IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for 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	July 31	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. 28	Sep. 17	Oct. 22	Jan. 19 '26
June 6	June 25	July 15	July 18	Aug. 6	Aug. 26	Sep. 10	Sep. 11	Oct. 1	Nov. 5	Feb. 2 '26
June 18	July 9	July 29	July 31	Aug. 20	Sep. 9	Sep. 24	Sep. 25	Oct. 15	Nov. 19	Feb. 16 '26
July 2	July 23	Aug. 12	**Aug. 13**	Sep. 3	Sep. 23	Oct. 8	Oct. 9	Oct. 29	Dec. 3	Mar. 2 '26
July 18	Aug. 6	Aug. 26	Aug. 28	Sep. 17	Oct. 7	Oct. 22	**Oct. 22**	Nov. 12	Dec. 17	Mar. 16 '26
July 31	Aug. 20	Sep. 9	Sep. 11	Oct. 1	Oct. 21	Nov. 5	**Nov. 5**	Nov. 26	Dec. 31	Mar. 30 '26
Aug. 13	Sep. 3	Sep. 23	Sep. 25	Oct. 15	Nov. 4	Nov. 19	**Nov. 19**	Dec. 10	Jan. 14 '26	Apr. 13 '26
Aug. 28	Sep. 17	Oct. 7	Oct. 9	Oct. 29	Nov. 18	Dec. 3	**Dec. 3**	Dec. 24	Jan. 28 '26	Apr. 27 '26
Sep. 11	Oct. 1	Oct. 21	**Oct. 22**	Nov. 12	Dec. 2	Dec. 17	**Dec. 17**	Jan. 7 '26	Feb. 11 '26	May 11 '26
Sep. 25	Oct. 15	Nov. 4	**Nov. 5**	Nov. 26	Dec. 16	Dec. 31	**Dec. 31**	Jan. 21 '26	Feb. 25 '26	May 25 '26
Oct. 9	Oct. 29	Nov. 18	**Nov. 19**	Dec. 10	Dec. 30	Jan. 14 '26	Jan. 15 '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. 29 '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. 12 '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. 26 '26	Mar. 18 '26	Apr. 22 '26	July 20 '26
Dec. 3	Dec. 24	Jan. 13 '26	Jan. 15 '26	Feb. 4 '26	Feb. 24 '26	Mar. 11 '26	Mar. 12 '26	Apr. 1 '26	May 6 '26	Aug. 3 '26
Dec. 17	Jan. 7 '26	Jan. 27 '26	Jan. 29 '26	Feb. 18 '26	Mar. 10 '26	Mar. 25 '26	Mar. 26 '26	Apr. 15 '26	May 20 '26	Aug. 17 '26
Dec. 31	Jan. 21 '26	Feb. 10 '26	Feb. 12 '26	Mar. 4 '26	Mar. 24 '26	Apr. 8 '26	Apr. 9 '26	Apr. 29 '26	June 3 '26	Aug. 31 '26

PLEASE NOTE:

Filing deadlines for publication cycles unaffected by holidays have been changed from Friday to Thursday. 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 Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, September 8, 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:

NOTE: See also Supplemental Agenda to be published in the September 3, 2025, Iowa Administrative Bulletin.

AGING, DEPARTMENT ON[17]

Agency realignment, rescind chs 1, 2, 4 to 8, 14, 15, 19, 21, 22 Filed **ARC 9493C** 8/20/25

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

State licensed warehouses and warehouse operators, ch 90 Notice **ARC 9452C** Filed Emergency **ARC 9455C** 8/6/25
Licensed grain dealers, ch 91 Notice **ARC 9453C** Filed Emergency **ARC 9456C** 8/6/25
Grain indemnity fund—board organization, operations and claims; civil penalties, rescind chs 93, 94; adopt ch 92 Notice **ARC 9454C** Filed Emergency **ARC 9457C** 8/6/25

APPEAL BOARD, STATE[543]

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General provisions, ch 1 Notice **ARC 9460C** 8/6/25
Tort claims, ch 2 Notice **ARC 9461C** 8/6/25
General claims, ch 3 Notice **ARC 9464C** 8/6/25
Budget appeals, ch 4 Notice **ARC 9465C** 8/6/25
Uniform rules, ch 5 Notice **ARC 9462C** 8/6/25
Public records and fair information practices; agency procedure for rule making, rescind chs 6, 7 Notice **ARC 9463C** . 8/6/25

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

Iowa minority grants for economic success (images), rescind ch 22 Notice **ARC 9487C** 8/20/25
Chiropractic loan forgiveness program, rescind ch 33 Notice **ARC 9488C** 8/20/25

ECONOMIC DEVELOPMENT AUTHORITY[261]

Debarment from participation in authority programs and transactions, ch 2 Notice **ARC 9458C** 8/6/25

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Private sewage disposal systems, ch 69 Filed **ARC 9467C** 8/6/25

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Homeland security and emergency response teams, ch 12 Notice **ARC 9486C** 8/20/25
Flood mitigation program, ch 14 Notice **ARC 9485C** 8/20/25
Emergency planning and reporting, adopt ch 102; rescind chs 103, 104 Notice **ARC 9484C** 8/20/25

HUMAN SERVICES DEPARTMENT[441]

Sexual orientation and gender identity—psychiatric bed tracking system, physicians' services, prosthetic devices, 77.3(3), 78.1(4)"b," 78.10(3)"c" Notice **ARC 9492C** 8/20/25
Orthodontic procedures, 78.4(8)"c" Filed **ARC 9494C** 8/20/25
Healthy and well kids in Iowa (hawki) program, ch 86 Filed **ARC 9468C** 8/6/25
Family planning program, ch 87 Amended Notice **ARC 9466C** 8/6/25
Aging services; state unit on aging responsibilities; area agency on aging responsibilities; delivery of aging services, chs 225 to 228 Filed **ARC 9495C** 8/20/25
Long-term care ombudsman, ch 230 Filed **ARC 9496C** 8/20/25
Office of public guardian, ch 231 Filed **ARC 9497C** 8/20/25

INSPECTIONS AND APPEALS DEPARTMENT[481]

Licensure of nursing home administrators—provisional license or appointment, 980.2(3), 980.4 to 980.7 Filed **ARC 9469C** 8/6/25
Discipline for hearing aid specialists, ch 2063 Filed **ARC 9470C** 8/6/25

IOWA FINANCE AUTHORITY[265]

Debarment from participation in authority programs and transactions, ch 5 Notice **ARC 9459C** 8/6/25

PUBLIC HEALTH DEPARTMENT[641]

Early hearing detection and intervention (EHDI) program, ch 3 Notice **ARC 9489C** 8/20/25

Sexual orientation and gender identity—terminology, amendments to chs 7, 37, 95, 97, 99, 142, 154 Notice **ARC 9491C** 8/20/25
Swimming pools, spas, and spray pads, ch 15 Filed **ARC 9498C** 8/20/25
Concussion or other brain injury return-to-play protocol, ch 54 Notice **ARC 9490C** 8/20/25
Licensure standards for substance use disorder and problem gambling treatment programs, ch 155 Filed **ARC 9499C** 8/20/25

PUBLIC SAFETY DEPARTMENT[661]

State building code—factory-built structures, ch 16 Filed **ARC 9471C** 8/6/25
Fire marshal administration; general fire safety requirements; requirements for specific occupancies; fire safety requirements for hospitals and health care facilities; smoke alarms/detectors; carbon monoxide alarm, rescind chs 200, 201, 202, 205, 210, 211; adopt ch 201 Filed **ARC 9472C** 8/6/25
State building code—administration, ch 300 Filed **ARC 9473C** 8/6/25
State building code—general provisions, accessibility of buildings and facilities available to the public, energy conservation in construction; sustainable design standards; weather safe rooms; state historic building code, rescind chs 301 to 303, 310, 315, 350; adopt ch 301 Filed **ARC 9474C** 8/6/25
State building code—manufactured housing support and anchorage systems, ch 322 Filed **ARC 9475C** 8/6/25
Temporary emergency use of factory-built structures—commercial use, ch 323 Filed **ARC 9476C** 8/6/25

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Definitions, 2.1 Filed **ARC 9481C** 8/6/25
Brokerage agreements, 11.1 to 11.3, 11.5, 11.6 Filed **ARC 9477C** 8/6/25
Disclosure of relationships—brokerage agreements, compensation negotiation, 12.2 to 12.7 Filed **ARC 9478C** 8/6/25
Prelicense and continuing education—brokerage agreements, 16.4(2), 16.5(1), 16.6 Filed **ARC 9480C** 8/6/25

REVENUE DEPARTMENT[701]

Public safety officer moving expense tax credit, 800.1 to 800.56 Notice **ARC 9483C** 8/20/25

SECRETARY OF STATE[721]

NIST special publications—dates certain, 29.4(11), 43.9(2) Filed **ARC 9482C** 8/6/25
Fees—mark applications, assignments, cancellations, 40.5(13) Filed **ARC 9479C** 8/6/25

STATE PUBLIC DEFENDER[493]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Administration, ch 1 Filed **ARC 9500C** 8/20/25
Petitions for rulemaking, ch 2 Filed **ARC 9501C** 8/20/25
Declaratory orders, ch 3 Filed **ARC 9502C** 8/20/25
Public records and fair information practices, ch 4 Filed **ARC 9503C** 8/20/25
Agency procedure for rulemaking, ch 5 Filed **ARC 9504C** 8/20/25
Uniform waiver rules, ch 6 Filed **ARC 9505C** 8/20/25
Definitions, ch 7 Filed **ARC 9506C** 8/20/25
Eligibility guidelines for court-appointed counsel, ch 10 Filed **ARC 9507C** 8/20/25
Attorney fee contracts, ch 11 Filed **ARC 9508C** 8/20/25
Claims for indigent defense services, ch 12 Filed **ARC 9509C** 8/20/25
Claims for other professional services, ch 13 Filed **ARC 9510C** 8/20/25
Claims for attorney fees in 600A terminations, ch 14 Filed **ARC 9511C** 8/20/25

TRANSPORTATION DEPARTMENT[761]

City requests for closure of primary road extensions, rescind ch 151 Notice **ARC 9451C** 8/6/25
Special permits for operation and movement of vehicles and loads of excess size and weight, ch 511 Filed **ARC 9512C** 8/20/25
For-hire intrastate motor carrier authority, ch 524 Filed **ARC 9513C** 8/20/25
For-hire interstate motor carrier authority, ch 529 Filed **ARC 9514C** 8/20/25

WORKFORCE DEVELOPMENT DEPARTMENT[871]

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Coordinating service provider, rescind ch 51 Notice **ARC 9518C** 8/20/25
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Iowa welfare-to-work program, rescind ch 60 Notice **ARC 9517C** 8/20/25
Voter registration, rescind ch 70 Notice **ARC 9519C** 8/20/25
Public records and fair information practices, rescind ch 71 Notice **ARC 9521C** 8/20/25

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Forms and informational materials, rescind ch 73 Notice **ARC 9523C** 8/20/25

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

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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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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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NOTICE: The Administrative Code Editor is evaluating the value of publishing this list of public hearings in the Iowa Administrative Bulletin. Public hearing information can also be found in each individual document as required by Iowa Code chapter 17A.

If publication of this list is useful to you, please email your feedback to: jack.ewing@legis.iowa.gov.

APPEAL BOARD, STATE[543]

Red tape review, adopt chs 1 to 5; rescind chs 6, 7 IAB 8/6/25 **ARC 9460C**	Room G14 Iowa Capitol Building Des Moines, Iowa	August 29, 2025 9 to 10 a.m. September 5, 2025 9 to 10 a.m.

