will notify the applicant or licensee by certified mail, return receipt requested, in accordance with 441—Chapter 16. Such notice will provide the applicant or licensee the opportunity to submit a written corrective action plan or written objections to the department.

155.11(2) *Submission of corrective action plan or objections.* An applicant notified of denial of a one-, two-, or three-year license or a license under deemed status or a licensee notified of suspension or

revocation of a license may submit a written corrective action plan or written objections to the department within 20 days after receipt of the notice.

a. Written corrective action plan. The written corrective action plan must meet the requirements of paragraphs 155.9(1)*"a"* through *"c."* If the applicant or licensee submits a written corrective action plan, the applicant or licensee shall have 90 days from the date of submission within which to show compliance with the plan. The applicant or licensee shall submit any information to the department that the department requests or that the applicant or licensee deems pertinent to show compliance with the plan. The department may inspect the licensee, including on-site inspection, to review the implemented corrective measures.

b. Objections. If the applicant or licensee submits written objections, the applicant or licensee shall submit to the department any information that the department or the applicant or licensee deems pertinent to support the applicant's or licensee's defense.

155.11(3) *Decision of department.* Following receipt of a written corrective action plan and expiration of the 90-day compliance period, or following receipt of written objections, or when a written corrective action plan or written objections have not been received within the 20-day time period, the department will determine whether to proceed with the denial, suspension or revocation.

155.11(4) *Notice of decision and opportunity for contested case hearing.*

a. When the department determines to deny, suspend, or revoke a license, the applicant or licensee shall be given written notice by restricted certified mail pursuant to 441—Chapter 16.

b. The applicant or licensee may request a hearing on the determination. The request must be in writing and sent to the department's address within 30 days of the notice issued by the department. Failure to request a hearing will result in final action by the department.

155.11(5) *Summary suspension.* If the department finds that the health, safety or welfare of the public is endangered by continued operation of a program, the department may order summary suspension of a license, pursuant to Iowa Code sections 17A.18 and 125.15A, pending proceedings for revocation or other actions in accordance with Iowa Code sections 17A.18A and 125.15A and 441—Chapter 7. These proceedings shall be promptly instituted and determined.

641—155.12 to **155.14** Reserved.

641—155.15(125,135) Issuance of a license after denial, suspension or revocation. After denial, suspension, or revocation of a license, the former applicant or licensee shall not have a license issued within one year of the effective date of the denial, suspension or revocation. After one year, the former applicant or licensee may submit an application for a 270-day initial license. For purposes of this rule, "former applicant or licensee" includes any director, officer, administrator, chief executive officer, or other managing staff of the former applicant or licensee.

641—155.16(125,135) Complaints and investigations.

155.16(1) *Complaints.* Any person may file a complaint with the department against any program licensed pursuant to this chapter. The complaint shall be made in writing and shall be emailed, mailed or delivered to the department. The complaint shall include the name and address of the complainant, the name of the program, and a concise statement of the allegations against the program, including the specific alleged violations of Iowa Code chapter 125 or this chapter, if known. A complaint may also be initiated by the department when an emergency exists that is deemed to endanger the health, safety or welfare of a patient, potential patient, concerned person, visitor, staff or the public, pursuant to evidence received by the department. Timely filing of complaints is required to ensure the availability of witnesses and to avoid initiation of an investigation under conditions that may have been significantly altered during the period of delay.

155.16(2) *Evaluation and investigation.* Upon receipt of a complaint, the department will make a preliminary review of the allegations contained in the complaint. The department may request that the complainant submit the complaint to the program's grievance process. Unless the department concludes that the complaint is intended solely to harass a program or lacks a reasonable basis, or is more reasonably addressed through the program's grievance process, the department will conduct an

investigation of the program that is the subject of the complaint as soon as is practicable. The program that is the subject of the complaint will be given an opportunity to informally respond to the allegations contained in the complaint either in writing or through a personal interview or conference with department staff.

155.16(3) *Investigative report.* Within 30 days after completion of the investigation, the department will prepare a written investigative report and submit it to the executive director of the program and the chairperson of the governing body of the program. This report will include the nature of the complaint and shall indicate if the complaint allegations were substantiated, unsubstantiated, or undetermined; the basis for the finding; the specific statutes or rules at issue; a response from the program, if received; and a recommendation for action.

155.16(4) *Review of investigations.* The department will review the investigative report and determine appropriate action.

a. Closure. If the department determines that the allegations contained in the complaint are unsubstantiated, the department will close the case and promptly notify the complainant and the program by letter.

b. Further investigation. The department may determine that the complaint warrants further investigation and may conduct an additional investigation.

c. Written corrective action plan. If the department determines that the allegations contained in the complaint are substantiated and corrective action is warranted, the department may require the program to submit and comply with a written corrective action plan. A program shall submit a written corrective action plan to the department within 20 business days after receiving a request for such plan. The written corrective action plan shall include a plan for correcting areas of noncompliance as required by the department and a time frame within which such plan shall be implemented. The plan is subject to department approval. Requiring a written corrective action plan is not formal disciplinary action. Failure to submit or comply with a written corrective action plan may result in formal disciplinary action against the program.

d. Disciplinary action. If the department determines the allegations contained in the complaint are substantiated and disciplinary action is warranted, the department may proceed with such action in accordance with rule 641—155.11(125,135).

155.16(5) *Confidential information and public information.* Information contained in a complaint may be confidential pursuant to Iowa Code section 22.7(2), 22.7(18), or 125.37 or any other provision of state or federal law. Investigative reports, written corrective action plans, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall refer to patients by number and shall not include patient identifying information. Investigative reports, written corrective action plans, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall be available to the public as open records pursuant to Iowa Code chapter 22.

641—155.17(125,135) License revision. A licensee shall submit a written request to the department to revise a license at least 30 days prior to any change of address, executive director, clinical oversight staff, facility, or licensed program service. The department will determine if the requested revision can be approved or if the change is significant enough to require the submission of an application for license renewal by the licensee.

641—155.18(125,135) Deemed status.

155.18(1) *Accreditation.* The department will approve a license under deemed status for an applicant accredited by a recognized national accreditation body when it determines that the accreditation is for the same licensed program services as those addressed by these rules and when such accreditation is consistent with these rules.

a. An applicant for a license under deemed status shall submit a copy of the entire accreditation body survey or inspection report, certificate of accreditation, accreditation conditions, and corrective action requirements and plans with the applicant’s application.

b. The department may review and accept an accreditation body's survey or inspection report, certificate of accreditation, and conditions or corrective action plans as meeting the requirements for inspection for those licensed program services described in these rules.

c. An applicant for a license under deemed status shall be licensed only for licensed program services that are described in these rules.

d. A program licensed under deemed status shall be licensed for the same period of time as that for which the program is accredited, up to three years.

155.18(2) *National accreditation bodies.* The national accreditation bodies recognized for the purposes of licensure under deemed status are:

a. The Joint Commission.

b. The Council on Accreditation of Rehabilitation Facilities (CARF).

c. The Council on Accreditation (COA).

d. The American Osteopathic Association (AOA).

155.18(3) *Credentials and expectations of accreditation bodies.* The accreditation credentials of an accreditation body shall specify the types of organizations, programs and services the body accredits.

155.18(4) *Responsibilities of programs licensed under deemed status.*

a. A program licensed under deemed status shall meet all requirements of these rules and all applicable laws and regulations.

b. A program licensed under deemed status may submit an application for licensure of licensed program services covered by these rules that are not covered by the accreditation.

155.18(5) *Rights and responsibilities of department.* The department retains the following responsibilities and rights for deemed status applicants and licensees:

a. The department may inspect the applicant or licensee.

b. The department will investigate complaints in accordance with these rules and recommend and require corrective action or other sanctions. Complaints, findings, and required corrective action may be reported to the accreditation body.

c. The department will review and act upon a license under deemed status when complaints have been founded, when the national accreditation body identifies noncompliance with accreditation, when accreditation expires without renewal, or when accreditation is sanctioned, modified, terminated, withdrawn, suspended or revoked.

641—155.19(125,135) Funding. The issuance of a license shall not be construed as a commitment on the part of either the state or federal government to provide funds to such licensee.

641—155.20(125,135) Inspection. An applicant or licensee agrees as a condition of licensure:

155.20(1) To permit properly designated representatives of the department to enter into and inspect any and all programs and facilities for which a license has been applied or issued to verify information contained in the application or to ensure compliance with all laws, rules, and regulations relating thereto, during all hours of operation of said applicant or licensee and at any other reasonable hour.

155.20(2) To permit properly designated representatives of the department to audit and collect statistical data from all records maintained by the applicant or licensee. An applicant or licensee that does not permit inspection by the department or examination of all records, including financial records, records pertaining to methods of administration, general and special dietary programs, and the disbursement of medications and methods of supply, and any other records the department deems relevant, will not be licensed.

641—155.21(125,135) General standards for all programs. The following standards apply to all programs. For programs for which both the general standards and specific standards apply, both sets of standards shall be met.

155.21(1) *Governing body.* The program shall have a formally designated governing body that complies with Iowa Code chapter 504 and that is the ultimate authority for program operations.

a. The governing body shall develop and adopt written bylaws and policies that define the powers and duties of the governing body, its committees, its advisory groups, and the executive director. These bylaws and policies shall be reviewed and revised by the governing body as necessary.

b. The bylaws shall minimally specify the following:

(1) The type of membership;

(2) The term of appointment;

(3) The frequency of meetings;

(4) The attendance requirements; and

(5) The quorum necessary to transact business.

c. The governing body shall maintain minutes of all meetings, and the minutes shall be available for review by the department and shall include but not necessarily be limited to:

(1) Date of the meeting;

(2) Names of members attending;

(3) Topics discussed; and

(4) Decisions reached and actions taken.

d. The duties of the governing body shall include but not necessarily be limited to:

(1) Appointment of a qualified executive director, who shall have the responsibility and authority for the management of the program in accordance with the governing body's established policies;

(2) Establishment of effective controls to ensure that quality services are provided;

(3) Review and approval of the program's annual budget; and

(4) Approval of all contracts.

e. The governing body shall approve policies and procedures for the effective operation of the program.

f. The governing body shall be responsible for all funds, equipment, and supplies and the facility in which the program operates, if applicable. The governing body shall be responsible for the appropriateness and adequacy of services provided by the program.

g. The governing body shall at least annually prepare a report, which shall include but not necessarily be limited to:

(1) The name, address, occupation, and place of employment of each governing body member;

(2) Disclosure of any family relationship a member of the governing body has with a program staff member;

(3) The names and addresses of any owners or controlling parties, whether they are individuals, partnerships, a corporation body, or a subdivision of other bodies;

(4) Disclosure of any potential conflict of interest a member of the governing body may have.

h. The governing body shall ensure that the program has malpractice, liability and workers' compensation insurance for all staff and a fidelity bond that covers all staff, if applicable.

155.21(2) *Executive director.* The executive director shall have primary responsibility for program operations. The duties of the executive director shall be clearly defined in accordance with the policies established by the governing body.

155.21(3) *Clinical oversight.* The program shall designate a treatment supervisor to oversee provision of licensed program services.

155.21(4) *Policies and procedures manual.* The program shall maintain and implement a written policies and procedures manual that documents the program's compliance with these rules. The manual shall describe the program's licensed program services and related activities, specify the policies and procedures to be followed, and govern all staff.

a. The manual shall have a table of contents.

b. Revisions to the manual shall be entered with the date and with the name and title of the staff person making the revisions.

155.21(5) *Staff development and training.* The program's policies and procedures shall establish a staff development and training plan that encompasses all staff and all licensed program services, considers the professional continuing education requirements of certified and licensed staff, and is available to all staff.

a. The program shall designate a staff person responsible for the staff development and training plan.

b. The staff person responsible for the staff development and training plan shall conduct an annual needs assessment.

c. The staff development and training plan shall describe orientation for new staff that includes an overview of the program and licensed program services, confidentiality, tuberculosis and bloodborne pathogens, including HIV/AIDS, and culturally and environmentally specific information. Orientation shall also address the specific responsibilities of each staff person and community resources specific to the staff person's responsibilities.

d. The staff development and training plan shall address training when program operations or licensed program services change.

e. The staff development and training plan may include on-site training activities. The program shall maintain minutes of on-site training that include the name and date of the training, the training topic, the name and title of the trainer, and the names of staff attending the training.

155.21(6) *Data reporting.* The program's policies and procedures shall describe how the program reports required data to the department in accordance with department requirements and processes.

155.21(7) *Fiscal management.* The program's policies and procedures shall ensure proper fiscal management, which shall include:

a. The preparation and maintenance of an annual written budget, which shall be reviewed and approved by the governing body prior to the beginning of the budget year.

b. A fiscal management system maintained in accordance with generally accepted accounting principles, including internal controls to reasonably protect program assets. This shall be verified by an annual independent fiscal audit of the program by the state auditor's office or a certified public accountant based on an agreement entered into by the governing body. A program with an annual budget of $100,000 or less shall conduct a fiscal audit no less than every three years.

c. An insurance program that provides for the protection of the physical and financial resources of the program and provides coverage for all people, buildings, and equipment. The insurance program shall be reviewed annually by the governing body.

155.21(8) *Personnel.* The program shall have personnel policies and procedures.

a. Personnel policies and procedures shall address:

(1) Recruitment and selection of staff;
(2) Wage and salary administration;
(3) Promotions;
(4) Employee benefits;
(5) Working hours;
(6) Vacation and sick leave;
(7) Lines of authority;
(8) Rules of conduct;
(9) Disciplinary actions and termination;
(10) Methods for handling cases of inappropriate patient care;
(11) Work performance appraisal;
(12) Staff accidents and safety;
(13) Staff grievances;
(14) Prohibition of sexual harassment;
(15) Implementation of the Americans with Disabilities Act as amended to August 1, 2025;
(16) Implementation of the Drug-Free Workplace Act as amended to August 1, 2025;
(17) Use of social media; and
(18) Implementation of equal employment opportunity.

b. The program shall have for each position and each staff person a written job description that describes the duties of each position and staff and the qualifications required for each position.

(1) A staff person providing screening, OWI evaluation, assessment or treatment services in accordance with these rules shall be qualified as an addictive disorder professional by meeting at least one of the following conditions:

1. Be certified or licensed as a substance use disorder or problem gambling counselor by a national or state organization approved by the department.

2. Be licensed as a marital and family therapist or a mental health counselor under Iowa Code chapters 154D and 147, an independent social worker under Iowa Code chapters 154C and 147, or another independent professional authorized by the Iowa Code to diagnose and treat mental disorders as specified in the DSM.

3. Be licensed as a master social worker under Iowa Code chapters 154C and 147.

4. Be licensed as a bachelor social worker under Iowa Code chapters 154C and 147.

5. Be temporarily or provisionally certified or licensed as allowed under a certification or license acceptable to the department. Such staff person must meet all requirements of the temporary or provisional certification or license, must be supervised by a staff person meeting one of the requirements of paragraphs "1" through "4" above, and must be fully certified or licensed within two years of the date on which the person began to provide licensed program services.

6. A staff person employed on and after July 1, 2010, who is not qualified as described in any of the paragraphs "1" through "5" above shall be deemed qualified while the person is in the process of being certified or licensed under a certification or license acceptable to the department. Such staff must meet the requirements of the certification or licensure process, must be supervised by a staff person meeting one of the requirements of paragraphs "1" through "4" above, and must be fully certified or licensed within two years of the date on which the person began to provide licensed program services. The two-year time frame is continuous from the person's date of first employment by the program, including if the person changes employment from one program to another.

7. A person employed before July 1, 2010, and continuously since that date at a program licensed pursuant to this chapter, who is not qualified as described in any of the paragraphs "1" through "5" above, shall be deemed qualified as long as such person remains employed by that program and that program remains licensed. Such staff shall maintain a minimum of 30 hours of training every two years, including a minimum of 3 hours of ethics training, and shall be supervised by a staff person meeting at least one of the conditions of paragraphs "1" through "4" above.