COLLEGE STUDENT AID COMMISSION[283]

Red tape review, adopt chs 1 to 4, 6, 7; rescind ch 5 IAB 8/20/25 **Regulatory Analyses**	Room B50 Grimes State Office Building Des Moines, Iowa	September 9, 2025 4 p.m.
Uniform policies, ch 10; health care professional recruitment program, rescind ch 14; health care award program, rescind ch 26 IAB 8/6/25 **Regulatory Analyses**	Room B50 Grimes State Office Building Des Moines, Iowa	August 26, 2025 9 a.m.
Iowa minority grants for economic success; chiropractic loan forgiveness program rescind chs 22, 33 IAB 8/20/25 **ARC 9487C**, **ARC 9488C**	Room B50 Grimes State Office Building Des Moines, Iowa	September 9, 2025 4 to 4:30 p.m. September 10, 2025 9 to 9:30 a.m.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Business incentives for growth (BIG) program, ch 69 IAB 8/6/25 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation: opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review	August 26, 2025 9:45 to 10 a.m.

EDUCATION DEPARTMENT[281]

Orientation and gender identity—terminology, 12.3, 79.2, 80.1; accreditation standards, school health services, extracurricular interscholastic competition, 12.5, 12.8, 14.2, 36.2; civics examination, 12.5(5), 32.1; foster parents as special education decision-makers, 41.30(1)“b,” 120.27(1)“b”; Out-of-state placements, 41.116(8); abuse of students by school employees, ch 102 IAB 8/20/25 **Regulatory Analyses**	Room B50 Grimes State Office Building Des Moines, Iowa	September 9, 2025 9 to 10 a.m.

EDUCATION DEPARTMENT[281](cont'd)

Vaccination—notification of religious exemptions, 14.2(4), 21.62(9)"f"; extracurricular athletic activity conference for member schools, ch 37 IAB 8/20/25 **Regulatory Analyses**	Room B50 Grimes State Office Building Des Moines, Iowa	September 9, 2025 1 to 2 p.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Iowa comprehensive plan, ch 9 IAB 8/20/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 8:45 a.m.
Homeland security and emergency response teams, ch 12 IAB 8/20/25 **ARC 9486C**	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 8:30 a.m. September 10, 2025 10 a.m.
Flood mitigation program, ch 14 IAB 8/20/25 **ARC 9485C**	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 9 a.m. September 10, 2025 10:30 a.m.
Natural hazard mitigation program, ch 16 IAB 8/20/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 9:15 a.m.
Emergency planning and reporting, adopt ch 102; rescind chs 103, 104 IAB 8/20/25 **ARC 9484C**	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 9:30 a.m. September 10, 2025 11 a.m.

HUMAN SERVICES DEPARTMENT[441]

Conditions of eligibility, ch 75; child support guidelines, amendments to chs 98, 99, 101, 102 IAB 8/20/25 **Regulatory Analyses**	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja	September 9, 2025 10 a.m.
Enrollment and reenrollment, ch 76 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 217 057 970 823 5 Passcode: M3ue7ZD7	August 26, 2025 2 to 2:30 p.m.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Sexual orientation, gender identity—psychiatric bed tracking system, physicians' services, prosthetic devices, 77.3(3), 78.1(4)"b," 78.10(3)"c" IAB 8/20/25 **ARC 9492C**	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja	September 9, 2025 10 to 10:30 a.m.
	Microsoft Teams Meeting ID: 249 793 891 240 3 Passcode: td6Y9eu7	September 9, 2025 2 to 2:30 p.m.
Family planning program, ch 87 IAB 8/6/25 **ARC 9466C**	Microsoft Teams Meeting ID: 217 057 970 823 5 Passcode: M3ue7ZD7	August 26, 2025 2 to 2:30 p.m.

INSURANCE DIVISION[191]

Red tape review, chs 10, 11, 13, 30, 31, 33, 42 to 44, 48, 85, 100 to 102 IAB 8/6/25 **Regulatory Analyses**	Suite 100 1963 Bell Avenue Des Moines, Iowa	August 28, 2025 10 a.m.
Regulation of securities offerings and those who engage in the securities business, ch 50 IAB 8/20/25 **Regulatory Analysis**	Suite 100 1963 Bell Avenue Des Moines, Iowa	September 11, 2025 10 a.m.

IOWA FINANCE AUTHORITY[265]

Mortgage credit certificates, ch 10 IAB 8/20/25 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa Information about virtual participation: opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review	September 9, 2025 9 to 9:15 a.m.
HOME investment partnerships program, ch 39 IAB 8/6/25 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa Information about virtual participation: opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review	August 26, 2025 9:15 to 9:30 a.m.

MANAGEMENT DEPARTMENT[541]

Requests for access to records—fees, 8.3(5) IAB 8/6/25 **Regulatory Analysis**	Room G14 Iowa Capitol Building Des Moines, Iowa	August 29, 2025 11 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Early hearing detection and intervention (EHDI) program, ch 3; sexual orientation and gender identity—terminology, amendments to chs 7, 37, 95, 97, 99, 142, 154; concussion or other brain injury return-to-play protocol, ch 54 IAB 8/20/25 **ARC 9489C**, **ARC 9490C**, **ARC 9491C**	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja	September 9, 2025 10 to 10:30 a.m.
	Microsoft Teams Meeting ID: 249 793 891 240 3 Passcode: td6Y9eu7	September 9, 2025 2 to 2:30 p.m.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Prescription drug donation repository program, ch 109 IAB 8/20/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja	September 9, 2025 10 a.m.
State-funded family medicine obstetrics fellowship program; medical residency training state matching grants program; center for rural health and primary care; Iowa needs nurses now infrastructure account, rescind chs 106, 108, 110, 111 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 217 057 970 823 5 Passcode: M3ue7ZD7	August 26, 2025 2 to 2:30 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Law enforcement administrator's telecommunications advisory committee (LEATAC), rescind ch 15 IAB 8/20/25 **Regulatory Analysis**	Conference Room 125 Oran Pape State Office Building Des Moines, Iowa	September 9, 2025 2 to 2:30 p.m.
Reflective devices on slow-moving vehicles, ch 23 IAB 8/20/25 **Regulatory Analysis**	Conference Room 125 Oran Pape State Office Building Des Moines, Iowa	September 9, 2025 1 to 1:30 p.m.

REVENUE DEPARTMENT[701]

Dishonored payment for alcoholic liquor; disputed beer barrel and wine gallonage taxes, 1000.28, 1000.32 IAB 8/6/25 **Regulatory Analysis**	Via videoconference call meet.google.com/kky-ijyt-mqw	August 26, 2025 11 a.m. to 12 noon
Public safety officer moving expense tax credit, 800.1 to 800.56 IAB 8/20/25 **ARC 9483C**	Via videoconference call meet.google.com/utj-teer-eqw	September 9, 2025 2 to 3 p.m.

TRANSPORTATION DEPARTMENT[761]

Traffic control device manual, ch 130 IAB 8/20/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 278 155 414#	September 11, 2025 3 to 3:30 p.m.
City requests for closure of primary road extensions, rescind ch 151 IAB 8/6/25 **ARC 9451C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 737 937 923#	August 26, 2025 9 to 9:30 a.m.
	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 185 787 020#	August 26, 2025 2:30 to 3 p.m.

TREASURER OF STATE[781]

Iowa educational savings plan trust—withdrawals, rollovers, 16.11(3), 16.13(2) IAB 8/20/25 **Regulatory Analysis**	Room 113 Treasurer of State's Office State Capitol Building Des Moines, Iowa	September 9, 2025 9 to 10 a.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Dial in to a hearing by phone: 1.469.998.6043
Find a local number

Mission and structure, rescind ch 50 IAB 8/20/25 **ARC 9515C**	Microsoft Teams link Meeting ID: 210 537 060 898 2 Passcode: Un7ke6rS Phone conference ID: 314 011 495#	September 9, 2025 8 to 8:30 a.m.
	Microsoft Teams link Meeting ID: 230 759 058 010 Passcode: q8YX9VE9 Phone conference ID: 900 956 120#	September 9, 2025 1 to 1:30 p.m.
Coordinating service provider, rescind ch 51 IAB 8/20/25 **ARC 9518C**	Microsoft Teams link Meeting ID: 217 248 749 908 1 Passcode: A2yp9TP7 Phone conference ID: 422 116 79#	September 9, 2025 8:30 to 9 a.m.
	Microsoft Teams link Meeting ID: 298 979 008 566 0 Passcode: kC2NF3Q8 Phone conference ID: 424 326 671#	September 9, 2025 1:30 to 2 p.m.
Regional advisory boards, rescind ch 52 IAB 8/20/25 **ARC 9516C**	Microsoft Teams link Meeting ID: 210 961 006 421 4 Passcode: 2AT7ci2R Phone conference ID: 903 962 880#	September 9, 2025 9 to 9:30 a.m.
	Microsoft Teams link Meeting ID: 279 921 851 371 5 Passcode: K78Ve3GR Phone conference ID: 299 510 337#	September 9, 2025 2 to 2:30 p.m.
Placement, rescind ch 54 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 275 535 538 261 1 Passcode: zX7gi2Xm Phone conference ID: 810 814 813#	August 26, 2025 9:30 a.m.
Labor-management cooperation program, rescind ch 55 IAB 8/20/25 **ARC 9522C**	Microsoft Teams link Meeting ID: 289 962 729 758 2 Passcode: C89E6Vg2 Phone conference ID: 869 690 118#	September 9, 2025 10:30 to 11 a.m.
	Microsoft Teams link Meeting ID: 213 426 291 892 2 Passcode: Gh2Qg2py Phone conference ID: 468 558 492#	September 9, 2025 3:30 to 4 p.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Dial in to a hearing by phone: 1.469.998.6043
Find a local number

Youth affairs, rescind ch 56 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 254 664 975 752 8 Passcode: Nw7NF9M5 Phone conference ID: 352 122 926#	August 26, 2025 10 a.m.
Work force investment program, rescind ch 57 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 220 354 044 389 6 Passcode: rj9Mr26G Phone conference ID: 517 366 600#	August 26, 2025 10:30 a.m.
Iowa job training partnership program, rescind ch 58 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 246 336 272 508 3 Passcode: YL7vw2HC Phone conference ID: 318 801 259#	August 26, 2025 11 a.m.
Mentor advisory board, rescind ch 59 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 217 805 887 897 Passcode: KT2Uv9MM Phone conference ID: 634 345 319#	August 26, 2025 11:30 a.m.
Iowa welfare-to-work program, rescind ch 60 IAB 8/20/25 **ARC 9517C**	Microsoft Teams link Meeting ID: 254 877 982 640 Passcode: nb3Ss9ei Phone conference ID: 539 890 151#	September 9, 2025 11 to 11:30 a.m.
	Microsoft Teams link Meeting ID: 227 196 822 383 8 Passcode: 4o2fd2Tk Phone conference ID: 703 882 313#	September 9, 2025 4 to 4:30 p.m.
Strategic workforce development fund, rescind ch 61 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 221 963 719 106 4 Passcode: tG6Md6L8 Phone conference ID: 435 989 85#	August 26, 2025 1 p.m.
Workforce development fund, ch 64 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 275 535 538 261 1 Passcode: zX7gi2Xm Phone conference ID: 810 814 813#	August 26, 2025 9 a.m.
Voter registration, rescind ch 70 IAB 8/20/25 **ARC 9519C**	Microsoft Teams link Meeting ID: 244 348 493 885 Passcode: e36XV22u Phone conference ID: 326 151 219#	September 9, 2025 11 to 11:30 a.m.
	Microsoft Teams link Meeting ID: 211 778 895 744 5 Passcode: j5KQ2hy6 Phone conference ID: 683 617 517#	September 9, 2025 3:30 to 4 p.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Dial in to a hearing by phone: 1.469.998.6043
Find a local number

Public records and fair information practices, rescind ch 71 IAB 8/20/25 **ARC 9521C**	Microsoft Teams link Meeting ID: 279 763 220 769 8 Passcode: EV6Az2vx Phone conference ID: 153 104 807#	September 9, 2025 9:30 to 10 a.m.
	Microsoft Teams link Meeting ID: 215 655 275 587 2 Passcode: bY9YY7za Phone conference ID: 144 492 875#	September 9, 2025 2:30 to 3 p.m.
Petitions, rescind ch 72 IAB 8/20/25 **ARC 9520C**	Microsoft Teams link Meeting ID: 213 389 964 217 7 Passcode: G4kd7sd7 Phone conference ID: 981 329 717#	September 9, 2025 10 to 10:30 a.m.
	Microsoft Teams link Meeting ID: 270 810 851 412 Passcode: si38BD3A Phone conference ID: 903 214 085#	September 9, 2025 3 to 3:30 p.m.
Forms and informational materials, rescind ch 73 IAB 8/20/25 **ARC 9523C**	Microsoft Teams link Meeting ID: 241 945 059 517 4 Passcode: KR2zM6CN Phone conference ID: 186 063 725#	September 9, 2025 11:30 a.m. to 12 noon
	Microsoft Teams link Meeting ID: 279 592 832 151 8 Passcode: m6SS9gY6 Phone conference ID: 972 857 456#	September 9, 2025 4 to 4:30 p.m.
Employment agency licensing, ch 78 IAB 8/6/25 **Regulatory Analysis**	Microsoft Teams link Meeting ID: 237 875 027 562 2 Passcode: bQ68vp9e Phone conference ID: 753 603 984#	August 26, 2025 1:30 p.m.

COLLEGE STUDENT AID COMMISSION[283]

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 1
"Organization and Operation"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.178

Public Hearing

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

September 9, 2025 4 p.m.	Room B50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

David Ford, Bureau Chief
Bureau of Iowa College Aid
400 East 14th Street
Des Moines, Iowa 50319
Email: david.ford@iowa.gov

Purpose and Summary

The Commission proposes to rescind and adopt a new Chapter 1 pursuant to Executive Order 10. New Chapter 1 is proposed to ensure the Commission illustrates the organizational structure for the Commission as a bureau within the Iowa Department of Education and illustrates specific provisions related to the Commission Board.

Analysis of Impact

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

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

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law.

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

The public and the Commission will benefit from the rulemaking since it clarifies the organizational structure of the Commission and certain operations of the Commission Board.

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 rulemaking does not impose measurable costs beyond those imposed by law.

- **Qualitative description of impact:**

The rulemaking illustrates provisions to the public that may not otherwise be available.

3. **Costs to the State:**

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

The agency would incur minimal costs to implement and enforce the chapter.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to have any effect on State revenues beyond that of the legislation it is intended to implement.

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

The benefit of the proposed rulemaking is to publicly illustrate the structure of the Commission and certain operations of the Commission Board. The cost of inaction would be confusion regarding the structure of the Commission and certain practices of the Commission Board.

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

The rulemaking proposes an efficient administrative method of providing the identified information to the public.

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

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

No other methods were seriously considered by the Commission since the method proposed is a cost-efficient and seamless way to provide the information.

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

Alternative methods were rejected because the method used is a streamlined approach to illustrating the necessary information.

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 rulemaking is not expected to impact small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION AND OPERATION

283—1.1(256) Purpose. This chapter describes the organization, operation, and location of the college student aid commission (hereinafter generally referred to as the commission).

283—1.2(261) Organization and operations.

1.2(1) *Location.* The location and mailing address of the commission are posted on the Iowa department of education website (educateiowa.gov).

1.2(2) *The commission board.* The commission board's membership is governed by Iowa Code section 256.176.

1.2(3) *Commission board meetings.*

a. A quorum is governed by Iowa Code section 17A.2(1).

b. A specific time is set aside at each meeting for the public to address the commission board. As a general guideline, a limit of five minutes will be allocated for each of these presentations. If a large group seeks to address a specific issue, the chairperson may limit the number of speakers. Members of the public who wish to address the commission board during this portion of the meeting are required to notify the commission's administrative secretary prior to the meeting. The person's name and the subject of the person's remarks must be provided. To accommodate maximum public participation, members of the public are encouraged to submit requests at least 72 hours in advance of the meeting.

1.2(4) *Commission.* The commission is established by Iowa Code section 256.176 to perform the function and duties set forth in Iowa Code chapter 256, subchapter VII, part 4; Iowa Code chapter 261B; other Iowa Code provisions; and the Iowa Administrative Code. The commission exists as a bureau within the organizational structure of the Iowa department of education.

These rules are intended to implement Iowa Code chapter 256.

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 2
"Commission Procedure for Rulemaking and Petitions for Rulemaking"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.178

Public Hearing

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

September 9, 2025 4 p.m.	Room B50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

David Ford, Bureau Chief
Bureau of Iowa College Aid
400 East 14th Street
Des Moines, Iowa 50319
Email: david.ford@iowa.gov

Purpose and Summary

The Commission proposes to rescind and adopt a new Chapter 2 pursuant to Executive Order 10. New Chapter 2 is proposed to explain the rulemaking process.

Analysis of Impact

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

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

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law.

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

The public and the Commission will benefit from the rulemaking since it explains the rulemaking process.

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

- **Quantitative description of impact:**

The rulemaking does not impose measurable costs beyond those imposed by law.

- **Qualitative description of impact:**

The rulemaking illustrates provisions of the rulemaking process to the public.

3. **Costs to the State:**

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

The agency would incur minimal costs to implement and enforce the rules.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to have any effect on State revenues beyond that of the legislation it is intended to implement.

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

The benefit of the proposed rulemaking is to publicly illustrate the rulemaking process. The cost of inaction would be confusion about the process the Commission utilizes in rulemaking.

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

The rulemaking proposes an efficient administrative method of providing the identified information to the public.

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

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

No other methods were seriously considered by the Commission since the method proposed is a cost-efficient and seamless way to provide the information.

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

Alternative methods were rejected because the method used is a streamlined approach to illustrating the necessary information.

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 rulemaking is not expected to impact small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
COMMISSION PROCEDURE FOR RULEMAKING
AND PETITIONS FOR RULEMAKING

283—2.1(17A) Incorporation by reference. The college student aid commission incorporates by this reference all such matters in Iowa Code chapter 17A that deal with rulemaking or petitions for rulemaking.

283—2.2(17A) Contact information.

2.2(1) *General.* Petitions for rulemaking and inquiries about commission rules and the rulemaking process may be directed to the Executive Director of the College Student Aid

Commission, Iowa Department of Education, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146.

2.2(2) *Comments on proposed rules.* Any public comment on a Notice of Intended Action or similar document may be directed to the Executive Director of the College Student Aid Commission, Iowa Department of Education, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146, or as directed in the Notice of Intended Action or similar document.

2.2(3) *Petitions for rulemaking.* A petition for rulemaking that substantially conforms to the following form will be considered by the commission:

COLLEGE STUDENT AID COMMISSION

Petition by (Name of Petitioner) for the Adoption/Amendment/Repeal of (Cite rule involved).	}	PETITION FOR RULEMAKING

283—2.3(17A) Electronic submissions. The department encourages electronic submissions of documents under this chapter, including documents bearing electronic signatures. More information is available in the administrative rules content on the Iowa department of education's website (educateiowa.gov).

These rules are intended to implement Iowa Code section 256.178 and chapter 17A.

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 3
"Declaratory Orders"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.178

Public Hearing

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

September 9, 2025 4 p.m.	Room B50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

David Ford, Bureau Chief
Bureau of Iowa College Aid
400 East 14th Street
Des Moines, Iowa 50319
Email: david.ford@iowa.gov

Purpose and Summary

The Commission proposes to rescind and adopt a new Chapter 3 pursuant to Executive Order 10. New Chapter 3 is proposed to explain the declaratory order process.

Analysis of Impact

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

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

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law.

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

The public and the Commission will benefit from the rulemaking since it explains the declaratory order process.

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

- **Quantitative description of impact:**

The rulemaking does not impose measurable costs beyond those imposed by law.

- **Qualitative description of impact:**

The rulemaking illustrates provisions to the public about the declaratory order process.

3. **Costs to the State:**

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

The agency would incur minimal costs to implement and enforce the chapter.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to have any effect on State revenues beyond that of the legislation it is intended to implement.

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

The benefit of the proposed rulemaking is to publicly illustrate the declaratory order process. The cost of inaction would be confusion about the process the Commission utilizes in alignment with declaratory orders.

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

The rulemaking proposes an efficient administrative method of providing the identified information to the public.

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

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

No other methods were seriously considered by the Commission since the method proposed is a cost-efficient and seamless way to provide the information.

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

Alternative methods were rejected because the method used is a streamlined approach to illustrating the necessary information.

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 rulemaking is not expected to impact small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
DECLARATORY ORDERS

The college student aid commission adopts, with the exceptions and amendments noted in rule 283—3.1(17A), the Uniform Rules on Agency Procedure relating to declaratory orders, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

283—3.1(17A) Additional information concerning declaratory orders. For purposes of the Uniform Rules on Agency Procedure relating to declaratory orders, the following amendments and exceptions apply:

1. In lieu of "(designate agency)", insert "college student aid commission".

2. In lieu of "(designate office)", insert "Grimes State Office Building, Second Floor, 400 East 14th Street, Des Moines, Iowa 50319-0146".

3. In lieu of "_____days (15 or less)", insert "15 days".

4. In lieu of "_____ days", insert "15 days".

5. In lieu of "(designate official by full title and address)", insert "Executive Director of the College Student Aid Commission, Iowa Department of Education, Grimes State Office Building, Second Floor, 400 East 14th Street, Des Moines, Iowa 50319-0146".

6. In lieu of "(specify office and address)", insert "Executive Director of the College Student Aid Commission, Iowa Department of Education, Grimes State Office Building, Second Floor, 400 East 14th Street, Des Moines, Iowa 50319-0146".

7. Method of service, time of filing, proof of mailing, the date of issuance of an order, and a refusal to issue an order are governed by 283—Chapter 4.

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

COLLEGE STUDENT AID COMMISSION[283]

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapters 4 and 5
"Due Process and Contested Cases"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.178

Public Hearing

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

September 9, 2025 4 p.m.	Room B50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

David Ford, Bureau Chief
Bureau of Iowa College Aid
400 East 14th Street
Des Moines, Iowa 50319
Email: david.ford@iowa.gov

Purpose and Summary

The Commission proposes to rescind Chapters 4 and 5 and adopt a new Chapter 4 pursuant to Executive Order 10. Proposed Chapter 4 consolidates the provisions from the two existing chapters. Proposed Chapter 4 explains the appeal process and contested case hearings.

Analysis of Impact

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

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

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law.

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

The public and the Commission will benefit from the rulemaking since it explains the appeal and contested case hearing processes.

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 rulemaking does not impose measurable costs beyond those imposed by law.

- **Qualitative description of impact:**

The rulemaking illustrates provisions to the public about the appeal and contested case hearing processes.

3. **Costs to the State:**

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

The agency would incur minimal costs to implement and enforce the chapter.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to have any effect on State revenues beyond that of the legislation it is intended to implement.