(2) The program shall review job descriptions annually and whenever there is a change in a position's duties or required qualifications.

(3) The program shall include job descriptions in the personnel section of the policies and procedures manual.

c. The program shall conduct a written evaluation of job performance with each staff person at least annually. The evaluation shall include the opportunity for the staff person to comment.

d. The program shall maintain a personnel record on each staff person. The record shall contain, as applicable:

(1) Verification of training, experience, qualifications, and professional credentials;

(2) Job performance evaluations;

(3) Incident reports;

(4) Disciplinary action taken; and

(5) Documentation of review of and agreement to adhere to confidentiality laws and regulations. This review and agreement shall occur prior to the staff person's assumption of duties.

e. The personnel policies and procedures shall ensure confidentiality of personnel records and shall specify staff authorized to have access to personnel information.

f. The program shall notify the department in writing within ten days of being informed that a staff person has been sanctioned or disciplined by a certifying or licensing body. Such notice shall include the sanction or discipline order.

155.21(9) *Child abuse, dependent adult abuse and criminal history background checks.* The program's policies and procedures shall address child abuse, dependent adult abuse and criminal history background checks.

a. The program shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures. Alleged violations shall be reported immediately to the program's executive director and appropriate department personnel. Policies and procedures on reporting alleged violations shall be in compliance with subrule 155.21(10). A staff person found to be in violation of Iowa Code sections 232.67 through 232.70, as substantiated by a department investigation, shall be subject to the program's policies concerning termination.

b. For each staff person working with juveniles as set forth in Iowa Code section 125.14A or with dependent adults as set forth in Iowa Code chapter 235B, the personnel record shall contain:

(1) Documentation of a criminal history background check with the Iowa division of criminal investigation on all new staff applicants. The background check shall include asking whether the applicant has been convicted of a crime.

(2) A written, signed and dated statement furnished by a new staff applicant that discloses any substantiated report of child abuse, neglect or sexual abuse or dependent adult abuse.

(3) Documentation of a check prior to permanent acceptance of a person as staff, with the Iowa central registry for any substantiated reports of child abuse, neglect or sexual abuse pursuant to Iowa Code section 125.14A or substantiated reports of dependent adult abuse for all staff hired or accepted on or after July 1, 1994, pursuant to Iowa Code chapter 235B.

c. A person who has a record of a criminal conviction or founded child abuse report or founded dependent adult abuse report shall not be hired or accepted as staff unless an evaluation of the crime or founded child abuse or founded dependent adult abuse has been made by the department that concludes that the crime or founded child abuse or founded dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child abuse or founded dependent adult abuse does exist, the person shall be offered the opportunity to complete and submit a Record Check Evaluation form. In its evaluation, the department will consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation and the number of crimes or founded abuses committed by the person involved.

d. A staff person providing screening, OWI evaluation, assessment or treatment in accordance with this chapter shall complete the department's core training curriculum pursuant to Iowa Code sections 232.69 and 235B.16 within six months of initial employment or self-employment and every three years thereafter.

155.21(10) *Patient records.* The program's policies and procedures shall describe compilation, storage and dissemination of patient records and release or disclosure of information.

a. The policies and procedures shall ensure that:

(1) The program protects the patient record against loss, tampering or unauthorized disclosure of information;

(2) The content and format of patient records are uniform;

(3) All entries in the patient record are in chronological order, signed, dated and legible. When records are maintained electronically, a staff identification code number authorizing access shall be accepted in lieu of a signature;

(4) Each entry in the patient record is made in permanent ink, by typewriter, or by computer; and

(5) Entries in the patient record use language consistent with generally accepted standards of practice and do not include abstract terms, technical jargon or slang.

b. The program shall provide adequate physical facilities for the secure storage, processing and handling of patient records.

c. Appropriate patient records shall be readily accessible to staff as specifically authorized by program policy.

d. The program shall appropriately maintain and dispose of patient records. Patient records shall be maintained for not less than seven years from the date they are officially closed.

e. Each file cabinet or storage area containing patient records shall be locked.

f. The program shall release or disclose information on individuals seeking program services or on patients in strict accordance with the Health Insurance Portability and Accountability Act (HIPAA) as amended to August 1, 2025, and state and federal confidentiality laws, rules and regulations.

(1) The confidentiality of substance use disorder patient records and information is protected by HIPAA as amended to August 1, 2025, and the regulations on confidentiality of alcohol and drug abuse patient records, 42 CFR Part 2 as amended to August 1, 2025, which implement federal statutory provisions, 42 U.S.C. 290dd-2 applicable to alcohol abuse patient records, and 42 U.S.C. 290ee-3 both as amended to August 1, 2025, applicable to drug abuse patient records.

(2) The confidentiality of problem gambling patient records and information is protected by HIPAA as amended to August 1, 2025, Iowa Code chapter 228 and section 22.7(35).

g. A program that provides licensed program services via electronic means shall inform the patient of the limitations and risks associated with such services and shall document in the patient record that such notice has been provided.

h. Upon receipt of a properly executed written release of information or authorization to disclose signed by the patient, the program shall release patient records in a timely manner. A program shall not refuse to release patient records related to continuation of care solely because payment has not been received. A program may refuse to release patient records that are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), "Notice Iowa Code 321J—Confidential Medical Record," reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

155.21(11) *Assessment and admission.* The program's policies and procedures shall address screening, assessment, referral and admission and documentation of such activities in the patient record.

a. The program shall conduct an assessment with each patient prior to admission unless the patient's current risk factors indicate a need for immediate admission.

(1) If the program admits a patient based on a screening or initial assessment that indicates the patient requires immediate admission, that screening or initial assessment must be updated and expanded to a full assessment when the patient's current risk factors are stabilized.

(2) The assessment shall be documented in the patient record and shall be organized in a manner that supports development of a treatment plan by the program or by any program to which the patient is referred.

b. The program shall implement a uniform assessment process that describes:

(1) The information to be gathered;

(2) Procedures for accepting a referral from another program, agency or organization;

(3) Procedures for referring a patient to another program, agency or organization.

c. A substance use disorder treatment program, problem gambling treatment program, or substance use disorder and problem gambling treatment program shall update the assessment on an ongoing basis, when clinically indicated, and within the periods of time specified for each level of care in the management-of-care review process.

d. The results of each assessment shall be clearly explained to the patient, and to the patient's family when appropriate, and such explanation shall be documented in the patient record.

e. At the time of admission, a substance use disorder treatment program, problem gambling treatment program, or substance use disorder and problem gambling treatment program shall document that the patient has been informed of:

(1) The general nature and goals of the program;

(2) Rules governing patient conduct and infractions that can lead to disciplinary action or discharge from the program;

(3) The hours during which services are available;

(4) The costs to be borne by the patient;

(5) Patient rights and responsibilities;

(6) Confidentiality laws, rules and regulations; and

(7) Safety and emergency procedures.

155.21(12) *Treatment plans.* The policies and procedures for substance use disorder treatment programs, problem gambling treatment programs, and substance use disorder and problem gambling treatment programs shall describe the program's uniform process for developing individualized treatment plans based on ongoing assessment and documentation of such plans in the patient record.

a. Staff shall initiate development of the treatment plan as soon after the patient's admission as is clinically feasible and within the period of time between admission and the review date specified for that level of care in the management-of-care review process.

b. The treatment plan shall minimally contain:

(1) A summary of assessment findings;

(2) Patient short- and long-term goals;

(3) The type and frequency of planned treatment activities;

(4) The staff responsible for the patient's treatment; and

(5) Culturally and environmentally specific considerations.

c. Staff shall develop each treatment plan in partnership with the patient, with patient participation documented in the patient record. The treatment plan shall be written in a manner clearly understandable to the patient. Staff shall give the patient a copy of each treatment plan. The patient and staff shall review and revise the treatment plan when clinically indicated and in accordance with the time frames specified in the management-of-care review process.

d. Treatment plan reviews shall be based on ongoing assessment and shall specify the indicated level of care and licensed program services and any revision of treatment plan goals. The date of the review and any revision of the treatment plan shall be documented in the patient record.

155.21(13) *Progress notes.* The policies and procedures for substance use disorder treatment programs, problem gambling treatment programs, and substance use disorder and problem gambling treatment programs shall describe the program's uniform process for reviewing a patient's current status and progress in meeting treatment plan goals and documenting such review in the patient record.

a. Progress notes shall include the date each service was provided or observation was made and the name and title of the staff person providing each service.

b. Staff shall enter a progress note following each individual counseling session.

c. Staff shall enter a summary progress note at least weekly for group counseling sessions.

d. Progress notes that involve subjective interpretations of a patient's status or progress should be supplemented with a description of the behavioral observations that were the basis for the interpretation.

155.21(14) *Patient record contents.* The program's policies and procedures shall require that a record be maintained for each patient and shall specify the contents of the patient record.

a. The patient record shall include:

(1) Any screening;

(2) Each assessment;

(3) Results of any physical examination or laboratory test;

(4) Admission information;

(5) Any report from a referring source or outside resource;

(6) Notes from any case conference, consultation, care coordination or case management;

(7) Any correspondence related to the patient, including letters, electronic communications and telephone conversations;

(8) Any treatment consent form;

(9) Any release of information or authorization to disclose;

(10) Notes on any service provided; and

(11) Any incident report.

b. For substance use disorder treatment programs, problem gambling treatment programs, and substance use disorder and problem gambling treatment programs, the patient record shall also include:

(1) Treatment plans;

(2) Management-of-care reviews;

(3) Medication records, which shall allow for the monitoring of all medications administered and self-administered and detection of adverse drug reactions;

(4) Progress notes;

(5) Discharge summaries completed within 30 days of discharge, which shall be sufficiently detailed to identify the types of services the patient received, action taken to address specific problems identified, and plans for services and referrals postdischarge.

c. For problem gambling treatment programs and substance use disorder and problem gambling treatment programs, the patient record shall also include documentation of financial counseling services that assist problem gambling patients in preparing a budget and addressing financial debt options, including restitution and bankruptcy.

155.21(15) *Drug screening.* The program's policies and procedures shall address collection of drug-screening specimens and utilization of drug-screening results. Such policies may state that the program does not conduct drug screening.

a. A specimen obtained from a patient shall be collected under direct supervision and analyzed in accordance with program policies, or the program shall have a policy in place to reduce the patient's ability to alter the drug screening.

b. Any laboratory used by the program for drug screening and analysis shall comply with federal and state requirements.

c. A program conducting on-site drug screening shall comply with the Clinical Laboratory Improvement Act regulations as amended to August 1, 2025.

d. The manner in which drug-screening results are utilized shall be documented in the patient record.

155.21(16) *Medical and mental health services.* The program's policies and procedures shall address patient medical and mental health conditions.

a. In addition to assessment of biomedical conditions and complications as described in the ASAM criteria, the program shall take a medical history and perform a physical examination and necessary laboratory tests as follows for patients admitted to the level of care specified:

(1) Medically managed intensive inpatient treatment and medically monitored intensive inpatient treatment: within 24 hours of admission.

(2) Clinically managed high-intensity residential treatment and clinically managed medium-intensity residential treatment: within seven days of admission.

(3) Clinically managed low-intensity residential treatment: within 21 days of admission.

(4) Crisis stabilization services and opioid treatment program services: within 24 hours of admission.

b. A program may accept a medical history or physical examination from a qualified source if the history or examination was completed no more than 90 days prior to the patient's current admission.

c. In addition to assessment of emotional, behavioral, and cognitive conditions and complications as described in the ASAM criteria, a program may accept a mental health history from a qualified source if the history was completed no more than three days prior to the patient's current admission.

155.21(17) *Emergency services.* The program's policies and procedures shall address the availability of emergency services for substance use disorders and medical and mental health conditions.

a. Emergency services shall be available 24 hours a day, seven days a week.

b. Emergency services may be provided by the program or by any other qualified individual, institution, facility, or other legal entity.

c. The program shall communicate the availability of emergency services by posting notice at facilities, having a recorded message on the program's telephone system, posting notice on the program's website and through program materials.

155.21(18) *Medication control.* The program's policies and procedures shall describe how medications are administered or self-administered in accordance with federal, state and local laws, rules and regulations. Such policies may state that the program does not conduct medication administration or self-administration.

a. Staff authorized to administer medications shall be qualified, and a current list of such staff shall be maintained.

b. Medication shall be administered only in accordance with the instructions of the attending prescriber. The type and amount of the medication, the time and date, and the staff person administering the medication shall be documented in the patient record.

c. Self-administration of medication shall be observed by a staff person who has been oriented to the program's policies and procedures on self-administration. Self-administration of medication shall be permitted only when the patient's medication is clearly labeled. The policies and procedures on self-administration shall include:

(1) Medications are ordered or prescribed by a prescriber.

(2) The prescriber agrees that the patient can self-administer the medication.

(3) The medication taken and how and when the medication is taken are documented in the patient record.

d. Prescription medication shall not be administered to or self-administered by a patient without a written order signed by a prescriber. All prescribed medications shall be clearly labeled indicating the patient's full name, the prescriber's name, the prescription number, the name and strength of the medication, the dosage, the directions for use, and the date of issue and the name, address and telephone number of the pharmacy or prescriber issuing the medication. Medications shall be packaged and labeled according to state and federal guidelines.

e. If a medication the patient brings to the program is not used, it shall be packaged, sealed and stored. The sealed package of medication shall be returned to the patient, family or designee at the time of discharge.

f. Accountability and control of medications.

(1) There shall be a specific routine for medication administration, indicating dose schedules and standardization of abbreviations.

(2) There shall be specific methods for control and accountability of medication products throughout the program.

(3) The staff person in charge of medications shall provide for monthly inspection of all storage units.

(4) Prescription medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or prescriber for relabeling or disposal.

(5) Unused prescription medication prescribed for a patient who leaves a program without the patient's medication shall be destroyed by a staff person with a staff witness, and a notation shall be made in the patient record. When a patient is discharged or leaves the program, medication currently being administered shall be sent, in the original container, with the patient or with a responsible agent, as approved by a prescriber.

g. Medication storage shall be maintained in accordance with the security requirements of federal, state and local laws.

(1) All medication shall be maintained in locked storage. Controlled substances shall be maintained in a locked box within the locked cabinet.

(2) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items.

(3) Disinfectants and medication for external use shall be stored separately from internal and injectable medications.

(4) The medication for each patient shall be stored in the original container.

(5) All poisonous or caustic medication shall be plainly labeled; stored separately from other medication in a specific well-illuminated cabinet, closet, or storeroom and made accessible only to authorized staff.

h. Prescription medication provided to a patient shall be dispensed only from a licensed pharmacy in the state of Iowa in accordance with the pharmacy laws in the Iowa Code, from a licensed pharmacy in another state according to the laws of that state, or by a licensed prescriber.

i. Prescription medication prescribed for one patient shall not be administered to or allowed to be in the possession of another patient.

j. Any unusual patient reaction to a medication shall be documented in the patient record and reported to the prescriber immediately.

k. Dilution or reconstitution and labeling of medication shall be done only by a licensed pharmacist.

155.21(19) *Management of care and discharge planning.* The program's policies and procedures shall use the ASAM criteria for assessment, admission, continued service and discharge decisions and shall describe management-of-care processes.

a. The program shall conduct care coordination to meet each patient's needs and promote effective outcomes.

b. The program shall conduct management-of-care activities at least minimally within the time frames specified for each level of care.

(1) Medically managed intensive inpatient treatment and medically monitored intensive inpatient treatment: daily.

(2) Clinically managed high-intensity residential treatment, clinically managed medium-intensity residential treatment, partial/day treatment, and intensive outpatient treatment: within seven days of the patient's admission.