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

The benefit of the proposed rulemaking is publicly illustrating the appeal and contested case hearing processes. The cost of inaction would be confusion about the process the Commission utilizes in alignment with appeals and contested case hearings.

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

The rulemaking proposes an efficient administrative method of providing the identified information to the public.

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

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

No other methods were seriously considered by the Commission since the method proposed is a cost-efficient and seamless way to provide the information.

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

Alternative methods were rejected because the method used is a streamlined approach to illustrating the necessary information.

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 rulemaking is not expected to impact small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
DUE PROCESS AND CONTESTED CASES

283—4.1(256) Definitions. For the purposes of this chapter:

"Commission" means the college student aid commission.

"Waiver" means the same as defined in Iowa Code section 17A.9A(5).

283—4.2(256) Appeals. This rule describes procedures for appeal to commission decisions covering eligibility for state financial aid awards, adjustment in award amounts, refunds of awards, and institutional eligibility for participation in state financial aid programs.

4.2(1) Administrative staff of the commission shall make all decisions in accordance with established policies and published administrative rules approved by the commission and shall notify the concerned individual or institution of these decisions within a reasonable time after inquiry.

4.2(2) If an individual, institution, or any duly appointed representative thereof disagrees with a staff decision, written evidence setting forth the reasons for disagreement shall be presented to the executive director of the commission. The evidence must be presented within 60 days after notification of the staff decision, and the appellant may request a hearing.

a. If no hearing is requested, the executive director will consider all evidence provided and will notify the appellant within 30 days whether the decision is retracted, modified or upheld. The appellant will be advised of the appellant's right to carry the appeal to a meeting of the full commission or to an appeals panel appointed by the commission.

b. If a hearing is requested, the executive director will follow the contested case procedures in rule 283—4.3(17A).

283—4.3(17A) Incorporation by reference. The commission adopts, with the exceptions and amendments noted in rule 283—4.4(17A), the Uniform Rules on Agency Procedure relating to contested cases, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

283—4.4(17A) Additional information concerning contested cases. For purposes of the Uniform Rules on Agency Procedure relating to declaratory orders, the following amendments and exceptions apply:

1. In lieu of "(agency name)", insert "college student aid commission".
2. In lieu of "(designate official)", insert "Executive Director".

These rules are intended to implement Iowa Code section 256.178 and chapter 17A.

ITEM 2. Rescind and reserve **283—Chapter 5**.

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 6
"Public Records and Fair Information Practices"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.178

Public Hearing

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

September 9, 2025 4 p.m.	Room B50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

David Ford, Bureau Chief
Bureau of Iowa College Aid
400 East 14th Street
Des Moines, Iowa 50319
Email: david.ford@iowa.gov

Purpose and Summary

The Commission proposes to rescind Chapter 6 and adopt a new Chapter 6 pursuant to Executive Order 10. New Chapter 6 is proposed to explain the process of requesting and obtaining public records from the Commission.

Analysis of Impact

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

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

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law.

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

The public and the Commission will benefit from the rulemaking since it explains the process of requesting and obtaining public records.

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 rulemaking does not impose measurable costs beyond those imposed by law.

- **Qualitative description of impact:**

The rulemaking illustrates provisions to the public about the process used to request and obtain public records.

3. **Costs to the State:**

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

The agency would incur minimal costs to implement and enforce the chapter.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to have any effect on State revenues beyond that of the legislation it is intended to implement.

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

The benefit of the proposed rulemaking is to publicly illustrate the process used by the public to request and obtain public information. The cost of inaction would be confusion about the process.

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

The rulemaking proposes an efficient administrative method of providing the identified information to the public.

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

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

No other methods were seriously considered by the Commission since the method proposed is a cost-efficient and seamless way to provide the information.

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

Alternative methods were rejected because the method used is a streamlined approach to illustrating the necessary information.

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 rulemaking is not expected to impact small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The commission hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to public records and fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

283—6.1(17A,22) Exceptions and additions.

6.1(1) *Definition of "agency."* In lieu of the words "(official or body issuing these rules)", insert "college student aid commission".

6.1(2) *Request for access to record.* In subrule X.3(1), replace the paragraph with "Requests for access to records of the college student aid commission are to be directed to the Grimes State Office Building, Des Moines, Iowa 50319-0146, regardless of where those records are located."

6.1(3) *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)" in subrule X.3(2), insert "8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays".

6.1(4) *Fees.* In paragraph X.3(7)*"c,"* in lieu of the words "(specify time period)", insert "one hour". The fee will be $60 per hour.

6.1(5) *Procedure by which additions, dissents, or objections may be entered into certain records.* In rule X.6, in lieu of the words "(designate office)", insert "the executive director of the college student aid commission".

6.1(6) *Consent to disclosure by the subject of a confidential record.* In rule X.7, add the following paragraphs:

X.7(1) A letter from a subject of a confidential record to a public official who 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.

X.7(2) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 281—5.6(22,256). However, the agency need not release records to the subject in the following circumstances:

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 the records are the work product of an attorney or are otherwise privileged.

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

d. As otherwise authorized by law.

X.7(3) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

283—6.2(22,256) Disclosures without the consent of the subject.

6.2(1) Records that are not confidential are routinely disclosed without the consent of the subject.

6.2(2) Records that are confidential will be disclosed outside of the commission only with the consent of the subject of the record or in circumstances in which consent of the subject is not legally necessary.

6.2(3) Confidential records may be disclosed without consent of the subject to the extent allowed by law and to the extent to which the need to access the record is compatible with the purpose for which the record was collected. Purposes that fall within this guideline are considered routine uses of confidential records. Under these premises, the following are considered routine uses:

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

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

283—6.3(17A,22) Availability of records.

6.3(1) This rule lists the commission records that are open to the public, those that are confidential, and those that are partially open and partially confidential.

6.3(2) Commission records are listed by category, according to the legal basis for confidential treatment (if any). The commission administers federally funded programs, as well as state programs, and is authorized by Iowa Code section 22.9 to enforce confidentiality standards for federal law and regulations as are required for receipt of the funds. A single record may contain information from several categories.

6.3(3) The chart indicates whether the record contains personally identifiable information and indicates the legal authority for confidentiality and for the collection of personally identifiable information.

Abbreviations are used in the chart as follows:

Code	Meaning	Code	Meaning
O	The records are open for public inspection.	O/C	The record is partially open and partially confidential.
C	The records are confidential and are not open to public inspection.	O/E	The record is partially open to the public and partially exempt from disclosure.
E	The record is exempt from mandatory disclosure to members of the public.	O/E/C	The record is partially open to the public, partially exempt from disclosure, and partially confidential and not open to the public.
E/C	The record is exempt from mandatory disclosure to the public and is confidential and not open to public inspection.	NA	Not applicable.

DESCRIPTION OF RECORD	TYPE OF RECORD	LEGAL AUTHORITY FOR CONFIDENTIALITY	PERSONALLY IDENTIFIABLE INFORMATION	LEGAL AUTHORITY FOR INFORMATION
Records of Commission, Advisory Council, and Committees	O/E	Iowa Code 21.5	No	NA
Rulemaking	O	NA	No	NA
Declaratory Ruling Records	O/C	Iowa Code 22.7	No	NA
Rules and Policy Manuals	O	NA	No	NA
General Correspondence	O/E/C	Iowa Code 22.7	Yes	NA
Publications • General • GSL • Scholarship	O	NA	No	NA
Statistical Reports	O	NA	No	NA
Staff Reports	O	NA	No	NA
Financial & Administrative Records	O/E/C	Iowa Code 22.7	Yes	NA
Registration and Approval Records	O	NA	No	NA
Contracts and Interagency Agreements	O/C	Iowa Code 22.7(3)	No	NA
Sealed Bids Prior to Public Opening	C	Iowa Code 22.3, 22.7 and 72.3	No	NA
Appeal Records	O/C	Iowa Code 22.7	Yes	NA
Litigation Files	O/E/C	Iowa Code 22.7	Yes	NA
Privileged Communication and Products of Attorneys Representing the Commission	E/C	Iowa Code 22.7, Iowa Code of Professional Responsibility for Lawyers, Canon 4	No	NA
Individual Applicant/Recipient Records (such as those collected under the Iowa Tuition Grant and Iowa Vocational-Technical Tuition Grant Programs)	C	Iowa Code 22.7	Yes	Sec. 428[b-c] and Sec. 488[c]
State and Federal Program Records (such as those maintained under the Iowa Tuition Grant Program and the John R. Justice Student Loan Repayment Program)	O	NA	No	NA

283—6.4(22,256) Applicability. This chapter does not:

6.4(1) Compel the commission to create a record that does not otherwise exist.

6.4(2) Require the commission to index or retrieve records that contain information about individuals by that person's name or other personal identifier.

6.4(3) Make available to the general public records that would otherwise not be available under Iowa Code chapter 22.

6.4(4) Govern the maintenance, disclosure or notification of or access to records in the possession of the commission that are governed by the rules of another agency.

6.4(5) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs unless otherwise provided by law or agreement.

6.4(6) Make available records compiled by the commission in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any individual or party subject to such litigation or proceedings is governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the commission.

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

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 7
"Uniform Rules for Waivers"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.178

Public Hearing

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

September 9, 2025 4 p.m.	Room B50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

David Ford, Bureau Chief
Bureau of Iowa College Aid
400 East 14th Street
Des Moines, Iowa 50319
Email: david.ford@iowa.gov

Purpose and Summary

The Commission proposes to rescind Chapter 7 and adopt a new Chapter 7 pursuant to Executive Order 10. New Chapter 7 is proposed to explain the rule waiver process to constituents.

Analysis of Impact

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

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

In general, the proposed rulemaking does not impose requirements that would add an administrative burden beyond the provisions already established in law.

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

The public and the Commission will benefit from the rulemaking since it explains the rule waiver process.

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

- **Quantitative description of impact:**

The rulemaking does not impose measurable costs beyond those imposed by law.

- **Qualitative description of impact:**

The rulemaking illustrates provisions regarding the rule waiver process to the public.

3. **Costs to the State:**

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

The agency would incur minimal costs to implement and enforce the chapter.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to have any effect on State revenues beyond that of the legislation it is intended to implement.

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

The benefit of the proposed rulemaking is to publicly illustrate the rule waiver process. The cost of inaction would be confusion about the process the Commission utilizes for administrative rule waivers.

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

The rulemaking proposes an efficient administrative method of providing the identified information to the public.

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

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

No other methods were seriously considered by the Commission since the method proposed is a cost-efficient and seamless way to provide the information.

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

Alternative methods were rejected because the method used is a streamlined approach to illustrating the necessary information.

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 rulemaking is not expected to impact small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
WAIVERS FROM ADMINISTRATIVE RULES

283—7.1(17A) Definitions. For purposes of this chapter:

"Commission" means the college student aid commission.

"Waiver" means the same as defined in Iowa Code section 17A.9A(5).

283—7.2(17A) General. The commission may grant a waiver of any administrative rule if the waiver is consistent with Iowa Code section 17A.9A.

283—7.3(17A) Criteria for waiver. In response to a petition filed pursuant to this chapter, the commission may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the commission finds, based on clear and convincing evidence, that all of the factors listed in Iowa Code section 17A.9A(2) apply.

283—7.4(17A) Filing of petition. All petitions for waiver are submitted in writing to the Executive Director, College Student Aid Commission, Department of Education, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146. If the petition relates to a pending contested case, the petition is filed in the contested case proceeding using the caption of the contested case.

283—7.5(17A) Content of petition. A petition for waiver includes the following information where applicable and known to the requester:

7.5(1) The name, address, and telephone number of the person for whom a waiver is being requested, and the case number of any related contested case.

7.5(2) A description and citation of the specific rule from which a waiver is requested.

7.5(3) The specific waiver requested, including the precise scope and duration.

7.5(4) The relevant facts that the petitioner believes would justify a waiver under the criteria described in Iowa Code section 17A.9A(2). This statement includes 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.

7.5(5) A history of any prior contacts between the commission and the petitioner relating to the commission's programs, contracts, allocations, loans, grants or other activities in which the petitioner has participated or from which the petitioner has received a benefit that are affected by the proposed waiver, including a description of each affected item held by the requester and any notices of violation or noncompliance, contested case hearings, or investigative reports relating to the item within the last five years.

7.5(6) A detailed statement of the impact on student achievement for any person affected by the granting of a waiver.

7.5(7) Any information known to the requester regarding the commission's treatment of similar cases.

7.5(8) The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

7.5(9) The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

7.5(10) Signed releases of information authorizing persons with knowledge regarding the request to furnish the commission with information relevant to the waiver.

283—7.6(17A) Additional information. Prior to issuing an order granting or denying a waiver, the executive director 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 commission or its executive director may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the commission's executive director, a committee of the commission's staff, or a quorum or committee of the commission's board to consider the petition for waiver.

283—7.7(17A) Notice. The commission will acknowledge a petition upon receipt and 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 necessary by any provision of law. In addition, the commission may give notice to other persons. To accomplish this notice provision, the commission 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 commission attesting that notice has been provided.

283—7.8(17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply in three situations:

7.8(1) To any petition for a waiver filed within a contested case,

7.8(2) When provided by rule or order, or

7.8(3) When required to do so by statute.

283—7.9(17A) Ruling. An order granting or denying a waiver will be in writing and will contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of any waiver issued.

7.9(1) *General.* The final decision on whether the circumstances justify the granting of a waiver is in the sole discretion of the commission, based on the unique, individual circumstances set out in the petition.

7.9(2) *Compliance with Iowa Code standards.* The commission applies the standards and burdens in Iowa Code section 17A.9A(3).

7.9(3) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the commission will balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

7.9(4) *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

7.9(5) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the commission, a waiver may be renewed if the commission finds that grounds for a waiver continue to exist.

7.9(6) *Time for ruling.* The commission 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 commission will grant or deny the petition no later than the time at which the final decision in that contested case is issued. Failure of the commission to grant or deny a petition within the required time period is deemed a denial of that petition by the commission. However, the commission remains responsible for issuing an order denying a waiver.

7.9(7) *Service of order.* Within seven days of its issuance, any order issued under this chapter is to 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.

283—7.10(17A) Public availability. The commission will comply with the public availability and filing procedures of Iowa Code section 17A.9A(4).

283—7.11(17A) After issuance of a waiver.

7.11(1) *Cancellation.* A waiver issued pursuant to this chapter may be withdrawn, canceled or modified if, after appropriate notice and hearing, the commission issues an order finding any of the following:

a. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

b. The alternative means for ensuring that public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or

c. The subject of the waiver order has failed to comply with all conditions contained in the order.

7.11(2) *Violations.* A violation of conditions in the waiver approval is the equivalent of a violation of the particular rule for which the waiver is granted. As a result, the recipient of a waiver

under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

7.11(3) *Defense.* After the commission 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.

7.11(4) *Judicial review.* Judicial review of the commission's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

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

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapters 12, 79, and 80
"School Accreditation and Practitioner Preparation Approval"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.7 and 256.16
State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, Senate File 418

Public Hearing

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

September 9, 2025 9 to 10 a.m.	Room B-50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking updates the State Board of Education's rules concerning school accreditation and practitioner preparation approval to comply with 2025 Iowa Acts, Senate File 418.

Analysis of Impact

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

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

There are no costs of this proposed rulemaking.

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

Schools and practitioner preparation programs will benefit from the clarity of this proposed rulemaking.

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

- **Quantitative description of impact:**

There is no quantitative impact noted.

- **Qualitative description of impact:**

Those governed by this proposed rulemaking will be qualitatively benefited by increased clarity.

3. **Costs to the State:**

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

There are no costs noted or anticipated.

- **Anticipated effect on State revenues:**

There is no effect noted or anticipated.

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

Rulemaking is required to correct items that conflict with 2025 Iowa Acts, Senate File 418.

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

The circumstances require rulemaking.

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:**

The circumstances require rulemaking.

Small Business Impact

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

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

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

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend subrule 12.3(6) as follows:

12.3(6) *Student responsibility and discipline.* The board will adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board will involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies will relate to the educational purposes of the school or school district. The policies will include the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

The policies will ensure due process rights for students and parents, including consideration for students who have been identified as requiring special education programs and services.

The board will also consider the potential, disparate impact of the policies on students because of race, color, national origin, gender, sexual orientation as defined in Iowa Code section 216.2, ~~gender identity as defined in Iowa Code section 216.2,~~ disability, religion, creed, or socioeconomic status.

The board will publicize its support of these policies, its support of the staff in enforcing them, and the staff's accountability for implementing them.

ITEM 2. Adopt the following **new** paragraph **12.3(14)"e"**:

e. "Gender identity" has the meaning given in Iowa Code section 279.78(1)*"a"* as amended by 2025 Iowa Acts, Senate File 418.

ITEM 3. Amend subrule 12.3(15) as follows:

12.3(15) *Compliance with Iowa Code section 279.80.*

a. A school district shall not provide any program, curriculum, test, survey, questionnaire, promotion, or instruction relating to gender ~~identity~~ theory or sexual orientation to students in kindergarten through grade six.

b. "Gender ~~identity~~ theory" and "sexual orientation" have the same meanings as those given in Iowa Code section ~~216.2~~ 279.80(1) as amended by 2025 Iowa Acts, Senate File 418.

c. In monitoring and enforcing this subrule, the department will not conclude that a neutral statement regarding sexual orientation or gender ~~identity~~ theory violates Iowa Code section 279.80 as amended by 2025 Iowa Acts, Senate File 418, or this subrule.

ITEM 4. Amend rule **281—79.2(256)**, definition of "Diverse groups," as follows:

"Diverse groups" means one or more groups of individuals possessing certain traits or characteristics, including age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, ~~gender identity,~~ physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status or familial status.

ITEM 5. Amend rule **281—80.1(272)**, definition of "Diverse groups," as follows:

"Diverse groups" means one or more groups of individuals possessing certain traits or characteristics, including but not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, ~~gender identity,~~ physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapters 12, 14, and 36
"Technical Requirements of 2025 Iowa Acts, House Files 190, 316, and 835 and Senate File 278"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.7

State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, House File 190; 2025 Iowa Acts, House File 316; 2025 Iowa Acts, House File 835; and 2025 Iowa Acts, Senate File 278

Public Hearing

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

September 9, 2025 9 to 10 a.m.	Room B-50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
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400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements technical requirements of four statutes: 2025 Iowa Acts, House File 316 (career planning instruction in grades five through eight); 2025 Iowa Acts, House File 190 (online administration of statewide summative assessments for students receiving primarily online instruction); 2025 Iowa Acts, House File 835 (seizure training and prevention in schools); and 2025 Iowa Acts, Senate File 278 (authorizing the two athletics organizations to offer interscholastic competitions in robotics).

Analysis of Impact

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

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

There are no identified costs of this proposed rulemaking.

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

Schools will benefit from the clarity of this proposed rulemaking.

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

- **Quantitative description of impact:**

Aside from the fiscal impact noted in the Fiscal Note accompanying 2025 Iowa Acts, House File 190, there is no noted quantitative impact.

- **Qualitative description of impact:**

Those governed by this proposed rulemaking will be qualitatively benefited by increased clarity.

3. **Costs to the State:**

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

Aside from the fiscal impact noted in the Fiscal Note accompanying 2025 Iowa Acts, House File 190, there are no known costs to the State.

- **Anticipated effect on State revenues:**

There is no effect noted or anticipated.

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

Rulemaking is required to implement this legislation.

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

The circumstances require rulemaking.

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:**

The circumstances require rulemaking.

Small Business Impact

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

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

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

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** paragraph **12.5(3)"k"**:

k. Career planning and pathways. Instruction in career planning and pathways pursuant to Iowa Code section 256.11(3)*"a"*(11) as enacted by 2025 Iowa Acts, House File 316, is to be offered in grades five and six. This paragraph does not apply to accredited nonpublic schools.

ITEM 2. Amend paragraph **12.5(4)"i"** as follows:

i. Career ~~education~~ instruction, exploration, and development. Career ~~education~~ instruction, exploration, and development will include ~~exploration of employment opportunities, experiences in career decision making, and experiences to help students integrate work values and work skills into their lives~~ content specified in Iowa Code section 256.11(4)*"a"*(7) as enacted by 2025 Iowa Acts, House File 316. This paragraph does not apply to nonpublic schools. However, nonpublic schools will comply with subrule 12.5(7).

ITEM 3. Amend subparagraph **12.8(1)"h"(2)** as follows:

(2) ~~For the school year beginning July 1, 2018, and each succeeding school year, the~~ The statewide summative assessment referred in this paragraph is to meet all of the following provisions:

1. and 2. No change.

3. The assessment will be available for administration in both paper-and-pencil and computer-based formats and include assessments in mathematics, science, and English language arts, including reading and writing. For students receiving instruction primarily over the Internet from a school district, accredited nonpublic school, or charter school, a school or school district may administer any state-required assessment remotely pursuant to the terms of Iowa Code section 256.7(21)*"b"*(2)(e) as enacted by 2025 Iowa Acts, House File 190.

4. and 5. No change.

ITEM 4. Adopt the following **new** subrule 14.2(4):

14.2(4) *Seizure training and response.*

a. Each school district, accredited nonpublic school, or charter school shall adopt policies and implement seizure action plan and training requirements contained in Iowa Code section 280.13D as enacted by 2025 Iowa Acts, House File 835.

b. The state board of education shall adopt a seizure education program, which is to be consistent with standards of the Epilepsy Foundation of America. The department will post materials on the department's Internet site, educate.iowa.gov. Materials beyond what is required by paragraph 14.2(4)*"a"* are voluntary.

ITEM 5. Amend rule 281—36.2(280) as follows:

281—36.2(280) Registered organizations.

36.2(1) Organizations registered with the department include the following:

~~**36.2(1)**~~ *a.* Iowa High School Athletic Association (hereinafter association).

~~**36.2(2)**~~ *b.* Iowa Girls' High School Athletic Union (hereinafter union).

~~**36.2(3)**~~ *c.* Iowa High School Music Association (hereinafter music association).

~~**36.2(4)**~~ *d.* Iowa High School Speech Association (hereinafter speech association).

~~**36.2(5)**~~ *e.* Unified Iowa High School Activities Federation (hereinafter federation).

36.2(2) Organizations identified in paragraphs 36.2(1)*"a"* and *"b"* may sponsor interscholastic competitions related to robotics.

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapters 12 and 32
"Civics Examination"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.7 and 259A.5
State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, Senate File 369

Public Hearing

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

September 9, 2025 9 to 10 a.m.	Room B-50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements the civics examination as a graduation requirement beginning on July 1, 2026.

Analysis of Impact

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

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

There are no costs of this proposed rulemaking.

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

Schools will benefit from the clarity of this proposed rulemaking.

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

- **Quantitative description of impact:**

There is no quantitative impact noted.

- **Qualitative description of impact:**

Those governed by this proposed rulemaking will be qualitatively benefited by increased clarity.

3. **Costs to the State:**

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

Aside from those disclosed in the Fiscal Note for this legislation, there are no costs noted or anticipated.