(3) Clinically managed low-intensity residential treatment and outpatient treatment: within 30 days of the patient's admission.

c. The program shall coordinate patient care with other programs for any licensed program service for which the program is not licensed and with qualified individuals and organizations for any related services the program does not provide, such as crisis stabilization, medical services, mental health services, and social services.

d. At the time of the patient's admission, the program shall initiate discharge planning that includes a determination of the patient's continued need for licensed program services and development of a plan to address ongoing patient needs postdischarge.

155.21(20) *Quality improvement.* The program's policies and procedures shall describe a written quality improvement plan that encompasses all licensed program services and related program operations.

a. The program shall designate a staff person responsible for the quality improvement plan.

b. The quality improvement plan shall describe and document monitoring, problem-solving and evaluation activities designed to systematically identify and resolve problems and make continued improvements.

(1) The quality improvement plan shall include specific goals, objectives, and methods.

(2) The quality improvement plan shall include objective criteria to measure its effectiveness.

c. The program shall document whether the quality of patient care and program operations are improved and identified problems are resolved.

d. The program shall communicate quality improvement plan activities and findings to all staff.

e. Quality improvement plan findings are used to detect trends, patterns of performance, and potential problems that affect patient care and program operations.

f. The program shall evaluate the effectiveness of the quality improvement plan at least annually and revise the plan as necessary.

155.21(21) *Facility safety and cleanliness.* The program's policies and procedures shall ensure that program physical facilities are clean, well-ventilated, heated, free from vermin, and appropriately furnished and are designed, constructed, equipped, and maintained in a manner that provides for the physical safety of patients, concerned persons, visitors and staff.

a. If required by local jurisdiction, the program shall maintain a certification of occupancy.

b. During all phases of construction or alterations of buildings, the level of life safety shall not be diminished in any occupied area. The construction shall be in compliance with all applicable federal, state, and local codes. New construction shall comply with Iowa Code chapter 104A and all applicable federal and local codes and provide for safe and convenient use by disabled individuals.

c. The program shall have specific policies and procedures for each of the following:

(1) Identification, development, implementation, maintenance and review of safety policies and procedures.

(2) Promotion and maintenance of an ongoing, facilitywide hazard surveillance program to detect and report all safety hazards.

(3) Safe and proper disposal of biohazardous waste.

(4) Stairways, halls, and aisles that shall be of substantial, nonslippery material, maintained in a good state of repair, adequately lighted and kept free from obstructions at all times. All stairways shall have handrails.

(5) Radiators, registers, and steam and hot water pipes, each of which shall have protective covering or insulation. Electrical outlets and switches shall have wall plates.

(6) For programs serving juveniles, fuse boxes that shall be under lock and key or six feet above the floor.

(7) Safe and proper handling and storage of hazardous materials.

(8) Prohibition against weapon possession; safe and proper removal of weapons.

(9) Swimming pools that shall conform to state and local health and safety rules and regulations. Adult supervision shall be provided at all times when juveniles are using the pool.

(10) Ponds, lakes, or any bodies of water located on or near the program and accessible to patients, concerned persons, visitors and staff.

(11) The written plan to be followed in the event of fire or tornado. The plan shall be conspicuously displayed at the facility.

155.21(22) *Therapeutic environment.* The program's policies and procedures shall provide for the establishment of an environment that preserves human dignity. Program facilities shall have adequate space for the program to provide licensed program services.

a. The program's policies and procedures shall include a description of how all licensed program services are accessible to people with disabilities or how the program provides accommodations for people with disabilities. All programs shall comply with the Americans with Disabilities Act as amended to August 1, 2025.

b. The waiting or reception areas shall be of adequate size and be located so as to ensure patient confidentiality.

c. Staff shall be available in waiting or reception areas to address the needs of the patients, potential patients, concerned persons, and visitors.

d. The program's policies and procedures shall include:

(1) Possession and use of chemical substances in the facility.

(2) Prohibition of smoking.

(3) Prohibition of the sale or other provision of any tobacco product.

(4) Informing patients of their legal and human rights at the time of admission.

(5) Patient communication, opinions, or grievances, with a mechanism for redress.

(6) Prohibition of sexual harassment.

(7) Patient right to privacy.

641—155.22(125,135) Inpatient and residential program facilities. Specific standards apply for programs providing clinically managed low-intensity residential treatment, clinically managed medium-intensity residential treatment, clinically managed high-intensity residential treatment, medically monitored intensive inpatient treatment, and medically managed intensive inpatient treatment. The program's policies and procedures shall address each standard.

155.22(1) *Health and fire safety inspections.* Inpatient and residential programs shall comply with applicable department of inspections, appeals, and licensing rules; state fire marshal's rules and fire ordinances; and applicable local health, fire, occupancy, and safety regulations. The program shall maintain documentation of such compliance.

a. Inpatient and residential programs shall comply with standards for food service sanitation in accordance with rules promulgated by the department of inspections, appeals, and licensing pursuant to 481—Chapter 30 and Iowa Code chapter 137B.

b. The use of door locks or closed sections shall be documented in written policies and procedures approved by the fire marshal and governing body.

155.22(2) *Emergency preparedness.* Inpatient and residential programs shall have a written emergency preparedness plan for continuation of licensed program services during an emergency or disaster.

641—155.23(125,135) Specific standards for inpatient and residential programs. The program's policies and procedures shall address each standard.

155.23(1) *Hours of operation.* Inpatient and residential programs shall operate seven days per week, 24 hours per day.

155.23(2) *Meals.* Inpatient and residential programs shall provide a minimum of three meals per day to each patient. A program where patients are not present during mealtime shall make provisions to make available the necessary meals. Menus shall be prepared in consultation with a dietitian. If patients are allowed to prepare meals, the program shall document conformity with all commonly accepted policies and procedures of state health rules and regulations and food hygiene.

155.23(3) *Consultation with counsel.* Patients shall have opportunity for and access to consultation with legal counsel at any reasonable time.

155.23(4) *Visitation with family and friends.*

a. Each patient shall have opportunities for continuing contact with family and friends. If such contact is clinically contraindicated, it may be restricted. Any restriction shall be approved by the treatment supervisor and the executive director. Justification for the restriction shall be documented in the patient record. Any restriction shall be reviewed within three calendar days by the treatment supervisor, who may continue or end the restriction. Continuation of a restriction shall be documented in the patient record and shall be reviewed by the treatment supervisor every three calendar days.

b. The program shall establish visiting hours, which shall be conspicuously displayed at the facility in such a manner to be visible to those entering the facility.

155.23(5) *Telephone use.*

a. Each patient shall have opportunities to conduct private telephone conversations. If such conversations are clinically contraindicated, they may be restricted. Any restriction shall be approved by the treatment supervisor and the executive director. Justification for the restriction shall be documented in the patient record. Any restriction shall be reviewed within three calendar days by the treatment supervisor, who may continue or end the restriction. Continuation of a restriction shall be documented in the patient record and shall be reviewed by the treatment supervisor every three calendar days.

b. The program shall establish telephone hours. Emergency telephone conversations may be received at the time of the call or made when necessary.

155.23(6) *Written communication.*

a. Each patient shall have opportunities to conduct private written communications. If such communications are clinically contraindicated, they may be restricted. Any restriction shall be approved by the treatment supervisor and the executive director. Justification for the restriction shall be documented in the patient record. Any restriction shall be reviewed within three calendar days by the treatment supervisor, who may continue or end the restriction. Continuation of a restriction shall be documented in the patient record and shall be reviewed by the treatment supervisor every three calendar days.

b. The program shall establish access to written communications. The program shall not intercept, read, or censor the U.S. mail.

155.23(7) *Facility.* Inpatient and residential program facilities shall be appropriate for 24-hour occupancy.

a. Patient bedrooms shall include:

(1) A sturdily constructed bed;

(2) A clean mattress protected with a clean mattress pad;

(3) A designated space for personal possessions and for hanging clothing in proximity to the sleeping area; and

(4) Curtains or window blinds on any windows.

b. Sleeping areas.

(1) Sleeping areas shall include doors for privacy.

(2) Sleeping areas shall include partitioning or placement of furniture to provide privacy for all patients.

(3) The number of patients in a room shall be appropriate to the goals of the facility and to the ages, developmental levels, and clinical needs of the patients.

(4) Patients will be allowed to keep and display personal belongings and add personal touches to the decoration of their rooms in accordance with program policy.

(5) Staff shall respect the patient's right to privacy by knocking on the door of the patient's room before entering.

c. Clean linen, towels and washcloths shall be available minimally on a weekly basis and more often as needed.

d. Bathrooms.

(1) Bathrooms shall provide the facilities necessary for patients' personal hygiene and personal privacy, including:

1. A safe supply of hot and cold running potable water;
2. Clean towels, electric hand dryers or paper towel dispensers, toilet paper and soap;
3. Natural or mechanical ventilation capable of removing odors;
4. Tubs or showers that have slip-proof surfaces;
5. Partitions with doors that provide privacy if a bathroom has multiple toilet stools; and
6. Toilets, wash basins, and other plumbing or sanitary facilities that shall at all times be maintained in good operating condition.

(2) The ratio of bathroom facilities to inpatient and residential patients shall be one tub or shower head per 12 patients, one wash basin per 12 patients and one toilet per 8 patients.

(3) If the facility is coeducational, the program shall designate and so identify separate bathrooms for male and female patients.

e. The written plan to be followed in the event of fire or tornado shall be conspicuously displayed on each floor or in each area that patients, concerned persons, staff or visitors occupy at the facility and shall be explained to all inpatient and residential patients as a part of their orientation to the program. Fire drills shall be conducted at least monthly, and tornado drills shall be conducted monthly from April through October.

f. Written reports of annual inspections by state or local fire safety officials or private fire protection companies approved by the department shall be maintained with records of corrective action taken by the program based on recommendations articulated in such reports.

g. Every facility shall have an adequate water supply from an approved source. A municipal water system shall meet this requirement. Private water sources shall be tested annually.

h. The facility shall allow for the following:

(1) Areas in which a patient may be alone when appropriate; and

(2) Areas for private conversations with others.

i. Articles of grooming and personal hygiene that are appropriate to the patient's age, developmental level, and clinical state shall be readily available in a space reserved near the patient's sleeping area. If access to such articles is clinically contraindicated as approved by the treatment supervisor, a patient's personal articles may be kept under lock and key by staff. Staff shall explain to the patient the conditions under which the articles may be used. Justification for this restriction shall be documented in the patient record.

j. If patients maintain their own living quarters or perform day-to-day housekeeping activities, these responsibilities shall be clearly defined in writing and be a part of the patient orientation program. Staff assistance and equipment shall be provided as needed.

k. Patients shall be allowed to wear their own clothing in accordance with program rules. If clothing is provided by programs, it shall be suited to the climate and appropriate. A laundry room shall be accessible so patients may wash their clothing.

l. The program shall ensure that the use and location of noise-producing equipment and appliances, such as television sets, radios, computers, and CD players, do not interfere with clinical and therapeutic activities.

m. The program shall provide recreation and outdoor activities unless clinically contraindicated.

155.23(8) *Religion-culture.* Program policies and procedures shall include a written description of any religious orientation, religious practice, or religious restrictions. For juvenile patients, this description shall be provided to the patient, parent(s) or guardian, and placing agency at the time of admission in compliance with HIPAA as amended to August 1, 2025, and U.S. Department of Health and Human Services (DHHS), 42 CFR Part 2 as amended to August 1, 2025, regulations on the confidentiality of alcohol and drug abuse patient records. For adult patients, this information shall be available during orientation. The patient shall have the opportunity to participate in religious activities and services in accordance with the patient's faith or that of a patient's parent(s) or guardian if the patient is a minor. The program shall, when necessary and reasonable, arrange transportation to religious activities.

641—155.24(125,135) Specific standards for inpatient and residential programs licensed to provide services to juveniles. Inpatient and residential programs that provide services to juveniles under the age of 18 shall also comply with the following standards. The program's policies and procedures shall address each standard.

155.24(1) *Personal possessions.* A program shall allow a patient to bring personal belongings. The program may limit or supervise the use of these items. The program shall ensure that each patient has adequate, clean, well-fitting, attractive, and seasonable clothing as required for health, comfort, and physical well-being. The clothes should be appropriate to the patient's individual needs, age, and sex.

155.24(2) *Family involvement.* The program shall encourage family involvement.

155.24(3) *Money.* Money earned or received as a gift or as an allowance by a patient shall be that patient's personal property. The program shall maintain a separate accounting system for patient money and shall address the patient's use of funds.

155.24(4) *Discipline.* The program's methods for control and discipline of juveniles shall be available to all staff and to the juvenile's family. Staff shall be in control of and responsible for discipline at all times. Discipline shall not include withholding basic necessities such as food, clothing, or sleep.

a. The program shall prohibit staff or patients from utilizing corporal punishment as a method of disciplining or correcting patients. This policy shall be communicated in writing to all staff.

b. The program's written policies on behavior expectations shall be made available to the patient and the patient's parent(s) or guardian, including:

(1) The general expectations of behavior, including the program's rules and practices.

(2) The range of reasonable consequences that may be used to deal with inappropriate behavior.

155.24(5) *Number of staff.* The program shall have staff coverage seven days per week, 24 hours per day. The number and qualifications of the staff will vary depending on the needs of the patients.

a. The program shall have a 24-hour supervisory consultation on-call system. During prime programming time, there shall be at least a one-to-eight staff-to-patient ratio.

b. Comprehensive residential facilities, as defined in 441—Chapter 115, shall have at least a one-to-five staff-to-patient ratio during prime programming time. A staff person shall be in each living unit at all times when juveniles are in residence, and there shall be a minimum of three nighttime checks between the hours of 12 midnight and 6 a.m. These checks shall be logged. The program's policies and procedures shall address nighttime checks.

c. The program shall define its prime programming time.

155.24(6) *Illness, accident, death, or absence from the inpatient or residential program.* The program shall notify the patient's parent(s), guardian, and responsible agency of any serious illness, incident involving serious bodily injury, absence, or removal of the juvenile from the facility in compliance with HIPAA as amended to August 1, 2025, and DHHS, 42 CFR Part 2 as amended to August 1, 2025, regulations on the confidentiality of alcohol and drug abuse patient records. In the event

of the death of a patient, the program shall immediately notify the prescriber, the patient's parent(s) or guardian, the placing agency, and the appropriate state authority.

155.24(7) *Educational services.* The program's educational program shall meet the requirements of the department of education and shall be available for each patient in accordance with abilities and needs.

641—155.25(125,135) Specific standards for substance use assessment and OWI evaluation-only programs. Programs that provide substance use assessment and OWI evaluation-only services shall also comply with the following standards. The program's policies and procedures shall address each standard.

155.25(1) A program conducting OWI evaluations on persons convicted of operating a motor vehicle while intoxicated (OWI) pursuant to Iowa Code section 321J.2 and on persons whose driver's license or nonresident operating privileges are revoked under Iowa Code chapter 321J shall do so in accordance with 641—Chapter 157.

155.25(2) The program shall make its fees public and shall inform potential patients of the fee at the time the assessment or evaluation is scheduled.

641—155.26 to **155.33** Reserved.

641—155.34(125,135) Specific standards for enhanced treatment services.

155.34(1) *Standards.* Substance use disorder and problem gambling treatment programs licensed to provide enhanced treatment services shall also comply with the following standards. The program's policies and procedures shall address each standard.

155.34(2) *Personnel.* The program shall meet the requirements in subrule 155.21(8). In addition:

a. The program's policies and procedures shall include job descriptions for positions that provide prevention services for substance use disorders and problem gambling, treatment for substance use disorders and problem gambling, services for medical conditions, and services for mental health conditions.

b. The program shall have staff on site who are qualified to provide prevention and early intervention services for substance use disorders and problem gambling, treatment for substance use disorders and problem gambling, services for medical conditions, and services for mental health conditions.