- **Anticipated effect on State revenues:**

There is no effect noted or anticipated.

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

Rulemaking is required to implement 2025 Iowa Acts, Senate File 369.

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

The circumstances require rulemaking.

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:**

The circumstances require rulemaking.

Small Business Impact

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

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

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

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend subrule 12.5(5) as follows:

12.5(5) *High school program, grades 9 through 12.* In grades 9 through 12, a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule 12.5(13). The following will be offered and taught as the minimum program as referenced in Iowa Code section 256.11(5). All students in schools and school districts shall satisfactorily complete requirements as referenced in Iowa Code sections 256.7(26), 256.11(5)*"b"* and *"g,"* and 256.11(6) *"c,"* and, for the school year commencing July 1, 2026, section 280.9A(1A) as enacted by 2025 Iowa Acts, Senate File 369, in order to graduate. It is locally determined how to incorporate the content specifications into relevant standards and benchmarks.

In implementing the high school program standards, the following curriculum standards apply:

a. to *l.* No change.

ITEM 2. Amend rule **281—32.1(259A)**, definition of "High school equivalency diploma," as follows:

"High school equivalency diploma" means the credential granted by the department to adults who did not graduate from high school and are unable to receive a high school diploma through traditional means but who are able to demonstrate attainment of the knowledge, skills, and abilities that are equivalent to those that would be attained in a high school program of study pursuant to this chapter.

Commencing July 1, 2026, an adult must pass the examination described in Iowa Code section 280.9A(1A) as enacted by 2025 Iowa Acts, Senate File 369, to receive this credential.

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapters 14 and 21
"Notification of Religious Exemptions to Vaccine Requirements"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.7 and 260C.49
State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, House File 299

Public Hearing

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

September 9, 2025 1 to 2 p.m.	Room B-50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements the requirements of 2025 Iowa Acts, House File 299, regarding notification of religious exemptions to vaccine requirements.

Analysis of Impact

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

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

There are no costs of this proposed rulemaking.

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

Schools and community colleges will benefit from the clarity of this proposed rulemaking.

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

- **Quantitative description of impact:**

There is no quantitative impact noted.

- **Qualitative description of impact:**

Those governed by this proposed rulemaking will be qualitatively benefited by increased clarity.

3. **Costs to the State:**

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

There are no costs noted or anticipated.

- **Anticipated effect on State revenues:**

There is no effect noted or anticipated.

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

Rulemaking is required to implement this legislation.

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

The circumstances require rulemaking.

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:**

The circumstances require rulemaking.

Small Business Impact

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

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

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

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** subrule 14.2(4):

14.2(4) *Information regarding vaccinations.* In any communication to a parent or guardian regarding immunizations, a school district, accredited nonpublic school, or charter school will comply with Iowa Code section 256.7(15) as enacted by 2025 Iowa Acts, House File 299.

ITEM 2. Adopt the following **new** paragraph **21.62(9)"f"**:

f. A policy in compliance with Iowa Code section 260C.14(26) as enacted by 2025 Iowa Acts, House File 299, regarding any communication to students relating to immunization requirements.

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapter 37
"Extracurricular Athletic Activity Conference for Member Schools"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 280.13D as enacted by 2025 Iowa Acts, House File 783

State or federal law(s) implemented by the rulemaking: Iowa Code section 280.13D as enacted by 2025 Iowa Acts, House File 783

Public Hearing

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

September 9, 2025 1 to 2 p.m.	Room B-50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements the requirements of 2025 Iowa Acts, House File 783 (House File 783), establishing a committee for alignment and membership of extracurricular activities conferences. The proposed rules add additional operational detail to House File 783.

Analysis of Impact

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

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

It is assumed that the members of the committee established by Iowa Code section 280.13D as enacted by House File 783 will bear their own expenses or will be reimbursed by their employers.

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

Schools and athletes will benefit from the clarity of this proposed rulemaking.

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

- **Quantitative description of impact:**

There is no quantitative impact noted.

- **Qualitative description of impact:**

Those governed by this proposed rulemaking will be qualitatively benefited by increased clarity.

3. **Costs to the State:**

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

It is assumed that the members of the committee established by Iowa Code section 280.13D as enacted by House File 783 will bear their own expenses or will be reimbursed by their employers.

- **Anticipated effect on State revenues:**

There is no effect noted or anticipated.

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

Rulemaking is required to implement this legislation.

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

The circumstances require rulemaking.

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:**

The circumstances require rulemaking.

Small Business Impact

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

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

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

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 281—Chapter 37 and adopt the following **new** chapter in lieu thereof:

CHAPTER 37
EXTRACURRICULAR ATHLETIC ACTIVITY
CONFERENCE FOR MEMBER SCHOOLS

281—37.1(280) General. It is the policy of the state of Iowa that each school desiring to be a member of a conference providing extracurricular athletic contests and competitions for students is granted this opportunity. For purposes of this chapter, "member school" means a nonpublic school or school district granted such status by any corporation, association, or organization registered with the state department of education pursuant to Iowa Code section 280.13 and includes associate members. For purposes of this chapter, "school district" includes a public charter high school.

37.1(1) *Initial responsibility.* The initial authority and responsibility for conference development, membership, and alignment rests with the board of directors of each public school district and the authorities in charge of each nonpublic school.

37.1(2) *Definitions.* For purposes of this chapter, the definitions in Iowa Code section 280.13D(1) as enacted by 2025 Iowa Acts, House File 783 (House File 783), apply.

37.1(3) *Policies.* Each organization subject to this chapter will establish policies to implement Iowa Code section 280.13D as enacted by House File 783.

281—37.2(280) Conference realignment committee.

37.2(1) *General.* A conference realignment committee (committee) is established pursuant to Iowa Code section 280.13D as enacted by House File 783.

37.2(2) *Duties and powers.* The committee has the duties and powers specified in Iowa Code section 280.13D as enacted by House File 783.

37.2(3) *Membership.* The committee will have the membership described in Iowa Code section 280.13D(2)*"a"*(2) as enacted by House File 783. Each area education agency, according to boundaries existing on July 1, 2025, will be represented by one superintendent of a school district or equivalent leader of a nonpublic school and one activities director. Members serve four-year terms and are eligible for reappointment once.

37.2(4) *Appointment of members.* The executive directors of the two organizations make appointments to the committee, including filling vacancies. The executive directors of the two organizations will initially divide committee memberships into two cohorts and alternate making appointments to each cohort every four-year cycle. Each cohort will contain at least one representative of a nonpublic school.

37.2(5) *Committee operations.*

a. The executive directors of the two organizations will provide staffing support to the committee, including recommendations on committee agenda items.

b. The committee is subject to Iowa Code chapters 21 and 22.

c. A quorum for the committee is ten members.

d. The committee may adopt bylaws consistent with this chapter.

281—37.3(280) Appeal to the director of the Iowa department of education. A member school may appeal a committee's decision to the director of the Iowa department of education within 60 days of the date of the decision. The director will receive the records of the committee, and no new evidence will be permitted, except for good cause shown. The committee's decision is presumed correct, and the appellant has the burden of demonstrating the committee's decision is based on a failure to follow the processes and standards set out in Iowa Code section 280.13D as enacted by House File 783, on factual findings that have no evidentiary basis, or on legal conclusions that are manifestly erroneous. The director may refer the matter to an administrative law judge for a proposed decision. The director's decision is due within 60 days of the date of the appeal.

These rules are intended to implement Iowa Code section 280.13D as enacted by House File 783.

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapters 41 and 120
"Role of Foster Parents as Special Education Decision-Makers"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256B.3
State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, House File 644

Public Hearing

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

September 9, 2025 9 to 10 a.m.	Room B-50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
Grimes State Office Building
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Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking updates the State Board of Education's rules concerning the role of foster parents as special education decision-makers. This proposed rulemaking harmonizes provisions of 2025 Iowa Acts, House File 644, with federal law.

Analysis of Impact

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

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

There are no costs of this proposed rulemaking.

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

Schools, the Department of Health and Human Services (HHS), and foster parents will benefit from the clarity of this proposed rulemaking.

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

- **Quantitative description of impact:**

There is no quantitative impact noted.

- **Qualitative description of impact:**

Those governed by this proposed rulemaking will be qualitatively benefited by increased clarity.

3. **Costs to the State:**

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

There are no costs noted or anticipated.

- **Anticipated effect on State revenues:**

There is no effect noted or anticipated.

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

Rulemaking is required to implement 2025 Iowa Acts, House File 644.

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

The circumstances require rulemaking.

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:**

The circumstances require rulemaking.

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

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

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend paragraph **41.30(1)"b"** as follows:

b. A foster parent, ~~unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent~~ if the foster parent is otherwise qualified under this rule or is appointed to serve as a parent under this chapter by the Iowa department of health and human services;

ITEM 2. Amend paragraph **120.27(1)"b"** as follows:

b. A foster parent, ~~unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent~~ if the foster parent is otherwise qualified under this rule or is appointed to serve as a parent under this chapter by the Iowa department of health and human services;

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapter 41
"Process for Out-of-State Placements for Children with Disabilities"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256B.3
State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, House File 787

Public Hearing

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

September 9, 2025 9 to 10 a.m.	Room B-50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements Division III of 2025 Iowa Acts, House File 787, which creates a new process for out-of-state placements for children with disabilities when such placements are not ordered by a court or required by federal or State special education law.

Analysis of Impact

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

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

There are no costs of this proposed rulemaking.

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

Schools, the Department of Health and Human Services (HHS), and families will benefit from the clarity of this proposed rulemaking as well as the fiscal mechanism created by the underlying statute.

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:**

HHS estimates that roughly ten children per year will be assisted by this statute and proposed rulemaking.

- **Qualitative description of impact:**

Those governed by this proposed rulemaking will be qualitatively benefited by increased clarity.

3. **Costs to the State:**

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

Costs to schools in excess of funding generated by Iowa Code chapter 256B will be paid before foundation aid under Iowa Code chapter 257 is distributed to schools.

- **Anticipated effect on State revenues:**

There is no effect noted or anticipated.

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

Rulemaking is required to implement this statute.

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

The circumstances require rulemaking.

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:**

The circumstances require rulemaking.

Small Business Impact

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

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

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

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** subrule 41.116(8):

41.116(8) *Out-of-state placements pursuant to Iowa Code section 282.35.* A school district is responsible for the educational cost of an educational placement made pursuant to Iowa Code section 282.35 as enacted by 2025 Iowa Acts, House File 787. A school district's financial responsibility only arises upon compliance by the out-of-state facility or provider with this subrule. Any placement under this subrule must comply with subrule 41.116(6). Any dispute between Iowa school districts regarding financial responsibility under this subrule will be summarily resolved by the department.

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapter 102
"Procedures for Charging and Investigating Incidents of Abuse of Students by School Employees"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 280.17 as amended by 2025 Iowa Acts, Senate File 659

State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, Senate File 659

Public Hearing

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

September 9, 2025 9 to 10 a.m.	Room B-50 Grimes State Office Building Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements the provisions of 2025 Iowa Acts, Senate File 659, that transfer the responsibility to investigate allegations of abuse by school employees from schools to the Department of Health and Human Services.

Analysis of Impact

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

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

There are no identified costs of this proposed rulemaking.

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

Schools will benefit from the clarity of this proposed rulemaking.

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

- **Quantitative description of impact:**

There is no quantitative impact noted.

- **Qualitative description of impact:**

Those governed by this proposed rulemaking will be qualitatively benefited by increased clarity.

3. **Costs to the State:**

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

There are no costs identified or anticipated.

- **Anticipated effect on State revenues:**

There is no effect noted or anticipated.