641—155.35(125,135) Specific standards for opioid treatment programs. All programs that use methadone or other medications approved by the Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 as amended to August 1, 2025) and by the state of Iowa for use in the treatment of opioid addiction shall comply with this rule; HIPAA, as amended to August 1, 2025; and Part II, DHHS, Substance Abuse and Mental Health Services Administration, 42 CFR Part 8, Opioid Drugs in Maintenance and Detoxification Treatment of Opioid Addiction, effective February 2, 2024, and as amended to August 1, 2025.

155.35(1) *Required approvals.* All opioid treatment programs shall be licensed or approved by the department and shall maintain all other approvals required by the federal Drug Enforcement Administration, SAMHSA and the Iowa board of pharmacy in order to provide services.

155.35(2) *Central registry system.* To prevent simultaneous enrollment of a patient in more than one program, all opioid treatment programs shall participate in a central registry as established by the department.

Prior to admission of an applicant to an opioid treatment program, the program shall submit to the registry the applicant's name, birth date, and date of intended admission, and any other information required for the clearance procedure. No person shall be admitted to a program who is found by the registry to be participating in another such program. All opioid treatment programs shall report all admissions, discharges, and transfers to the registry immediately. All information reported to the registry from the programs and all information reported to the programs from the registry shall be treated as confidential in accordance with HIPAA as amended to August 1, 2025, and regulations on the

confidentiality of alcohol and drug abuse patient records, DHHS, 42 CFR Part 2 as amended to August 1, 2025.

a. Definitions. For purposes of this subrule:

"Central registry" means the system through which the department obtains patient identifying information about individuals applying for maintenance treatment for the purpose of preventing an individual's concurrent enrollment in more than one such program.

"Opioid treatment program" means a withdrawal management or maintenance treatment program that is required to report patient identifying information to the central registry and that is located in the state.

b. Restrictions on disclosure.

(1) A program may disclose patient identifying information to a central registry for the purpose of preventing the multiple enrollment of a patient only if:

1. The disclosure is made when:
- The patient is admitted for treatment; or
- The treatment is interrupted, resumed or terminated.

2. The disclosure is limited to:
- Patient identifying information; and
- Relevant dates of admission.

(2) The program shall inform the patient of the required disclosure prior to admission.

c. Use of information limited to prevention of multiple enrollments. Any information disclosed to the central registry to prevent multiple enrollments shall not be redisclosed by the registry nor shall such information be used for any other purpose than the prevention of multiple enrollments unless so authorized by court order in accordance with HIPAA as amended to August 1, 2025, and 42 CFR Part 2 as amended to August 1, 2025.

d. Permitted disclosure by the central registry to prevent a multiple enrollment. If a program petitions the central registry and an identified patient is enrolled in another program, the registry may disclose:

(1) The name, address, and telephone number of the program in which the patient is currently enrolled to the inquiring program; and

(2) The name, address, and telephone number of the inquiring program to the program in which the patient is currently enrolled. The programs may communicate as necessary to verify that no error has been made and to prevent or eliminate any multiple enrollment.

155.35(3) *Admission requirements.*

a. Prior to or at the time of a patient's admission to an opioid treatment program, the program shall conduct a comprehensive assessment so as to determine appropriateness for admission.

b. The program shall verify, to the extent possible, the patient's name, address, and date of birth.

c. Determination and documentation.

(1) An OTP shall maintain current procedures designed to ensure that patients are admitted to treatment by qualified personnel who have determined, using accepted medical criteria, that:

1. The person meets diagnostic criteria for a moderate to severe OUD; or

2. The individual has an active moderate to severe OUD, or OUD in remission, or is at high risk for recurrence or overdose.

(2) Such decisions must be appropriately documented in the patient's clinical record. In addition, a health care practitioner shall ensure that each patient voluntarily chooses treatment with MOUD, that all relevant facts concerning the use of MOUD are clearly and adequately explained to the patient, and that each patient provides informed consent to treatment.

(3) When physiological addiction cannot be clearly documented, the program physician or an appropriately trained staff member designated and supervised by the physician shall record in the patient's record the criteria used to determine the patient's current physiologic dependence and history of addiction. In the latter circumstance, the program physician shall review, date, and countersign the supervised staff member's evaluation to demonstrate the physician's agreement with the evaluation. The

program physician shall make the final determination concerning a patient's physiologic dependence and history of addiction.

(4) When a patient has voluntarily left an opioid treatment program in good standing and seeks readmission within two years of discharge, the program shall document the following information about the patient:

1. Prior opioid treatment of six months or more; and

2. That in the physician's medical judgment, treatment of the patient is warranted. Such documentation shall be entered in the patient's record by the program physician.

d. The program shall collect a drug screening sample for analysis. Where dependence is substantially verified through other indicators, a negative drug screen will not necessarily preclude admission to the program.

e. Prior to a patient's admission, the program shall confirm with the central registry that the patient is not currently enrolled in another opioid treatment program.

f. If a potential patient has previously been enrolled in another program, the admitting program shall request from the previous program a copy of the patient's assessment data, treatment plan, and discharge summary including the type of or reason for discharge. All programs subject to these rules shall promptly respond to such a request upon receipt of a valid release of information.

g. A person under the age of 18 is required to have had two documented attempts at short-term withdrawal management or drug-free treatment to be eligible for maintenance treatment. A one-week waiting period is required after such a short-term withdrawal management attempt, however, before an attempt is repeated. The program physician shall document in the patient's record that the patient continues to be, or is again, physiologically dependent on narcotic drugs. No person under 18 years of age may be admitted to OTP treatment unless a parent, legal guardian, or responsible adult designated by the relevant state authority consents in writing to such treatment.

h. Program staff shall ensure that a patient is voluntarily participating in the program, and the patient shall sign a Consent to Treatment Form.

i. Pregnant patients may be admitted to opioid treatment in accordance with the following provisions:

(1) Evidence of current physiological dependency is not needed if the program physician certifies the pregnancy and, in the physician's reasonable judgment, finds treatment to be justified. Documentation of all findings and justifications for admission shall be documented in the patient's record by the program physician prior to the administration of the initial dose of medication.

(2) Pregnant patients shall be offered comprehensive prenatal care. If the program cannot provide prenatal services, the program shall assist the patient in obtaining such services and shall coordinate ongoing care with the collateral provider.

(3) The program physician shall document that the patient has been informed of the possible risks to the unborn child from the use of medication and the risks of continued use of illicit substances.

(4) Should a program have a waiting list for admission to the program, pregnant patients shall be given priority.

155.35(4) *Placement, admission and assessment.* The program shall have written criteria for considering an individual for placement and admission. In addition, the program shall maintain current procedures to ensure that patients are admitted to maintenance treatment by qualified staff who have determined by using accepted medical criteria, such as those outlined in the DSM.

a. The program shall require each patient to undergo an initial medical examination. The initial medical examination is comprised of two parts:

(1) A screening examination to ensure that the patient meets criteria for admission and that there are no contraindications to treatment with MOUD; and

(2) A full history and examination to determine the patient's broader health status, with lab testing as determined to be required by an appropriately licensed practitioner. A patient's refusal to undergo lab testing for co-occurring physical health conditions should not preclude the patient from access to treatment, provided such refusal does not have potential to negatively impact treatment with medications.

b. Assuming there are no contraindications, a patient may commence treatment with MOUD after the screening examination has been completed. Both the screening examination and full examination must be completed by an appropriately licensed practitioner. If the licensed practitioner is not an OTP practitioner, the screening examination must be completed no more than seven days prior to OTP admission. Where the examination is performed outside of the OTP, the written results and narrative of the examination, as well as available lab testing results, must be transmitted, consistent with applicable privacy laws, to the OTP and verified by an OTP practitioner.

c. A full in-person physical examination, including the results of serology and other tests that are considered to be clinically appropriate, must be completed within 14 calendar days following a patient's admission to the OTP. The full examination can be completed by a non-OTP practitioner if the examination is verified by a licensed OTP practitioner as being true and accurate and transmitted in accordance with applicable privacy laws.

d. Serology testing and other testing as deemed medically appropriate by the licensed OTP practitioner based on the screening or full history and examination, drawn not more than 30 days prior to admission to the OTP, may form part of the full history and examination.

e. The screening and full examination may be completed via telehealth for those patients being admitted for treatment at the OTP with either buprenorphine or methadone if a practitioner or primary care provider determines that an adequate evaluation of the patient can be accomplished via telehealth. When using telehealth, the following caveats apply:

(1) In evaluating patients for treatment with Schedule II medications (such as methadone), audiovisual telehealth platforms must be used, except when not available to the patient, in which case, it is acceptable to use audio-only devices but only when the patient is in the presence of a licensed practitioner who is registered to prescribe (including dispense) controlled medications. The OTP practitioner shall review the examination results and order treatment medications as indicated.

(2) In evaluating patients for treatment with Schedule III medications or medications not classified as a controlled medication, audiovisual or audio-only platforms may be used. The OTP practitioner shall review the examination results and order treatment medications as indicated.

f. The medical evaluation of the patient shall include but not be limited to:

(1) A complete medical history;

(2) An assessment of the patient's current psychological and mental status;

(3) A physical examination, including examination for:

1. Pulmonary, liver, or cardiac abnormalities;
2. Infectious disease; and
3. Dermatologic sequela of addiction;

(4) Laboratory tests, including:

1. Serological test for syphilis; and
2. Urine screening for drugs;

(5) An intradermal PPD (tuberculosis skin test) and review of tetanus immunization status; and

(6) When indicated, an EKG, chest X-ray, pap smear, pregnancy test, sickle cell screening, complete blood count and white cell differential, multiphasic chemistry profile, routine and microscopic urinalysis, or other tests indicated by the patient's condition. A patient's refusal to undergo lab testing for co-occurring physical health conditions should not preclude the patient from access to treatment, provided such refusal does not have potential to negatively impact treatment with medications.

155.35(5) *Treatment plans.* Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the patient's case record.

a. A treatment plan shall be developed and shall delineate the patient's immediate needs and the actions required to meet these needs.

b. The treatment plan shall be developed as soon after the patient's admission as is clinically feasible but no later than 30 days following the patient's admission to an outpatient opioid maintenance treatment program.

c. Treatment plans shall be developed in partnership with the patient. Comprehensive treatment plans shall be reviewed by the primary counselor and the patient as often as necessary but no less than

every 90 days during the first year and semiannually each subsequent year for opioid treatment modalities. Treatment plans shall be reviewed by the program physician on an annual basis.

155.35(6) *Rehabilitative services.*

a. OTPs must provide adequate substance use disorder counseling and psychoeducation to each patient as clinically necessary and mutually agreed upon, including harm reduction education and recovery-oriented counseling. This counseling shall be provided by a program counselor, qualified by education, training, or experience to assess the psychological and sociological background of patients and engage with patients, to contribute to the appropriate care plan for the patient and to monitor and update patient progress. Patient refusal of counseling shall not preclude the patient from receiving MOUD.

b. OTPs must provide counseling on preventing exposure to, and the transmission of, human immunodeficiency virus (HIV), viral hepatitis, and sexually transmitted infections (STIs) and either directly provide services and treatments or actively link to treatment each patient admitted or readmitted to treatment who has received positive test results for these conditions from an initial or periodic medical examination.

c. OTPs must provide directly, or through referral to adequate and reasonably accessible community resources, vocational training, education, and employment services for patients who request such services or for whom these needs have been identified and mutually agreed upon as beneficial by the patient and program staff.

155.35(7) *Medication administration.*

a. The program physician shall determine the patient's initial and subsequent dose of medication and on-site dosing schedule and shall assume responsibility for the amount of the narcotic drug administered or dispensed and shall record, date, and sign in each patient's case record each change in the dosage schedule. The physician shall directly communicate orders to the pharmacy or registered or licensed personnel supervising medication administration. The program physician may communicate such orders verbally; however, orders shall be reduced to writing and countersigned within 72 hours by the program physician.

b. For each new patient enrolled in an OTP, the initial dose of methadone shall be individually determined and shall include consideration of the type(s) of opioid(s) involved in the patient's OUD, other medications or substances being taken, medical history, and severity of opioid withdrawal. The total dose for the first day should not exceed 50 milligrams unless the OTP practitioner, licensed under the appropriate state law and registered under the appropriate state and federal laws to administer or dispense MOUD, finds sufficient medical rationale, including but not limited to if the patient is transferring from another OTP on a higher dose that has been verified, and documents in the patient's record that a higher dose was clinically indicated.

(1) Medication shall be administered by a professional authorized by law.

(2) No medication shall be administered until the patient has completed admission procedures unless the patient enters the program on a weekend and the central registry cannot be contacted. If, in the clinical judgment of the program physician, a patient is experiencing an emergency situation, the admission procedures may be completed on the following workday.

c. Administration.

(1) Take-home medication shall be labeled in accordance with state and federal law and have childproof caps.

(2) A medication administration log shall be kept in the dosing area and in the patient's case record. The amount of medication administered and the signature of the staff member authorized to administer the medication shall also be included in the patient's case record. No dose shall be administered until the patient has been positively identified and the dosage amount has been compared with the currently ordered and documented dosage level.

(3) Ingestion shall be observed and verified by the staff person authorized to administer the medication.

(4) The program physician shall record, date, and sign in each patient's case record each change in the dosage schedule. Daily dosages of medications in excess of 100 milligrams shall be dispensed only

with the approval of the program physician and shall be documented and justified in the patient's case record.

155.35(8) *Take-home or unsupervised medication use.*

a. Unsupervised (take-home) medication doses may be provided under the following circumstances:

(1) Any patient in comprehensive treatment may receive individualized take-home doses as ordered for days that the clinic is closed for business, including one weekend day (e.g., Sunday) and state and federal holidays, no matter the patient's length of time in treatment.

(2) OTP decisions on dispensing MOUD to patients for unsupervised use shall be determined by an appropriately licensed OTP medical practitioner or the medical director. In determining which patients may receive unsupervised medication doses, the medical director or program medical practitioner shall consider, among other pertinent factors that indicate that the therapeutic benefits of unsupervised doses outweigh the risks, the following criteria:

1. Absence of active substance use disorders, other physical or behavioral health conditions that increase the risk of patient harm as it relates to the potential for overdose, or the ability to function safely;
2. Regularity of attendance for supervised medication administration;
3. Absence of serious behavioral problems that endanger the patient, the public or others;
4. Absence of known recent diversion activity;
5. Whether take-home medication can be safely transported and stored; and
6. Any other criteria that the medical director or medical practitioner considers relevant to the patient's safety and the public's health.

(3) Such determinations and the basis for such determinations consistent with the criteria outlined shall be documented in the patient's medical record. If it is determined that a patient is safely able to manage unsupervised doses of MOUD, the dispensing restrictions set forth in this rule apply. The dispensing restrictions set forth in this rule do not apply to buprenorphine and buprenorphine products listed in this rule.

1. During the first 14 days of treatment, the take-home supply is limited to 7 days. It remains within the OTP practitioner's discretion to determine the number of take-home doses up to seven days, but decisions must be based on the criteria listed in this rule. The rationale underlying the decision to provide unsupervised doses of methadone must be documented in the patient's clinical record.
2. From 15 days of treatment, the take-home supply is limited to 14 days. It remains within the OTP practitioner's discretion to determine the number of take-home doses up to 14 days, but this determination must be based on the criteria listed in this rule. The rationale underlying the decision to provide unsupervised doses of methadone must be documented in the patient's clinical record.
3. From 31 days of treatment, the take-home supply provided to a patient is not to exceed 28 days. It remains within the OTP practitioner's discretion to determine the number of take-home doses up to 28 days, but this determination must be based on the criteria listed in this subrule. The rationale underlying the decision to provide unsupervised doses of methadone must be documented in the patient's clinical record.

(4) OTPs must maintain current procedures adequate to identify the theft or diversion of take-home medications, including labeling containers with the OTP's name, address, and telephone number. Programs also must ensure that each individual take-home dose is packaged in a manner that is designed to reduce the risk of accidental ingestion, including child-proof containers. Programs must provide education to each patient on the following: safely transporting medication from the OTP to the patient's place of residence and the safe storage of take-home doses at the individual's place of residence, including child and household safety precautions. The provision of this education should be documented in the patient's clinical record.

b. If a patient is unable to conform to the applicable mandatory schedule, a revised schedule may be permitted provided that the program receives an exception to these rules from the department and SAMHSA, when applicable. A copy of the written exception shall be placed in the patient's case record. The department will consider exceptions only in unusual circumstances. When a program is applying for

less frequent pickups for patients, approval will be based on considerations in addition to distance if another program exists within 25 miles of the patient's residence.

c. Should a patient receiving take-home medication provide a drug screen that is confirmed either positive for substances or negative for the prescribed medication, the program shall ensure that, when test results are used, presumptive laboratory results are distinguished from results that are definitive.

155.35(9) *Drug testing.* Each program shall establish policies and procedures for the collection of drug-screening specimens and utilization of results.

a. The program shall ensure that an initial drug-screening test or analysis is completed for each prospective patient and that at least eight additional random tests or analyses are performed on each patient during the patient's first year in maintenance treatment and that at least quarterly random tests or analyses are performed on each patient in maintenance treatment for each subsequent year. When a sample is collected from each patient for such a test or analysis, it shall be done in a manner that minimizes opportunity for falsification. Each test or analysis shall be analyzed for opioids, methadone, amphetamines, cocaine, and barbiturates. In addition, if any other drug or drugs have been determined by a program to be abused in that program's locality, or as otherwise indicated, each test or analysis must be analyzed for any of those drugs as well. Any laboratory that performs the testing required under this rule shall be in compliance with all applicable federal proficiency testing and licensing standards and all applicable state standards.

b. The program shall ensure that test results are not used as the sole criterion to force a patient out of treatment but are used as a guide to change treatment approaches. The program shall also ensure that when test results are used, presumptive laboratory results are distinguished from results that are definitive.

155.35(10) *Diversion prevention plan.*

a. The program shall develop a diversion identification and prevention plan that:

(1) Outlines the methods by which the program shall detect possible diversion of take-home medication; and

(2) Describes the actions to be taken when diversion is identified or suspected.

b. The program shall establish and implement proactive procedures to reduce the likelihood or possibility of diversion.

155.35(11) *Interim maintenance treatment.*

a. An approved program may offer interim maintenance treatment when, due to capacity, the program cannot place the patient in a program offering comprehensive services within 14 days of the patient's application for admission.

b. An approved program may provide interim maintenance treatment only if the program also provides comprehensive maintenance treatment to which interim maintenance treatment patients may be transferred.

c. Interim maintenance treatment program approval.

(1) Before a public or nonprofit private narcotic treatment program may provide interim maintenance treatment:

1. The program must receive approval of both the U.S. Food and Drug Administration and the department; and

2. The program director must certify that the program seeking such authorization is unable to place patients in a public or private nonprofit program within a reasonable geographic area within 14 days of the patient's application for admission and that interim maintenance treatment will not reduce the capacity of the program's comprehensive maintenance treatment.

(2) Patients admitted to interim maintenance treatment shall be transferred to comprehensive maintenance treatment within 120 days of admission.

d. Minimum standards for interim maintenance treatment. The program may admit a patient who is eligible for comprehensive maintenance treatment to interim maintenance treatment if the patient cannot be placed in a public or private nonprofit comprehensive program within a reasonable geographic area and within 14 days of application for services. An initial drug screen and at least two other drug screens shall be taken from the patient during the maximum admission period of 120 days. A program

shall establish and follow reasonable criteria for determining the transfer of patients to comprehensive maintenance treatment. These transfer criteria shall be in writing and available for inspection and shall include at a minimum a preference for the transfer of pregnant patients. Interim maintenance shall be conducted in accordance with all applicable federal regulations and state rules. The program shall notify the department when a patient begins interim treatment, when a patient leaves interim treatment, and when a patient transfers to comprehensive maintenance treatment. Such notifications shall be documented by the program in the patient's case record. All requirements for comprehensive maintenance treatment apply to interim maintenance treatment, with the following exceptions:

(1) The medication is required to be administered daily under observation;

(2) Take-home medication is not allowed;

(3) Initial and comprehensive treatment plans are not required;

(4) A primary counselor is not required to be assigned to the patient; and

(5) Interim maintenance treatment cannot be provided for longer than 120 days in any 12-month period.

155.35(12) *Accreditation.* All opioid treatment programs shall obtain and retain accreditation by a recognized national accreditation organization. The national accreditation bodies currently recognized as meeting committee criteria are:

a. The Joint Commission.

b. The Council on Accreditation of Rehabilitation Facilities (CARF).

c. The Council on Accreditation (COA).

d. The American Osteopathic Association (AOA).

TUBERCULOSIS (TB) SCREENING: HEALTH CARE WORKERS AND RESIDENTS

641—155.36 Reserved.

641—155.37(125,135) Definitions. For the purpose of these rules, the following definitions shall apply:

"Bacille Calmette-Guerin vaccination" or *"BCG vaccination"* means a vaccine for tuberculosis (TB). BCG is used in many countries with a high prevalence of TB to prevent childhood tuberculosis meningitis and military disease. BCG is not generally recommended for use in the United States because of the low risk of infection with *Mycobacterium tuberculosis*, the variable effectiveness of the vaccine against adult pulmonary TB, and the vaccine's potential interference with tuberculin skin test reactivity.

"Baseline TB screening" means the screening of staff and residents for latent tuberculosis infection (LTBI) and TB disease at the beginning of employment or upon admission to a facility. Baseline TB screening includes a symptom screen for all staff and residents and tuberculin skin tests (TSTs) or interferon-gamma release assay (IGRA) for *Mycobacterium tuberculosis* for those staff and residents with previous negative test results for *M. tuberculosis* infection.

"Baseline TST" or *"baseline IGRA"* means the TST or IGRA, respectively, that is administered at the beginning of employment to newly hired staff or upon admission to residents of facilities.

"Boosting" means a phenomenon in which a person has a negative TST (i.e., false-negative) result years after infection with *M. tuberculosis* and then a positive subsequent TST result. The positive TST result is caused by a boosted immune response of previous sensitivity rather than by a new infection (false-positive TST conversion). Two-step testing reduces the likelihood of mistaking a boosted reaction for a new infection.

"Extrapulmonary TB" means TB disease in any part of the body other than the lungs (e.g., kidney, spine, or lymph nodes).

"Interferon-gamma release assay" or *"IGRA"* means a whole-blood test that can aid in diagnosing *Mycobacterium tuberculosis* infection.

"Laryngeal TB" means a form of TB disease that involves the larynx and may be highly infectious.

"Latent TB infection" or *"LTBI"* means infection with *M. tuberculosis* without symptoms or signs of disease having manifested.

"Mantoux method" means a skin test performed by intradermally injecting 0.1 mL of purified protein derivative (PPD) tuberculin solution into the volar or dorsal surface of the forearm.

"Pulmonary TB" means TB disease that occurs in the lung parenchyma, usually producing a cough that lasts three weeks or longer. Pulmonary TB is usually infectious.

"Purified protein derivative (PPD) tuberculin" means a material used in diagnostic tests for detecting infection with *M. tuberculosis*.

"Risk classification" means the category on which the infection control team, or designated other, determines the setting's TB risk classification is based as a result of the TB risk assessment.

"Serial screening" refers to TB screening performed at regular intervals following baseline TB screening. Serial TB screening, also called annual or ongoing TB testing, consists of two components: (1) assessing for current symptoms of active TB disease and (2) testing for the presence of infection with *M. tuberculosis* by administering either a TST or single IGRA.

"Symptom screen" means a procedure used during a clinical evaluation in which patients are asked if they have experienced any departure from normal in function, appearance, or sensation related to TB disease (e.g., cough).

"TB patient" means a person who had undiagnosed infectious pulmonary or laryngeal TB while in the facility during the preceding year. "TB patient" does not include persons with LTBI (treated or untreated), extrapulmonary TB disease, pulmonary, or laryngeal TB who have met criteria for noninfectiousness.

"TB risk assessment" means an initial and ongoing evaluation of the risk for transmission of *M. tuberculosis* in a particular health care setting.

"TB screening" means an administrative control measure in which evaluation for LTBI and TB disease is performed through baseline and serial screening of staff and residents of facilities.

"TB screening plan" means a plan that facilities develop and implement that comprises four major components: (1) baseline testing for *M. tuberculosis* infection, (2) serial testing for *M. tuberculosis* infection, (3) serial screening for signs or symptoms of TB disease, and (4) TB training and education.

"Treatment for LTBI" means treatment that prevents the progression of *M. tuberculosis* infection into TB disease.

"Tuberculin skin test" or *"TST"* means a diagnostic aid for finding *M. tuberculosis* infection. The Mantoux method is the recommended method to be used for the TST.

"Tuberculosis" or *"TB"* means the namesake member organism of *M. tuberculosis* complex and the most common causative infectious agent of TB disease in humans. In certain instances, the species name refers to the entire *M. tuberculosis* complex, which includes *M. bovis* and *M. africanum*, *M. microti*, *M. canetti*, *M. caprae*, and *M. pinnipedii*.

"Tuberculosis disease" or *"TB disease"* means a condition caused by infection with a member of the *M. tuberculosis* complex that has progressed to causing clinical (manifesting symptoms or signs) or subclinical (early stage of disease in which signs or symptoms are not present but other indications of disease activity are present) illness.

"Two-step tuberculin skin test" or *"two-step TST"* means the procedure used for the baseline skin testing of persons who will receive serial TSTs to reduce the likelihood of mistaking a boosted reaction for a new infection.

641—155.38(125,135) Tuberculosis screening of staff and residents.

155.38(1) *TB risk assessment.* Annually, each facility shall conduct a TB risk assessment to evaluate the risk for transmission of *M. tuberculosis*, regardless of whether a person with suspected or confirmed TB disease is expected to be encountered in the facility. The TB risk assessment shall be utilized to determine the types of administrative, environmental, and respiratory protection controls needed and serves as an ongoing evaluation tool of the quality of TB infection control and for the identification of needed improvements in infection control measures. The risk assessment shall include:

a. The community rate of TB,

b. The number of persons with infectious TB encountered in the facility, and

c. The speed with which persons with infectious TB are suspected, isolated, and evaluated to determine if persons with infectious TB exposed staff or others in the facility. TB cases include persons who had undiagnosed infectious pulmonary or laryngeal TB while in the facility during the preceding

year. This does not include persons with LTBI (treated or untreated), persons with extrapulmonary TB disease, or persons with pulmonary or laryngeal TB who have met criteria for noninfectiousness.

155.38(2) *Facility risk classification.* The infection control team or designated staff in a facility is responsible for determining the type of risk classification of the facility. The facility risk classification is used to determine the frequency of TB screening. The facility risk classification may change due to an increase or decrease in the number of TB cases during the preceding year.

a. Types of risk classifications.

(1) "Low risk" means that a facility is one in which persons with active TB disease are not expected to be encountered and in which exposure to TB is unlikely.

(2) "Medium risk" means that a facility is one in which health care workers will or might be exposed to persons with active TB disease or to clinical specimens that might contain *M. tuberculosis*.

(3) "Potential ongoing transmission" means that a facility is one in which there is evidence of person-to-person transmission of *M. tuberculosis*. This classification is a temporary classification. If it is determined that this classification applies to a facility, the facility shall consult with the department's TB control program.

b. Classification criteria—low risk.

(1) Inpatient settings with 200 or more beds. If a facility has fewer than six TB patients for the preceding year, the facility will be classified as low risk.

(2) Inpatient settings with fewer than 200 beds. If a facility has fewer than three TB patients for the preceding year, the facility will be classified as low risk.

(3) Outpatient, outreach, and home-based health care settings. If a facility has fewer than three TB patients for the preceding year, the facility will be classified as low risk.

c. Classification criteria—medium risk.

(1) Inpatient settings with 200 or more beds. If a facility has six or more TB patients for the preceding year, the facility will be classified as medium risk.

(2) Inpatient settings with fewer than 200 beds. If a facility has three or more TB patients for the preceding year, the facility will be classified as medium risk.

(3) Outpatient, outreach, and home-based health care settings. If a facility has three or more TB patients for the preceding year, the facility will be classified as medium risk.

d. Classification criteria—potential ongoing transmission. If evidence of ongoing *M. tuberculosis* transmission exists at a facility, the facility will be classified as potential ongoing transmission, regardless of the facility's previous classification.

155.38(3) *Baseline TB screening procedures for facilities.*

a. All facility staff members shall receive baseline TB screening upon hire. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using a two-step TST or a single IGRA to test for infection with *M. tuberculosis*.

b. A staff member may begin working with patients after a negative TB symptom screen (i.e., no symptoms of active TB disease) and a negative TST (i.e., first step) or a negative IGRA. The second TST may be performed after the staff member starts working with patients.

c. A staff member with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician. Treatment for LTBI should be considered in accordance with CDC guidelines.

d. A staff member with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, does not need another chest radiograph at the time of hire.

e. TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for staff with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., interferon-gamma (IFN-g)). All other staff should undergo

baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

f. A second TST is not needed if the staff member has a documented TST result from any time during the previous 12 months. If a newly employed staff member has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the setting.

g. Previous BCG vaccination is not a contraindication to having an IGRA, a TST or two-step skin testing administered. Health care workers with previous BCG vaccination should receive baseline and serial testing in the same manner as those without BCG vaccination. Evaluation of TST reactions in persons vaccinated with BCG should be interpreted using the same criteria for those not BCG-vaccinated. A health care worker's history of BCG vaccination should be disregarded when administering and interpreting TST results. Previous BCG vaccination does not cause a false-positive IGRA test result.

155.38(4) *Serial TB screening procedures for facilities.*

a. Facilities classified as low risk. After baseline testing of staff for infection with *M. tuberculosis*, additional TB screening of staff is not necessary unless an exposure to *M. tuberculosis* occurs.

b. Facilities classified as medium risk.

(1) After undergoing baseline testing for infection with *M. tuberculosis*, staff should receive TB screening annually (i.e., symptom screen for all staff members and testing for infection with *M. tuberculosis* for staff members with baseline negative test results).

(2) Staff members with a baseline positive or new positive test result for *M. tuberculosis* infection or documentation of previous treatment for LTBI or TB disease shall receive one chest radiograph result to exclude TB disease. Instead of participating in serial testing, staff should receive a symptom screen annually. This screen should be accomplished by educating the staff about symptoms of TB disease and instructing the staff members to report any such symptoms immediately to the occupational health unit. Treatment for LTBI should be considered in accordance with CDC guidelines.

c. Facilities classified as potential ongoing transmission. Testing for infection with *M. tuberculosis* may need to be performed every eight to ten weeks until lapses in infection control have been corrected and no additional evidence of ongoing transmission is apparent. The potential ongoing transmission classification should be used only as a temporary classification. This classification warrants immediate investigation and corrective steps. After a determination that ongoing transmission has ceased, the setting will be reclassified as medium risk for a minimum of one year.

155.38(5) *Screening of staff who transfer to other facilities.*

a. Staff transferring from a low-risk facility to another low-risk facility. After a baseline result for infection with *M. tuberculosis* is established and documented, serial testing for *M. tuberculosis* infection is not necessary for staff transferring from a low-risk facility to another low-risk facility.

b. Staff transferring from a low-risk facility to a medium-risk facility. After a baseline result for infection with *M. tuberculosis* is established and documented, annual TB screening, including a symptom screen and TST or IGRA for persons with previously negative test results, should be performed for staff transferring from a low-risk facility to a medium-risk facility.