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

Rulemaking is required to implement this legislation.

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

The circumstances require rulemaking.

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:**

The circumstances require rulemaking.

Small Business Impact

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

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

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

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** division heading before rule **281—102.1(280)**:

DIVISION I
INVESTIGATIONS BEGUN ON OR BEFORE JUNE 30, 2025

ITEM 2. Adopt the following **new** division heading before rule **281—102.15(232E,280)**:

DIVISION II
MATTERS OCCURRING ON OR AFTER JULY 1, 2025

ITEM 3. Adopt the following **new** rules 281—102.15(232E,280) to 281—102.18(232E,280):

281—102.15(232E,280) General.

102.15(1) The board of directors of a public school district and the authorities in charge of a nonpublic school shall comply with Iowa Code chapter 232E as enacted by 2025 Iowa Acts, Senate File 659 (Senate File 659), and any rules adopted by the department of health and human services to implement Iowa Code chapter 232E as enacted by Senate File 659 and cooperate with the department of health and human services during an investigation commenced under Iowa Code chapter 232E as enacted by Senate File 659, including providing access to student records and making students and

staff available for interviews. For the purposes of this chapter, "public school district" includes a charter school authorized under Iowa Code chapter 256E or 256F.

102.15(2) Iowa Code chapter 232E as enacted by Senate File 659 as well as any rules adopted by the department of health and human services are incorporated by this reference.

281—102.16(232E,280) Duty to report alleged abuse. In addition to any other reporting obligations, if any school employee has reason to believe that any school employee committed student abuse, the school employee with such reason to believe is obligated to report the alleged abuse in a manner required by Iowa Code chapter 232E as enacted by Senate File 659.

281—102.17(232E,280) Termination of school employee.

102.17(1) The board of directors of a public school district or the authorities in charge of a nonpublic school shall terminate the employment of a school employee if the board of directors or authorities in charge receive a written investigation report under Iowa Code section 232E.2(5) as enacted by Senate File 659 indicating the department of health and human services has determined the school employee committed student abuse, after exhaustion of any appeal rights that the school employee has under Iowa Code chapter 232E as enacted by Senate File 659.

102.17(2) If the provisions under Iowa Code chapter 279 apply to a termination under subrule 102.17(1), those provisions remain applicable; however, a finding under subrule 102.17(1) is conclusive on the issue of whether the employee committed student abuse.

281—102.18(232E,280) Rules of construction.

102.18(1) Nothing in this chapter is to be construed as limiting the authority of a public school district or the authorities in charge of a nonpublic school to the procedures set forth in Iowa Code chapter 232E as enacted by Senate File 659.

102.18(2) Nothing in this chapter is to be construed as limiting the authority of a public school district or the authorities in charge of a nonpublic school in circumstances where the department of health and human services does not make a finding of abuse.

ITEM 4. Amend **281—Chapter 102**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 280.17 as amended by Senate File 659 and chapter 232E as enacted by Senate File 659.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapter 9
"Iowa Comprehensive Plan"

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

September 9, 2025 8:45 a.m.	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Homeland Security and Emergency Management 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 9 and adopt a new chapter in lieu thereof. The proposed chapter describes the structure and guidelines in which local emergency management is administered throughout the State.

The new chapter omits language that is overly restrictive or obsolete and, as a result, is a shorter 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 well-planned emergency management 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 qualifies for various federal funding programs through the Robert T. Stafford Act because of the documented Iowa Comprehensive Plan. Much of this funding is passed through to local jurisdictions. Without these plans, Iowa would be ineligible for various federal funding programs.

- **Qualitative description of impact:**

Well-documented emergency planning is integral to emergency preparedness, response, and recovery. Countless lives are saved and damage to property is prevented by an all-hazards emergency response, recovery, and hazard mitigation plan. This proposed chapter outlines the State's response to disasters. These proposed rules lay out the baseline for local emergency management programs so that local jurisdictions are well-prepared, able to respond, and capable of assisting in the recovery from disasters.

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 aside from the staff time to manage and maintain the plans.

- **Anticipated effect on State revenues:**

There are no anticipated effects on State revenues. However, by having these rules in place, Iowa becomes eligible for federal funding assistance.

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

This proposed rulemaking ensures the State is prepared and able to respond and recover from disasters. Inaction could lead to death, loss of property, and devastated communities. Not implementing these rules would lead to federal funding disqualification.

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

The Department proposes these rules as the least intrusive and prescriptive method for achieving the purpose of the proposed rulemaking. 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:**

There were no alternative methods that 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 little to no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
IOWA COMPREHENSIVE PLAN

605—9.1(29C) Description and public access.

9.1(1) Iowa Code section 29C.8 requires the director of the homeland security and emergency management department to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigation, and emergency resource management for the state. This comprehensive plan is comprised of the following parts:

a. Iowa Emergency Response Plan.

b. Iowa Hazard Mitigation Plan.

c. Iowa Disaster Recovery Plan.

d. Iowa Critical Asset Protection Plan (confidential per Iowa Code section 22.7, Confidential records).

9.1(2) Digital copies of plans referenced in paragraphs 9.1(1)*"a"* through *"c"* will be provided to the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.

9.1(3) Plans referenced in paragraphs 9.1(1)*"a"* through *"c"* shall be distributed to state agencies and departments that have been assigned emergency functions and to all local emergency management agencies.

9.1(4) Plans referenced in paragraphs 9.1(1)*"a"* through *"c"* shall be available for public viewing at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

605—9.2(29C) Iowa Emergency Response Plan. The Iowa Emergency Response Plan is developed in accordance with Iowa Code section 29C.8 and has been adopted, published, and maintained by the department. This plan details the state government response to a wide range of natural, technological or human-caused disasters. The Iowa Emergency Response Plan serves as the state disaster emergency response document.

605—9.3(29C) Iowa Hazard Mitigation Plan. The Iowa Hazard Mitigation Plan was developed in accordance with Iowa Code section 29C.8 and was adopted on September 18, 2023, and published, and has been maintained by the department. This plan details the state government's goals, objectives, and strategies to mitigate a wide range of natural, technological, or human-caused disasters in accordance with Section 322 of the Stafford Act, 42 U.S.C. 5165 as of October 1, 2025.

9.3(1) The Iowa Hazard Mitigation Plan serves as the state hazard mitigation document and demonstrates the state's commitment to reduce risks from natural, technological, and human-caused hazards and serves as a guide for the commitment of resources to reducing the effects of natural, technological, and human-caused hazards.

9.3(2) The Iowa Hazard Mitigation Plan shall be reviewed and amended as appropriate at a minimum of every five years.

605—9.4(29C) Iowa Disaster Recovery Plan. The Iowa Disaster Recovery Plan was developed in accordance with Iowa Code section 29C.8 and was adopted on September 17, 2018, and published, and has been maintained by the department. This plan details the state government's goals, objectives,

and strategies to recover from a wide range of natural, technological, or human-caused disasters. The Iowa Disaster Recovery Plan serves as the state disaster recovery document.

These rules are intended to implement Iowa Code section 29C.8.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapter 16
"Natural Hazard Mitigation Financing Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 29D as enacted by 2025 Iowa Acts, Senate File 619

State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, Senate File 619

Public Hearing

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

September 9, 2025 9:15 a.m.	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of 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 2025 Iowa Acts, Senate File 619 (Senate File 619), the Department proposes a new Chapter 16. The proposed chapter describes the structure and guidelines under which the Natural Hazard Mitigation Financing Program, described in Iowa Code chapter 29D as enacted by Senate File 619, will be implemented.

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 have the opportunity to benefit from a well-run and documented Natural Hazard Mitigation Financing 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 received notice of approval for $17.4 million in federal funding in the form of a revolving loan fund called the Safeguarding Tomorrow Revolving Loan Fund (STRLF). The STRLF is the seed money for the financing program created in Iowa Code chapter 29D as enacted by Senate File 619 and further implemented in this proposed rulemaking.

- **Qualitative description of impact:**

This revolving loan fund, under the joint administration of the Iowa Finance Authority and the Department, will be able to fund hazard mitigation projects for years to come, potentially saving the State millions in preventative mitigation work.

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. The State match that is associated with the STRLF already has been addressed through Iowa Code section 29C.7 as enacted by Senate File 619.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no direct impact on State revenues. The funds awarded are from the federal government. However, the work that will be done with the loan recipients will potentially save the State from repairing or reconstructing disaster-caused impacts.

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

This proposed rulemaking clarifies and implements the program detailed in Iowa Code chapter 29D as enacted by Senate File 619. Senate File 619 directs the Department to conduct rulemaking.

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

The Department proposes these rules as the least intrusive and prescriptive method for achieving the purpose of the proposed rulemaking.

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

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

There were no alternative methods that 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. Adopt the following **new** 605—Chapter 16:

CHAPTER 16
NATURAL HAZARD MITIGATION PROGRAM

605—16.1(29D) Statutory authority, purpose, and general policy.

16.1(1) *Statutory authority.* The department of homeland security and emergency management (department) and the Iowa finance authority (authority) are jointly designated to administer the natural hazard mitigation financing program, also known as the STRLF. Authority to administer this fund is provided by Iowa Code chapter 29D as enacted by 2025 Iowa Acts, Senate File 619 (Senate File 619), and the federal STORM Act (42 U.S.C. §5135 as of July 1, 2025).

16.1(2) *Purpose.* This chapter provides the definitions and general project and program administration rules for the STRLF program.

16.1(3) *Administration.* The director may coordinate with the authority under the terms of an interagency agreement entered into pursuant to Iowa Code chapter 28E.

16.1(4) *State capitalization grant.* The STORM Act authorizes the administrator of the Federal Emergency Management Agency (FEMA) to offer capitalization grants to states for use in a revolving loan fund program. As allowed by the STORM Act, a portion of the capitalization grant, or of the STRLF itself, if necessary, may be used by the authority and the department to administer the STRLF program.

16.1(5) *Project determination.* A project must comply with this chapter, the IUP current at the time, Iowa Code chapter 29D as enacted by Senate File 619, and the STORM Act to be eligible for a STRLF loan. The department shall use a priority rating system outlined in the IUP to rank eligible projects for funding. STRLF assistance will be available to projects in priority order.

16.1(6) *Decisions.* Department decisions are final unless the loan applicant files a written petition for review with the director. The petition must be addressed to the director and clearly state the decision in question and the basis for the requested review. The loan applicant has the right to appeal a decision pursuant to Iowa Code chapter 17A or to the state court.

605—16.2(29D) Definitions. The definitions and references in Iowa Code section 29D.2 as enacted by Senate File 619 shall apply to this chapter. The following definitions are also applicable to this chapter:

"Fiscal year" means the state fiscal year starting July 1 and ending June 30.

"Intended use plan" or *"IUP"* means a plan identifying the intended uses of funds available for loans in the STRLF for each fiscal year as described in the STORM Act.

"Project proposal list" or *"PPL"* means a priority-ranked list of mitigation projects the department may fund using STRLF funds.

"Safeguarding tomorrow revolving loan fund" or *"STRLF"* means the natural hazard mitigation financing program as defined in Iowa Code chapter 29D as enacted by Senate File 619.

"Safeguarding tomorrow through ongoing risk mitigation Act" or *"STORM Act"* means the same as defined in Iowa Code section 29D.2 as enacted by Senate File 619.

605—16.3(29D) IUP preparation and public participation.

16.3(1) *Development.* The department shall prepare an IUP pursuant to the STORM Act at least annually and on a quarterly basis as needed. The IUP will be available for public input and approved by the director. The public has an opportunity annually, and quarterly as needed, to comment on both the PPL and the IUP.