155.38(6) *Baseline TB screening procedures for residents of residential, inpatient, and halfway house facilities.*

a. TB screening is a formal procedure to evaluate residents for LTBI and TB disease. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using a two-step TST or a single IGRA to test for infection with *M. tuberculosis.*

b. All residents shall be assessed for current symptoms of active TB disease upon admission. Within 72 hours of a resident's admission, baseline TB testing for infection shall be initiated unless baseline TB testing occurred within three months prior to the resident's admission.

c. Residents with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician.

d. Residents with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, do not need another chest radiograph at the time of admission.

e. TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for residents with a documented history of TB disease, a documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., IFN-g). All other residents should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

f. A second TST is not needed if the resident has a documented TST result from any time during the previous 12 months. If a new resident has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the setting.

g. After baseline TB screening is accomplished, serial TB screening of the residents is not recommended.

155.38(7) *Serial TB screening procedures for residents of residential, inpatient, and halfway house facilities.*

a. If a resident is discharged and readmitted to a facility and less than 12 months have passed since the last TB screening, residents should receive a symptom screen upon readmittance. This screen should be accomplished by educating the resident about symptoms of TB disease and instructing the resident to report any such symptoms immediately to the infection control team or designated other staff. If symptoms or signs of TB disease are documented, then a medical evaluation to include a chest X-ray to rule out TB disease is required.

b. If a resident is discharged and readmitted to a facility and more than 12 months have passed since the last TB screening, baseline TB screening should be repeated as outlined in subrule 155.38(6).

These rules are intended to implement Iowa Code sections 125.13, 125.21 and 135.150.

ARC 9359C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to administration and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 1, "Administration," 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 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ADMINISTRATION

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

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

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

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

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

a. Felonies;

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

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

d. Probation and parole revocation cases;

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

f. Other matters authorized by law.

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

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

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

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

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

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

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

1.3(5) *Local public defender division.*

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

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

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

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

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

ARC 9360C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to petitions for rulemaking and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 2, "Petitions for Rule Making," and to adopt a new Chapter 2, "Petitions for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
PETITIONS FOR RULEMAKING

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

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

"BEFORE THE STATE PUBLIC DEFENDER"

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

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

ARC 9361C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to declaratory orders and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 3, "Declaratory Orders," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
DECLARATORY ORDERS

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

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

BEFORE THE STATE PUBLIC DEFENDER

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

493—3.3(17A) Intervention.

3.3(1) In lieu of the words "within ___ days", insert "within 15 days". Strike the words "(after time for notice under X.2(17A)". In lieu of the number "X.8(17A))", insert "rule 493—3.8(17A)".

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

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

BEFORE THE STATE PUBLIC DEFENDER

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

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

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

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

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

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

493—3.8(17A) Action on petition.

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

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

493—3.9(17A) Refusal to issue order.

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

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

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

ARC 9362C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to public records and fair information practices and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 4, "Public Records and Fair Information Practices," 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 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 13B and sections 22.7 and 22.11.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

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

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

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

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

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

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

4.3(7) *Fees.*

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

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

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

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

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

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

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

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

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

e. Disclosures in the course of employee disciplinary proceedings.

f. In response to a court order or subpoena.

493—4.10(17A,22) Routine use.

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

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

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

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

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

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

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

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

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

493—4.12(17A,22) Release to subject.

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

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

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

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

d. Others authorized by law.

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

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

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

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

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

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

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

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

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

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

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

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

i. Any other records considered confidential by law.

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

4.14(1) By authority of Iowa Code chapter 13B, the appellate defender division maintains information and records relating to criminal and postconviction relief cases that are being appealed. Records contain names and identifying numbers of persons involved in these cases. Case information is stored in a data processing system and may be compared with information in any data processing system. By authority of Iowa Code section 915.36, the names of child victims shall not be disclosed. Confidential juvenile records under Iowa Code section 232.147 shall not be disclosed except as otherwise permitted by law. Presentence investigation reports in the possession of any public defender are confidential records pursuant to Iowa Code section 901.4.

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

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

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

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

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

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

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

ARC 9370C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to agency procedure for rulemaking and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 5, "Agency Procedure for Rule Making," and to adopt a new Chapter 5, "Agency Procedure for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 13B and Iowa Code section 25B.6.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
AGENCY PROCEDURE FOR RULEMAKING

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

493—5.3(17A) Public rulemaking docket.

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

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

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

493—5.5(17A) Public participation.

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

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

493—5.6(17A) Regulatory analysis.

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

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

5.10(2) This subrule is not adopted.

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

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

493—5.13(17A) Agency rulemaking record.

5.13(2) *Contents.*

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

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

ARC 9363C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to uniform waiver rules and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 6, "Uniform Waiver Rules," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
UNIFORM WAIVER RULES

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

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

493—6.3(13B,17A) Compliance with statute. The state public defender shall not grant a petition for waiver from a rule unless a statute or other provision of law has delegated authority to the state public defender sufficient to justify that action and the waiver is consistent with the statute or other provision of law. No waiver may be granted from a requirement that is imposed by statute unless the statute itself specifically authorizes that action. Any waiver must be consistent with statute.

493—6.4(13B,17A) Criteria for waiver. At the sole discretion of the state public defender, the state public defender may issue an order, in response to a completed petition, granting a waiver from a rule

adopted by the state public defender, in whole or in part, as applied to the circumstances of a specified person or a specific and narrowly drawn class of persons if the state public defender finds based on clear and convincing evidence that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

493—6.7(13B,17A) Additional information. Prior to issuing an order granting or denying a waiver, the state public defender may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the state public defender may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the state public defender or state public defender's designee.

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

to other persons. To accomplish this notice provision, the state public defender may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the state public defender attesting that notice has been provided.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BEFORE THE STATE PUBLIC DEFENDER

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

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

1. Provide the petitioner's (the person who is asking for the waiver) name, address and telephone number.
2. Describe and cite the specific rule from which a waiver is requested.
3. Describe the specific waiver requested, including the exact scope and time period that the waiver will extend.
4. Explain the important facts that the petitioner believes justify the waiver. Include in your explanation (a) why application of the rule would pose an undue hardship to the petitioner; (b) why granting the waiver would not prejudice the substantial legal rights of any person; (c) whether the provisions of a rule subject to this petition are specifically mandated by statute or another provision of law; and (d) whether public health, safety or welfare will be affected if the requested waiver is granted.
5. Provide history of prior contacts between the state public defender and the petitioner relating to the regulated activity, license, audit, investigation, inspection or representation that would be affected by the waiver. In that history, include a description of each affected regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the state public defender, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the state public defender within the last five years.
6. Provide information known to the petitioner regarding the state public defender's treatment of similar cases.
7. Provide the name, address and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of a waiver.
8. Provide the name, address and telephone number of any person or entity that would be adversely affected or disadvantaged by the granting of the waiver.
9. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the state public defender with information relevant to the waiver.

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

Petitioner's signature Date

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

ARC 9364C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to definitions and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 7, "Definitions," 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 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing

6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
DEFINITIONS

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

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

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

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

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

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

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

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

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

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

"Claim" means an application or request for payment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARC 9367C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to eligibility guidelines for court-appointed counsel and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 10, "Eligibility Guidelines for Court-Appointed Counsel," 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 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
ELIGIBILITY GUIDELINES FOR COURT-APPOINTED COUNSEL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARC 9365C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to attorney fee contracts and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 11, "Attorney Fee Contracts," 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 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
ATTORNEY FEE CONTRACTS

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

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

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

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

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

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

a. Juvenile cases, including juvenile petitions on appeal;

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

c. Postconviction relief cases at the trial level;

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

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

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

11.2(5) *Written approval required.* A contract can only be in force and effect when a contract acceptance form is signed by the contracting attorney and approved by the state public defender. The

approved contract is only effective for those types of cases and those counties requested by the attorney and approved by the state public defender in writing on the acceptance and approval form, renewal form, or a subsequent written amendment. Nevertheless, a contract covering appellate cases is effective for all 99 counties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11.4(4) The state public defender may decline to award an initial or renewal contract to a proposed contracting attorney if the state public defender determines that the contract would not be in the best interests of the state as described in rule 493—11.8(13B). The state public defender may limit the contract to specific types of cases, a specified geographic area, or both. The state public defender shall give written notice of this action to the attorney. The attorney may seek reconsideration of this decision in the manner prescribed in rule 493—11.9(13B).

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

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

493—11.6(13B) Termination.

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

11.6(2) Termination for cause.

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

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

decision to terminate a contract based on the attorney's default in the manner described in rule 493—11.9(13B).

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

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

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

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

493—11.8(13B,17A) Reconsideration.

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

reconsideration is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service on the state public defender.

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

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

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

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

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

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

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

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

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

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

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

d. The request was not timely made.

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

493—11.10(13B,17A) Judicial review.

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

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

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

ARC 9368C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to claims for indigent defense services and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 12, "Claims for Indigent Defense Services," 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 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
CLAIMS FOR INDIGENT DEFENSE SERVICES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The itemization must be in chronological order.

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

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

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

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

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

a. Adult claims. For adult claims, "date of service" means the date of filing of an order indicating that the case was dismissed or the client was acquitted or sentenced, the date of filing of an order granting a deferred judgment or prosecution, the date of filing of a final order in a postconviction relief case, the date of mistrial, the date on which a warrant was issued for the client, or the date of filing of a court order authorizing the attorney's withdrawal from a case prior to the date of a dismissal, acquittal, sentencing, or mistrial. The filing of a notice of appeal is not a date of service. If a motion for reconsideration is filed, either the date of filing of the motion or the date on which the court rules on that motion is the date of service. In a probation, parole or contempt proceeding, the date of service is the date of filing of the disposition order or an order granting a continued disposition. In a subsequent review or compliance proceeding under the same appointment, a new date of service is created if the new proceeding generates an order. In a probation revocation proceeding that results in the revocation of

a deferred judgment, a judgment of conviction is entered and the date of service is the date of the judgment. For interim adult claims authorized by subrule 12.3(3) or 12.3(4), the date of service is the last day on which the attorney claimed time on the itemization of services.

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

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

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

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

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

(1) The death of the attorney;

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

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

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

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

1. The extent to which the 45-day rule was violated;
2. The justification provided by the attorney;
3. The attorney's claim history; and
4. The extent of prejudice likely to be experienced by the attorney, the state public defender, and any party to the proceeding, including the attorney's client.

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

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

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

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

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

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

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

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

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

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

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

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

b. Representation of parents after termination of parental rights. Claims for services rendered or expenses incurred by an attorney for representing a parent in a child in need of assistance case or termination of parental rights case for work performed after the date on which the termination of that parent's parental rights becomes final, either on appeal or because no appeal was taken, are not payable within the scope of the attorney's appointment and shall be denied.

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

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

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

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

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

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

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

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

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

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

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

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

(8) Original printed receipts for expenses incurred.

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

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

in the motion for review of the state public defender's action on the fee claim under rule 493—12.9(13B,815).

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

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

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

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

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

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

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

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

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

12.4(1) Unless the attorney has a contract that provides for a different manner or rate of payment, reasonable compensation for the payment of all claims for cases in which the attorney has been appointed shall be calculated on the basis of the hourly rate specified in Iowa Code section 815.7 applicable to the type of case and for the fiscal year during which the appointment was made for attorney or guardian ad litem time and on the basis of the hourly rate of $25 per hour for paralegal time to the extent paralegal time is payable under these rules.

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

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

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

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

b. If an attorney performs services for indigent persons and submits claims to the state public defender for payment for such services for more than 12 hours and less than or equal to 16 hours in a calendar day, the attorney shall include with each claim form submitted to the state public defender that claims time for that date a letter specifying the total hours worked for private clients on that date or

certifying that no other time was billed to any private client and explaining the need to work more than 12 hours.

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

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

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

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

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

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

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

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

f. Preparation of a motion for judicial review of the state public defender's action on an attorney fee claim, preparation for or attendance at a hearing on such a motion, review of an order granting or denying the motion, preparation of appellate briefs or other documents in an appeal of such a court order, preparation for or participation in oral arguments in the appeal, or review of an appellate decision regarding such a court order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

For example, in an adult criminal proceeding, if an attorney were appointed to represent a client charged with four counts of forgery arising at four separate times, and if the client were charged in four separate trial informations, the fee limitations for each charge would apply separately. If all four charges were contained in one trial information, the fee limitation would be 30 hours even if there were more than one separate occurrence. Similarly, if the attorney were appointed to represent a person charged with a drug offense and failure to possess a tax stamp, the fee limitation would be the limitation for the offense with the higher limitation, not the total of the limitations. As a further example, multiple probation revocation proceedings pending at the same time, involving the same client, and arising from the same transaction or occurrence are still a single "case" for purposes of this rule, and the five-hour fee limitation applies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Mileage for automobile travel at the rate of 50 cents per mile. The number of miles driven each day shall be separately itemized on the itemization of services, specifying the date of the travel, the origination and destination locations, the total number of miles traveled that day and, if it is not otherwise clear from the itemization, the purpose of the travel. If the travel is to perform services for multiple clients on the same trip, the mileage must be split proportionally between each client and the itemization must note the manner in which the mileage is split. The total miles traveled for the case shall also be listed on the claim form. Other forms of transportation costs incurred by the attorney may be reimbursed only with prior approval from the state public defender.

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

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

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

e. Ordinary and necessary postage, collect calls, omail or similar electronic mail, and parking for the actual cost of these expenses. Collect calls will be reimbursed at 10 cents per minute or the actual cost. A receipt for the actual cost of the collect call must be attached to the claim form. A statement from a correctional facility or jail detailing a standard rate for such calls shall constitute a receipt for purposes of this paragraph. Omail or similar electronic mail expenses will be reimbursed at 25 cents per email or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARC 9366C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to claims for other professional services and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 13, "Claims for Other Professional Services," 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 13B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
CLAIMS FOR OTHER PROFESSIONAL SERVICES

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

493—13.2(815) Claims for other professional services. The state public defender shall review and approve claims for necessary and reasonable expenses for investigators, expert witnesses, certified shorthand reporters, and medical/psychological evaluations if the claimant has a form W-9 on file with the department and the claim conforms to the requirements of this rule. Claims that do not comply with this rule will be returned.

13.2(1) Claims for investigative services. The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for investigators if the following conditions are met:

a. Court approval to hire the investigator was obtained before any expenses for the investigator were incurred.

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

(1) The application and order granting authority to hire the investigator.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the investigative services pursuant to rule 493—13.7(13B,815).

(3) An itemization of the investigator's services detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date, the hourly rate, and the manner in which the amount of the claim for services was calculated. Except in exceptional circumstances and with the prior approval of the state public defender upon a showing of reasonable necessity, an investigator's rate shall not exceed $75 per hour. Itemized receipts for expenses must be attached.

(4) A court order setting the maximum dollar amount of the claim. For purposes of this subrule, if the court order that authorizes hiring the investigator sets a limit for the claim, this court order is unnecessary.

c. Reasonable and necessary investigative services include but are not limited to locating witnesses, interviewing witnesses, process service, viewing the crime scene, reviewing documents or photographs, meeting with attorneys, meeting with clients, and creating investigative reports. Clerical work or running errands for the attorney or defendant is not considered investigative work.

d. Timely claims required. Claims for services are timely if submitted to the state public defender for payment within 45 days of the most recent date that investigative services were performed for the case. Claims that are not timely shall be denied.

13.2(2) Claims for expert witnesses. The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for expert witnesses if the following conditions are met:

a. Court approval to hire the expert witness was obtained before any expenses for the expert witness were incurred.

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

(1) The application and order granting authority to hire the expert witness.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the expert witness pursuant to rule 493—13.7(13B,815).

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

(4) A court order setting the maximum dollar amount of the claim. For purposes of this subrule, if the court order that authorizes hiring the expert sets a limit for the claim, this court order is unnecessary.

(5) If the expert charges a minimum amount for services based on a specific time, a certification by the expert that no other services have been performed or charges made by the expert for any portion of that specific time.

13.2(3) Claims for certified shorthand reporters. The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for depositions and transcripts provided by certified shorthand reporters only in accordance with the requirements of this subrule.

a. Claim form. When a written claim form for certified shorthand reporting is required under these rules, the certified shorthand reporter shall submit a signed original and one copy of a miscellaneous claim form containing the following information:

(1) The case name, case number and county in which the action is pending.

(2) The name of the attorney for whom the services were provided.

(3) The date on which the transcript was ordered.

(4) The date on which the transcript was delivered.

(5) The total amount of the claim.

(6) The claimant's name; address; social security number, federal tax identification number or vendor identification number; email address, if any; and telephone number.

b. Required documentation. One copy of each of the following documents must be attached to the claim:

(1) The court order granting authority to hire the certified shorthand reporter at state expense.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the certified shorthand reporter pursuant to rule 493—13.7(13B,815).

(3) If expedited transcript rates are claimed under subparagraph 13.2(3)*"d"*(10), an email or other written statement from the attorney explaining that expedited delivery is required.

(4) If a cancellation fee is claimed under subparagraph 13.2(3)*"d"*(6), documentation of the date and time that notice of cancellation was given.

(5) If the certified shorthand reporter is a state employee, a certification by the certified shorthand reporter that none of the time for which the claim is being submitted is time for which the certified shorthand reporter was being paid by the state.

c. Rates for court transcripts. If the certified shorthand reporter is a judicial branch employee, claims for certified shorthand reporter services for preparation of court transcripts will be limited to the rate approved by the Iowa Supreme Court for preparation of transcripts and other certified shorthand reporter services.

d. Rates for other transcripts. Unless the certified shorthand reporter has a contract with the state providing for a different rate or manner of payment or the certified shorthand reporter submits a claim for a lesser amount, claims for certified shorthand reporter services for a non-judicial branch employee will be paid only at the rates set forth in this paragraph:

(1) Hourly rate when no transcript ordered. Fees for attending depositions when no transcript is ordered will be paid at the rate of $60 per hour for the actual time the certified shorthand reporter is present at the depositions including setup and takedown of equipment. If multiple witnesses are deposed in a deposition session on a single day, this hourly rate shall only apply if no transcript is ordered for any of the witnesses. If the transcript is ordered for some of the witnesses, the hourly rate when a transcript is ordered shall apply for the entire deposition session.

(2) Hourly rate when transcript ordered. Fees for attending depositions when a transcript is ordered will be paid at the rate of $50 per hour for the actual time the certified shorthand reporter is present at the depositions including setup and takedown of equipment. Fees for performing a transcription of an audio or video recording will be paid at the rate of $50 per hour for the actual time required to complete the transcription but not more than two times the length of the recording transcribed.

(3) Travel time. Fees for travel time will be paid at the rate of $25 per hour for travel outside of the county of the certified shorthand reporter's office location. Travel time within the county of the certified

shorthand reporter's office location will not be paid. No travel time is payable for the delivery of a transcript or related to the transcription of an audio or video recording.

(4) Transcripts. Unless expedited delivery is requested, fees will be paid at the rate of $4.55 per page for an original, one copy, and an electronic version of the transcript. Copies of a transcript for which an original has already been ordered by any party will be paid at the rate of $1 per page.

(5) Exhibits. A rate of $0.10 per page for black and white and $0.30 per page for color copies will be paid.

(6) Cancellation fees. No cancellation fees will be paid as long as the certified shorthand reporter is given notice of cancellation at least 24 hours before the time scheduled for a deposition. Weekends and state holidays shall not be included when calculating the 24-hour prior notice of cancellation contained in this subparagraph. If the deposition is canceled with less than 24 hours' notice, a fee for two hours or the actual time that the certified shorthand reporter is present at the site of the deposition including setup and takedown of equipment, whichever is greater, is payable at the rate set forth in subparagraph 13.2(3)*"d"*(1). If a full day of depositions was scheduled, a minimum fee for four hours is payable at the rate set forth in subparagraph 13.2(3)*"d"*(1). A certified shorthand reporter is deemed to have been given notice of cancellation when an attorney or representative of the attorney delivers notice of a cancellation to the email address provided by the certified shorthand reporter or leaves a message on voicemail or with a representative of the certified shorthand reporter at the telephone number provided by the certified shorthand reporter, not when the certified shorthand reporter actually hears or reads the message. No cancellation fee will be paid related to the transcription of an audio or video recording.

(7) Minimum time. One hour minimum, exclusive of travel time, will be paid for a deposition or transcription of an audio or video recording that takes less than one hour.

(8) Other time. Except for the initial one-hour minimum, all time billed at an hourly rate shall be billed in 15-minute increments.

(9) Postage. Actual postage costs that are reasonable and necessary will be paid.

(10) Expedited transcripts. Expedited transcripts are those that are required to be delivered within five business days of the date requested. Fees of $8 per page for an original, one copy, and an electronic version of the transcript will be paid for expedited transcripts. Copies of an expedited transcript for which an original has already been ordered by any party will be paid at the rate of $1 per page.

(11) Other expenses. Any additional expenses or fees for certified shorthand reporting services not set forth above will only be paid with the prior written consent of the state public defender obtained before the services are provided.

(12) Realtime reporting. Realtime reporting is any reporting provided by a certified realtime reporter (CRR), either in person or remotely, that produces an immediate transcript of proceedings by using a steno machine connected to a computer that instantly translates spoken word to text. Realtime reporting shall be paid at the hourly rate provided for in subparagraph 13.2(3)*"d"*(1).

(13) Technical transcriptions. Technical transcriptions include transcriptions for testimony provided by an "expert witness" as defined in rule 493—7.1(13B,815). This includes but is not limited to state medical examiners, doctors, nurses, forensic interviewers, accident investigators, lab technicians, and engineers. A witness who happens to fall into one of the preceding categories but who is providing lay testimony does not qualify as an expert witness for purposes of this subparagraph. Technical transcriptions shall be paid at the hourly rate otherwise applicable for such reporting plus an additional $2 per page. If a witness does not qualify as an expert witness for any reason and is not otherwise included in the foregoing list, but a certified shorthand reporter believes a witness still qualifies under this subparagraph, the certified shorthand reporter may provide additional information with their claim to support their request for the technical transcription rate.

e. Timely claims required. Claims for services are timely if submitted to the state public defender for payment within 45 days of the date on which services are completed. For depositions, services are completed on the date the deposition transcript is delivered or on the date of disposition of the case if no transcript is ordered, whichever date is earlier. For trial transcripts or transcripts of an audio or video recording, services are completed on the date the transcript is delivered. Claims that are not timely shall be denied.

f. Designation of preferred certified shorthand reporter. The state public defender may enter into a contract with one or more certified shorthand reporters to provide court reporting services for depositions in one or more counties and may designate such certified shorthand reporters to be the preferred certified shorthand reporters in the respective counties. Such designations shall be provided to the chief judge of the judicial district for the respective counties and shall be summarized on the website of the state public defender, spd.iowa.gov. Claims for services provided in a county in which the state public defender has designated a certified shorthand reporter as the preferred certified shorthand reporter shall be denied unless the claims are submitted by the certified shorthand reporter pursuant to the terms of the contract or are submitted by another certified shorthand reporter and include written documentation that the designated certified shorthand reporter was unavailable to handle the deposition.

13.2(4) Claims for court-ordered evaluations. The state public defender shall review, approve and forward for payment claims for necessary and reasonable evaluations requested by an appointed attorney only if the purpose of the evaluation is to establish a defense, to determine whether an indigent is competent to stand trial, or to evaluate a defendant at sentencing or resentencing who has been charged as an adult for a felony alleged to have been committed while a juvenile, if the offense has a potential mandatory minimum sentence of imprisonment, and not for any other purpose nor in any other circumstance for sentencing or placement. Additionally, a claim for a court-ordered evaluation will be approved only if the following conditions are met:

a. Court approval to conduct the evaluation was obtained before any expenses for the evaluation were incurred.

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

(1) The application and order granting authority to conduct the evaluation. This order must specify that the purpose of the evaluation is for a permissible purpose under this subrule.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the evaluation pursuant to rule 493—13.7(13B,815).

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

(4) A court order setting the maximum dollar amount of the claim. For purposes of this subrule, if the court order authorizing the evaluation sets a limit for the claim, this court order is unnecessary.

(5) If the evaluator charges a minimum amount for services based on a specific time, a certification by the evaluator that no other services have been performed or charges made by the evaluator for any portion of that specific time.

13.2(5) The state public defender may reimburse services and expenses not specifically listed in this chapter that are payable pursuant to rules 493—12.7(13B,815) and 493—12.8(13B,815).

13.2(6) Submission of claims.

a. All claims for professional services shall be submitted electronically via the online claims website: spdclaims.iowa.gov. Any reference in these rules to forms or to claims submissions shall refer to the respective claims submission page for miscellaneous claims on the online claims website. The state public defender, at the state public defender's sole discretion, may grant limited exceptions to the requirement that claims be submitted electronically via the online claims website.

b. Claimants granted an exception to online claim submission must be submitted, as appropriate, to the local public defender office for which the services were provided or on a form promulgated by the state public defender to the state public defender at the following address: State Public Defender, Claims, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

493—13.3(13B,815) Court review. A claimant whose claim for compensation is denied, reduced, or otherwise modified by the state public defender for other than mathematical errors may seek court review of the action of the state public defender.

13.3(1) *Motions for court review.* Court review of the action of the state public defender is initiated by filing a motion with the trial court requesting the review. The following conditions shall apply to all such motions:

a. The motion must be filed with the court within 20 days of the action of the state public defender.

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

c. The motion must have attached to it a complete copy of the claim, together with the notice of action that the claimant seeks to have reviewed.

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

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

13.3(2) *Hearings.* The following shall apply to hearings on motions for court review:

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

b. Unless the state public defender specifically indicates an intention to appear in person at the hearing, the state public defender shall participate by telephone. If the state public defender participates by telephone, the state public defender shall be responsible for initiating and paying for the telephone call.

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

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

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

f. If a ruling is entered allowing additional fees, the claimant must file a new claim with the state public defender. A copy of the court's ruling must be attached to the claim form. The date of service on the claim form is the date of the court's order.

13.3(3) *Failure to seek review.* Failure to seek court review within 20 days of the action of the state public defender will preclude court review of the state public defender's action.

493—13.4(13B,815) Processing and payment. The state public defender will submit claims to the department for processing and payment. The department will submit claims that are not approved in the current fiscal year to the state appeal board for processing and payment.

493—13.5(13B,815) Payment errors. If an error resulting in an overpayment or double payment of a claim is discovered by the claimant, by the state public defender, by the department, or otherwise, the claimant shall reimburse the indigent defense fund for the amount of the overpayment. An overpayment or double payment shall be repaid by check. The check, made payable to "Treasurer, State of Iowa," together with a copy of the payment voucher containing the overpayment or double payment, shall be mailed to the Office of the State Public Defender, 6200 Park Avenue, Des Moines, Iowa 50321.

493—13.6(815) Claims submitted by a county. Reserved.

493—13.7(13B,815) Payment of costs incurred by privately retained attorney representing indigent person. No payment of state funds for the costs incurred in the legal representation of an indigent person shall be authorized or paid unless the requirements of this rule and Iowa Code section 815.1 are satisfied.

13.7(1) *Response of state public defender.* If the state public defender resists any motion filed pursuant to Iowa Code section 815.1, in whole or in part, the state public defender shall file a response to the application or motion within ten days of the state public defender's receipt of the application or motion.

13.7(2) *Opportunity to request a hearing and hearing on the application.* The state public defender shall be afforded reasonable notice and opportunity to respond to the motion and participate in any hearing on the application or motion. Either the privately retained attorney for the indigent person or a representative from the office of the state public defender may participate in a hearing on the application or motion by telephone.

13.7(3) *Protection of defense strategy and work product.* In considering and ruling on the application or motion, the court shall order appropriate procedures to protect against disclosure of defense strategy and defense work product to the prosecution, including but not limited to allowance of information or filings, or portions thereof, to be submitted in camera, ex parte hearings, sealing of any

transcript or order to avoid such disclosure, protective orders, or other safeguards to protect defense strategy and work product from disclosure to the prosecution.

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

ARC 9369C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Proposing rulemaking related to claims for attorney fees in 600A terminations and providing an opportunity for public comment

The State Public Defender hereby proposes to rescind Chapter 14, "Claims for Attorney Fees in 600A Terminations," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 13B.4 and 600A.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 13B, 600A and 815.

Purpose and Summary

This proposed rulemaking includes revisions of administrative rules based on the requirements of Executive Order 10. Chapter 14 provides rules for submission, review, and payment of claims for attorney fees in Iowa Code chapter 600A proceedings.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 16, 2025. A public hearing was held on the following date(s):

- May 6, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the State Public Defender no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Kurt Swaim
State Public Defender
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321

Phone: 515.218.2445
Email: kswaim@spd.state.ia.us

Public Hearing

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

July 16, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/oek-jxwy-exy Or dial: (US) +1 260.577.6930 PIN: 692 149 470#
July 23, 2025 10 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa Via videoconference: meet.google.com/dis-pwfv-jtq Or dial: (US) +1 515.318.5268 PIN: 541 049 907#

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 State Public Defender 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 493—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14
CLAIMS FOR ATTORNEY FEES IN 600A TERMINATIONS

493—14.1(13B,600A,815) Scope. This chapter sets forth specific rules for submission, review and payment of claims for attorney fees in proceedings under Iowa Code chapter 600A. Unless modified in this chapter, the provisions of 493—Chapters 7, 11 and 12 apply to such claims.

493—14.2(13B,600A,815) Definition. The following definition applies only to this chapter.

"Indigent" means the same as defined in Iowa Code section 600A.2(12).

493—14.3(13B,600A,815) Hourly rate and fee limitations. Unless the attorney has a contract with the state public defender that provides for a different rate or manner of payment, claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A shall be paid the hourly rate consistent with Iowa Code section 815.7 for all other cases. The fee limitation is ten hours for the trial court proceedings and ten hours for appellate proceedings.

493—14.4(13B,600A,815) Limitations on other charges and expenses. For appeals, the state public defender shall approve claims for the actual cost of a transcript and printing of necessary briefs. The state public defender shall not approve claims for travel time, paralegal time, or other out-of-pocket expenses at the trial or appellate level.

493—14.5(13B,600A,815) Claims for attorney fees. Except as provided in this chapter, claims for attorney fees for representing the respondent in proceedings for termination of parental rights cases under Iowa Code chapter 600A shall be reviewed by the state public defender in the same manner as provided in 493—Chapter 12.

14.5(1) Claim forms. Claims for services provided at the trial level shall be submitted on a Juvenile claim form. Claims for services provided on appeal shall be submitted on an Appellate claim form.

14.5(2) Required documents. In addition to satisfying the other requirements provided in 493—Chapter 12, the attorney shall submit a copy of both the petitioner's and respondent's financial affidavit and any order of the juvenile court determining that the state public defender rather than the petitioner is responsible for payment of the respondent's attorney fees.

14.5(3) The provisions for review of the state public defender's action provided in 493—Chapter 12 shall apply to claims submitted under this chapter.

14.5(4) If the petitioner or prospective parent is responsible for payment of the indigent respondent's attorney fees and expenses, the state public defender does not receive, review, or pay the fee claim. Any such claim submitted to the state public defender will be returned to the attorney who submitted the claim.

493—14.6(13B,600A,815) Report to judicial branch. The state public defender shall submit quarterly to the state court administrator a report detailing all approved and paid attorney fee claims for termination of parental rights cases under Iowa Code chapter 600A.

These rules are intended to implement Iowa Code chapters 13B, 600A, and 815.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the following interest rates of interest for public obligations and special assessments have been established. The usury rate for June 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 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 June 10, 2025, 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 1.65%
One year to 397 days	Minimum 1.80%
More than 397 days	Minimum 1.65%

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:

July 1, 2024 — July 31, 2024	6.50%
August 1, 2024 — August 31, 2024	6.25%
September 1, 2024 — September 30, 2024	6.25%
October 1, 2024 — October 31, 2024	5.75%
November 1, 2024 — November 30, 2024	5.75%
December 1, 2024 — December 31, 2024	6.00%
January 1, 2025 — January 31, 2025	6.25%
February 1, 2025 — February 28, 2025	6.50%
March 1, 2025 — March 31, 2025	6.75%
April 1, 2025 — April 30, 2025	6.50%
May 1, 2025 — May 31, 2025	6.25%
June 1, 2025 — June 30, 2025	6.25%
July 1, 2025 — July 31, 2025	6.50%

ARC 9378C

WORKFORCE DEVELOPMENT BOARD, STATE[877]

Notice of Intended Action

Proposing rulemaking related to workforce development board and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 1, "Workforce Development Board," 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 chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and chapter 84A as amended by 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code section 84A.1 as amended by 2023 Iowa Acts, Senate File 514.

Purpose and Summary

Chapter 1 provides duties of the State Workforce Development Board. The chapter provides for the coordination between the Department of Corrections and the Workforce Development Department (Department) for private sector employment projects.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text has been removed in the proposed chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 2, 2025. A public hearing was held on the following date(s):

- April 22, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on July 15, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9425
Email: brooke.axiotis@iwd.iowa.gov

Public Hearing

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

July 15, 2025 9 a.m.	Microsoft Teams Join the meeting now Meeting ID: 215 346 331 460 2 Passcode: Zx9Yf25G

	Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 678 750 156#
July 15, 2025 1 p.m.	Microsoft Teams Join the meeting now Meeting ID: 269 225 131 692 9 Passcode: bD9GX357 Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 260 395 76#

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 Department 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 877—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
WORKFORCE DEVELOPMENT BOARD

877—1.1(84A) Records. Agendas, minutes, and materials presented to the board are available from Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(5) or that are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code sections 21.3 and 96.11(6). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

877—1.2(84A) Coordination with the department of corrections on private sector employment projects. To assist the department of corrections with programs that employ offenders in the private sector, the department of workforce development shall be responsible for coordinating the following process:

1.2(1) Prior to an employer's submission of an application to the department of corrections for a private sector employment project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

1.2(2) The department of corrections shall send a letter requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders. The letter should be sent to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.2(3) The department of workforce development shall verify in writing the job listing, including the number of qualified applicant referrals and hires made as a result of the job order, the average entry-

level wage rate for the proposed job(s), the entry-level wage range, the current unemployment rate for the county where the employer is located, and the current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available. The average wage rate and wage range will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

1.2(4) Average entry-level wage rates and entry-level wage ranges for jobs currently held by offenders and employment levels of companies employing offenders shall be updated by the department of workforce development annually upon the department of corrections' sending a letter listing all current companies employing offenders and the offenders' job classifications to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.2(5) The department of workforce development shall provide a periodic report to the state workforce development board regarding information supplied to the department of corrections for private sector employment projects. Frequency of the report will depend upon the level of activity.

1.2(6) Inquiries concerning private sector employment projects shall be in writing and address the following questions:

a. Whether and how the project is believed to violate the intent of Iowa Code section 904.809;

b. Evidence of a local surplus of labor in the job classifications of the type in which offenders are employed; and

c. Whether private sector employees or employees involved in a labor dispute have been displaced as a result of the project.

Inquiries shall be sent to the Executive Assistant of the State Workforce Development Board, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. A copy of the inquiry shall be sent to the department of corrections. The director of the department shall consult with the director of prison industries concerning the inquiry prior to the workforce development board's making a final recommendation regarding possible corrective action.

The state workforce development board shall review the inquiry and any additional responses or oral testimony requested by the board and make a recommendation as to whether the intent of Iowa Code section 904.809 has or has not been met and whether corrective action, if any, needs to be taken by the department of corrections to meet the intent. At the discretion of the board, oral presentations may be requested from the party(ies) to the inquiry. The board shall make a final recommendation within 60 days of receipt of the inquiry. The board's final recommendation shall be mailed to both the department of corrections and the party(ies) making the inquiry.

877—1.3(84A) Coordination with the department of corrections on construction and maintenance projects. To assist the department of corrections with the employment of offenders on construction and maintenance projects, the department of workforce development shall be responsible for coordinating the following process:

1.3(1) Prior to an employer's submitting an application to the department of corrections for employing offenders on a construction or maintenance project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

1.3(2) The department of corrections shall send a letter requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders. The letter should be sent to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.3(3) The department of workforce development shall verify in writing the job listing, including the number of qualified applicant referrals and hires made as a result of the job order, the average entry-level wage rate for the proposed job(s), the entry-level wage range, the prevailing wage as determined by the U.S. Department of Labor, the current unemployment rate for the county where the employer is located, and the current employment levels of the company that will employ the offenders based upon

the most recent quarter for which data is available. The average entry-level wage rate and entry-level wage range will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

1.3(4) If the contract to employ offender labor exceeds six months, the department of corrections shall request and receive from the department of workforce development the average wage rates and wage ranges for jobs currently held by offenders and current employment levels of companies employing offenders. The letter should be addressed to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.3(5) Inquiries concerning construction and maintenance projects performed by offenders may be made by area workers, or their representatives, that are affected by a project. Inquiries shall be in writing and address the following questions:

a. Whether and how the project is believed to violate the intent of Iowa Code sections 904.701 and 904.703;

b. Evidence of a local surplus of labor in the job classifications of the type in which offenders are employed;

c. Whether private sector employees or state, county or local government employees or employees involved in a labor dispute have been displaced as a result of the project; and

d. Whether existing contracts for employment or services have been impaired.

Inquiries shall be sent to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. A copy of the inquiry shall be sent to the department of corrections. The director of the department shall consult with the director of the department of corrections and the affected regional advisory board concerning the inquiry prior to the workforce development board's making a final recommendation regarding possible corrective action.

The state workforce development board shall review the inquiry and any additional responses or oral testimony requested and make a recommendation as to whether the intent of Iowa Code sections 904.701 and 904.703 has or has not been met and whether corrective action, if any, needs to be taken by the department of corrections to meet the intent. At the discretion of the board, oral presentations may be requested from the party(ies) to the inquiry. The board shall make a final recommendation within 60 days of receipt of the inquiry. The board's final recommendation shall be mailed to both the department of corrections and the party(ies) making the inquiry.

These rules are intended to implement Iowa Code sections 84A.1A and 84A.1B.

ARC 9381C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to working persons with disabilities

The Department of Health and Human Services hereby amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 249A.3(2)"a"(1)(b).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Social Security Act sections 1916A and 1902(a)(10)(A)(ii)(XIII).

Purpose and Summary

This rulemaking adjusts the federal poverty level (FPL) increments used to assess premiums for applicants and recipients under the Medicaid for Employed Persons with Disabilities (MEPD) program with income over 150 percent of the FPL.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on April 30, 2025, as **ARC 9185C**. Public hearings were held on the following date:

- May 20, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on June 4, 2025.

Fiscal Impact

The State Fiscal Year 2026 impact of the premium updates is $81,545.

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 August 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend subparagraph **75.1(39)"b"(3)** as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	~~$35~~ $43
165% of Federal Poverty Level	~~$48~~ $59
180% of Federal Poverty Level	~~$57~~ $70
200% of Federal Poverty Level	~~$67~~ $82
225% of Federal Poverty Level	~~$79~~ $97
250% of Federal Poverty Level	~~$92~~ $113
300% of Federal Poverty Level	~~$115~~ $141
350% of Federal Poverty Level	~~$140~~ $171
400% of Federal Poverty Level	~~$165~~ $202
450% of Federal Poverty Level	~~$190~~ $233
550% of Federal Poverty Level	~~$237~~ $291
650% of Federal Poverty Level	~~$286~~ $351
750% of Federal Poverty Level	~~$337~~ $413
850% of Federal Poverty Level	~~$398~~ $488
1000% of Federal Poverty Level	~~$477~~ $586
1150% of Federal Poverty Level	~~$559~~ $685
1300% of Federal Poverty Level	~~$644~~ $790
1480% of Federal Poverty Level	~~$744~~ $913
~~1550% of Federal Poverty Level~~	~~$829~~

[Filed 6/4/25, effective 8/1/25]
[Published 6/25/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/25/25.

ARC 9382C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rulemaking related to uniform waiver standards

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 6, "Uniform Waiver Rules," and adopts a new Chapter 6, "Uniform Waiver Standards," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 10A.104 and 17A.9A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 10A.104 and 17A.9A and Executive Order 10.

Purpose and Summary

This rulemaking repromulgates Chapter 6, updating the chapter in accordance with the goals and directives of Executive Order 10. The revisions also account for structural changes emanating from the government realignment enacted by 2023 Iowa Acts, Senate File 514. Iowa Code section 17A.9A permits agencies to establish "by rule an application, evaluation, and issuance procedure permitting waivers" and prescribe criteria for consideration in association therewith. These rules are intended to provide standard procedures for the public to petition the Department, including any division, board, or commission within the Department that has its own rulemaking authority, for a waiver from the requirements of a rule.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on April 30, 2025, as **ARC 9143C**. A public hearing was held on the following date(s):

- May 21, 2025
- May 22, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on June 4, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the 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 30, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 481—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
UNIFORM WAIVER STANDARDS

481—6.1(10A,17A) Waivers.

6.1(1) *Scope and applicability.* Pursuant to Iowa Code section 17A.9A, this chapter outlines generally applicable standards and procedures for the waiver of rules adopted by the department. The intent of this chapter is to allow persons to seek exceptions to the application of rules issued by the department. The department may only grant a waiver from a rule if the department has jurisdiction over the rule and the waiver is consistent with applicable statutes, constitutional provisions, or other law. The department cannot waive requirements created or duties imposed by statute. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision is applicable. To the extent a division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A has independent rulemaking authority but has not adopted rules governing waivers, the standards and procedures of this chapter are applicable to the division, board, or commission with rulemaking and waiver authority.

6.1(2) *Definitions.*

"Department" means the department of inspections, appeals, and licensing authorized by Iowa Code chapter 10A or, for purposes of this chapter, a division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A that has rulemaking and waiver authority to whom this chapter is applicable.

"Director" means the director of the department, the director's designee, or a division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A that has rulemaking and waiver authority or its designee.

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

6.1(3) *Criteria for waiver.* At the sole discretion of the department, an order waiving the requirements of a rule, in whole or in part, may be issued in response to a petition completed pursuant to subrules 6.1(4) and 6.1(5) if the department finds, based on clear and convincing evidence, all of the following:

a. Application of the rule to the petitioner would pose an undue hardship on the person or class of persons for whom the waiver is requested;

b. Waiver from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person;

c. Provisions of a rule subject to a petition for a waiver are not specifically mandated by statute or another provision of law; and

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

6.1(4) *Filing of petition.* A petition for a waiver must be submitted in writing to the department. The submission may be sent to the department's physical address at 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321; submitted through an applicable online portal at dial.iowa.gov; or emailed to pertinent program personnel. If the petition relates to a pending contested case, the petition shall also be filed in the contested case proceeding.

6.1(5) *Content of petition.* A petition for waiver should include the following information as applicable to the request and known to the requester:

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

b. A description and citation of the specific rule from which a waiver is requested.

c. The specific waiver requested, including the precise scope and duration.

d. The relevant facts that the petitioner believes would justify a waiver under each of the criteria described in subrule 6.1(3). The petitioner shall include a signed statement attesting to the accuracy of the facts and justification provided in the petition.

e. A history of any prior contacts between the department and the petitioner relating to the regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the department that would be affected by the proposed waiver, including a description of any related notices of violation, contested case hearings, or investigative reports within the last five years.

f. Any information known to the requester regarding the department's action in similar circumstances.

g. 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.

h. The name, address, and telephone number of any person or entity that may be adversely affected by the granting of a petition.

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

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

6.1(6) *Additional information.* Prior to issuing an order granting or denying a waiver, the department may request additional information from the petitioner relative to the petition and surrounding circumstances. The department may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the director or the director's designee.

6.1(7) *Notice.* The department will acknowledge a petition upon receipt. Except where otherwise provided by law, a petition shall be served by the petitioner upon any party of record of a contested case proceeding and on all other persons identified in the petition for waiver as affected by the petition, simultaneously with the filing. The petitioner shall serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the department attesting that notice has been provided. In addition, the department may give notice to other persons.

6.1(8) *Ruling.* An order granting or denying a waiver shall 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.

a. Department discretion. The final decision on whether the circumstances justify the granting of a waiver is at the discretion of the department upon consideration of all relevant factors. Each petition for a waiver will be evaluated by the department based on the unique, individual circumstances set out in the petition.

b. Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the department should exercise its discretion to grant a waiver from a department rule.

c. Special waiver rules not precluded. This chapter does not preclude the department from granting waivers in other contexts or on the basis of other standards if a statute authorizes the department to do so and the department deems it appropriate to do so. The department may identify different or additional information for a petitioner to provide for specified rules.

d. Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the department will balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all persons similarly situated.

e. Conditions. The department may condition the granting of the waiver on such conditions as appropriate to protect the public health, safety, and welfare.

f. Narrow tailoring. A waiver, if granted, will provide the narrowest exception possible to the provisions of the rule and be applied to the circumstances of a specified person or a specific and narrowly drawn class of persons.

g. Duration. A permanent waiver should not be permitted 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 department, a waiver may be renewed if the department finds that all of the factors set out in subrule 6.1(3) remain valid.

h. Time for ruling. The department will grant or deny a petition for a waiver as soon as practicable but, in any event, 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 department may wait until the contested case is resolved before ruling on the petition for waiver. Failure of the department to grant or deny a petition within the required time period is deemed a denial of that petition by the department.

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

6.1(9) *Reconsideration.* A person who objects to a denial of a waiver may make a request for reconsideration or informal appearance before the director, or the director's designee, to request reconsideration.

6.1(10) *Public availability.* All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Within 60 days of granting or denying a waiver, the department shall also submit to the internet site maintained by the administrative code editor and administrative rules coordinator the information described in Iowa Code section 17A.9A. Petitions for a waiver and orders granting or denying a waiver petition are generally public records under Iowa Code chapter 22, although some petitions or orders may contain information the department is authorized or required to keep confidential. The department may redact confidential information from petitions or orders prior to public inspection.

6.1(11) *Voiding or cancellation.* A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The department may at any time cancel a waiver upon appropriate notice and opportunity for hearing if the department finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means for ensuring that the public health, safety, and welfare would be adequately protected after issuance of the waiver order have been insufficient, or the requester has failed to comply with the conditions of the order.

6.1(12) *Violations.* Violation of a condition in the waiver approval is the equivalent of violation of the particular rule for which the waiver is granted and is subject to the same remedies or penalties.

6.1(13) *Defense.* After the department 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.

6.1(14) *Judicial review.* To the extent judicial review of the department's decision to grant or deny a waiver petition is available, the procedures set forth in Iowa Code chapter 17A are applicable.

481—6.2(10A,17A) Sample petition for waiver. A petition for waiver filed in accordance with rule 481—6.1(10A,17A) shall contain all information specified therein. Unless the department provides a particular form or online portal for the submission of a petition for waiver, the petition is not required to conform to a particular format. The following form is provided as an example:

BEFORE THE DEPARTMENT OF INSPECTIONS, APPEALS, AND LICENSING

Petition by (insert the name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter).	}	PETITION FOR WAIVER

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

1. Provide the petitioner's name, address and telephone number and the case number of any related contested case.
2. Describe and cite the specific rule from which a waiver is requested.
3. Describe the specific waiver requested, including the precise scope and duration.
4. Explain the relevant facts and reasons the petitioner believes justify the waiver. Include:

- Why applying the rule would result in undue hardship to the petitioner;

- Why waiving the rule would not prejudice the substantial legal rights of any person;
- Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
- How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

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

6. Provide information known to the petitioner regarding the department's treatment of similar circumstances.

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

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

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

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

_____ _____

Petitioner's signature Date

These rules are intended to implement Iowa Code section 17A.9A and chapter 10A.

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