16.3(2) *Notification.* Reasonable notice of a public comment period will be provided prior to the department submitting the IUP and capitalization grant application materials to FEMA. A public

notice calling for project proposals to be added to the PPL will be provided not less than six weeks prior to the submission of an application for a capitalization grant. All materials relating to the IUP and PPL will be posted at homelandsecurity.iowa.gov.

16.3(3) *Comments.* Comments regarding the proposed IUP will be accepted during the notice period. After evaluation of all pertinent comments, the IUP will be revised, if necessary, and recommended for the director's approval. Subsequent approval by the director will establish the IUP to be used for loan assistance.

605—16.4(29D) IUP contents.

16.4(1) *Status and use of available funds.* In addition to federal requirements, the IUP will identify the anticipated availability and uses of STRLF funds available for that fiscal year, including, at a minimum:

a. The status of the STRLF,

b. A method of prioritizing projects,

c. The anticipated terms of assistance provided by the STRLF, and

d. The anticipated amount of funding available from the STRLF for that fiscal year.

16.4(2) *State PPL.* The state PPL contains the projects eligible for STRLF direct loans. The PPL includes projects scheduled for loans from funds available during the fiscal year and eligible projects for which STRLF funding is not yet available. Projects or activities qualifying for STRLF assistance shall be identified in the IUP on the state PPL, developed pursuant to this chapter, and only those projects or activities may be considered fundable. Projects will be considered in priority order for placement on the fundable list. The PPL will be reviewed at least annually or quarterly as needed to update priorities, schedules, and project cost estimates.

16.4(3) *Timing.*

a. Applications may be submitted on an ongoing basis and will be reviewed in accordance with the schedule in the IUP.

b. Applications received after the IUP is submitted to FEMA will not be placed on the PPL for that quarter but will be considered for loan assistance when the next IUP is prepared.

c. The department may exclude from the PPL any projects that do not meet program requirements at the time of application.

These rules are intended to implement Iowa Code chapter 29D as enacted by Senate File 619.

Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 75
"Conditions of Eligibility"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 249A.3 and 249A.4

State or federal law(s) implemented by the rulemaking: Iowa Code sections 249A.3 and 249A.4 and chapter 514I; Title XIX of the federal Social Security Act; 42 CFR 435 and 457

Public Hearing

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

September 9, 2025 10 a.m.	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. 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

Purpose and Summary

This proposed chapter establishes the conditions of eligibility for the medical assistance program administered by the Department under Iowa Code chapter 249A and addresses related matters. This proposed chapter incorporates changes that were intended to be implemented but not taken up during a five-year review of rules performed in 2022. Those changes include incorporating a modified adjusted gross income (MAGI) methodology based on federal tax rules, implementing portions of the Affordable Care Act, and implementing the concept of reasonable compatibility for verifying resources and income.

This proposed chapter has undergone a Red Tape Review pursuant to Executive Order 10. As a result, the Department has removed restrictive terms, made minor wording changes, removed outdated language, and removed duplicative language where possible. The Department also took this opportunity to restructure the chapter, dividing coverage groups into separate divisions based on categories of coverage.

Finally, this proposed filing also implements sections 18 and 19 of 2025 Iowa Acts, House File 1049, which update the personal needs allowance for participants in the medical assistance program who are residents of facilities. The personal needs allowance was raised from $50 to $55.

Analysis of Impact

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

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

There are no costs associated with this rulemaking.

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

Prospective and current recipients of benefits under the medical assistance programs outlined in Iowa Code chapter 249A will benefit from this proposed rulemaking.

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

- **Quantitative description of impact:**

The most recently available data shows that almost 700,000 individuals are enrolled in medical assistance programs. Each year, the Department receives an average of nearly 225,000 applications for medical assistance, which include both individual and household submissions. Recent program activity reflects that annually there are approximately 139,000 individuals approved for medical assistance at the time of application. Over the same period, the Department generally completes more than one million eligibility approval actions, including both initial approvals and redeterminations that result in continued or transitioned coverage. Additionally, nearly 122,000 eligibility determinations annually result in ineligibility, encompassing both application denials and terminations of existing coverage.

- **Qualitative description of impact:**

Iowans interested in applying for medical assistance will benefit from having guidance on eligibility.

3. **Costs to the State:**

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

The Department incurs personnel and other administrative costs to administer the State's medical assistance programs.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no impact on State revenues; there are no changes to existing eligibility requirements.

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

Not applicable. The proposed rulemaking is scheduled and required under Executive Order 10.

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?

This proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 441—Chapter 75 and adopt the following **new** chapter in lieu thereof:

CHAPTER 75
CONDITIONS OF ELIGIBILITY

DIVISION I
DEFINITIONS, COVERAGE GROUPS, AND GENERAL CONDITIONS OF ELIGIBILITY

441—75.1(249A) Definitions. Unless otherwise specified, the definitions in this rule apply to 441—Chapters 74 through 88.

"Act" means the federal Social Security Act. All references to the Act herein are as amended to August 1, 2025.

"Aged" means a person 65 years of age or older.

"Applicant" means a person who is requesting medical assistance on the person's own behalf or a person for whom medical assistance is requested.

"AVS" or *"asset verification system"* means the use of an electronic asset data source to verify assets held in banks and other financial institutions for non-MAGI.

"Blind" means a person with central visual acuity of 20/200 or less in the better eye with use of corrective lens or visual field restriction to 20 degrees or less.

"Caretaker" means an individual with whom a child is living and who assumes primary responsibility for the child's care. For this purpose, two individuals may be considered to have assumed primary responsibility for a child's care.

"Change in income" means a permanent change in hours worked or rate of pay, any change in the amount of unearned income, or the beginning or ending of any income.

"Child" means a natural or biological child, or an individual legally recognized as the child of a parent based on the conception, gestation, or birth of the child during a legal marriage; an adoptive child; or a child of an individual's spouse (stepchild) unless parental rights have been legally terminated.

"Client" means all of the following:

1. A Medicaid applicant;
2. A Medicaid member;
3. A person whose income or assets are considered in determining eligibility for an applicant or member.

"Code of Federal Regulations" or *"CFR"* means the United States Code of Federal Regulations. All references to the CFR herein are as amended to August 1, 2025, unless another effective date is specified.

"Community spouse" means a noninstitutionalized spouse of an institutionalized spouse.

"Conditionally eligible" means that a person has been assigned but not met spenddown as defined in subrule 75.8(1), or has been assigned a monthly premium but has not yet paid the premium for that month pursuant to subparagraph 75.6(6)*"b"*(4).

"Coverage group" means a group of persons who meet certain common eligibility requirements.

"Dependent child" or *"dependent children"* means a child or children who meet the nonfinancial eligibility requirements of the applicable family-related coverage group.

"Electronic data sources" or *"EDS"* means federal and state data sources with which the department conducts data matches for the purpose of determining eligibility. Federal data sources include the Internal Revenue Service (IRS), the Social Security Administration (SSA) and the United States Department of Homeland Security. State data sources include Iowa workforce development (IWD) wage and unemployment compensation, SSA, IRS, and the Public Assistance Reporting Information System (PARIS).

"Family-related Medicaid" includes coverage groups that apply to children, parents and caretakers and pregnant women who are not aged, blind or disabled.

"Federal poverty level" or *"FPL"* means the levels published and updated periodically in the Federal Register by the United States Department of Health and Human Services (DHHS) under the authority of 42 U.S.C. 9902(2) and revised annually on April 1.

"General conditions of eligibility" means the eligibility criteria specified in the following provisions:

1. Rule 441—75.9(249A): furnishing of social security number.
2. Rule 441—75.10(249A): residency requirements.
3. Rule 441—75.11(249A): citizenship or alienage requirements.
4. Rule 441—75.14(249A): establishing liability and obtaining support.
5. Rule 441—75.15(249A): medical resources.
6. Rule 441—75.16(249A): medical assistance lien.
7. Rule 441—75.29(249A): investigation of eligibility.

"Income in-kind" means any gain or benefit that is not in the form of money payable directly to the applicant, member, or person whose income or assets are considered in determining eligibility for an applicant or member, including nonmonetary benefits such as meals, clothing, and vendor payments. Vendor payments are monetary payments to a third party and not to the applicant, member, or person whose income is considered in determining eligibility.

"Institutionalized person" means a person who is an inpatient in a nursing facility or a Medicare-certified skilled nursing facility, who is an inpatient in a medical institution and for whom payment is made based on a level of care provided in a nursing facility, or who is a person described in subrule 75.6(8).

"Institutionalized spouse" means a married person living in a medical institution, or nursing facility, or home- and community-based waiver setting who is likely to remain living in these circumstances for at least 30 consecutive days and whose spouse is not in a medical institution or nursing facility.

"Local office" means the county office of the department or a state mental health institute.

"Medical institution," when used in this chapter, means a facility organized to provide medical care, including nursing and convalescent care, in accordance with accepted standards as authorized by state law and as evidenced by the facility's license. A medical institution may be public or private. Medical institutions include the following:

1. Hospitals.
2. Extended care facilities (skilled nursing).
3. Intermediate care facilities.
4. Mental health institutions.

"Member" means any person who has been determined eligible and has been enrolled to receive medical assistance pursuant to 441—Chapter 75. "Member" may be used interchangeably with "recipient." This definition does not apply to the phrase "household member." For the medically needy program, "member" means a person who has been determined eligible for Medicaid under the medically needy program, has been approved, and has countable income at or below the medically needy income level (MNIL) or has reduced the person's countable income to the MNIL during the

certification period through spenddown. Unless otherwise specified, a person is not a member for any month in which Medicaid for that person is subject to recoupment because the person was ineligible.

"Modified adjusted gross income" or *"MAGI"* means the tax-based methodology used to determine income eligibility and household size for family-related Medicaid and other coverage groups as prescribed by 1902(e)(14) of the Act (42 U.S.C. 1396a(e)(14) and 42 CFR 435.603).

"Non-MAGI-related" means those persons whose eligibility is determined using regulations governing the supplemental security income (SSI) program administered by the SSA, except that income is considered prospectively. "Non-MAGI-related" also includes persons who would be eligible for SSI except for certain eligibility factors as specified in rule 441—75.6(249A).

"Nursing facility services" means the level of care provided in a medical institution licensed for nursing services or skilled nursing services for the purposes of rules 441—75.23(249A) and 441—75.85(249A).

"Parent" means a natural or biological parent, or an individual legally recognized as the parent of a child based on the conception, gestation, or birth of the child during a legal marriage; an adoptive parent; or the spouse of another parent (stepparent) unless parental rights have been legally terminated.

"Pay and chase" means that the state pays the total amount allowed under the department's payment schedule and then seeks reimbursement from a liable third party. The pay and chase provision applies to Medicaid claims for preventive pediatric services and all services provided to a person for whom there is court-ordered medical support.

"Payee" refers to an SSI payee as defined in 20 CFR 416.601.

"Presumptive eligibility" means that a person is presumed to be eligible for Medicaid on a temporary basis based on statements provided by the person.

"Presumptive Medicaid" means immediate and temporary health care coverage based on a presumptive eligibility decision to pay for the cost of care during the presumptive period as described in subrule 75.7(4).

"Presumptive provider" means an organization approved by the department to conduct and authorize presumptive eligibility determinations pursuant to 441—subrule 76.7(1).

"Qualified entity" means an individual, under the supervision and authority of a presumptive provider, who has been determined by the department to be capable of making presumptive Medicaid eligibility determinations pursuant to 441—subrule 76.7(2).

"Reasonably compatible" or *"reasonable compatibility"* means the standard by which the total attested countable income or resources for each person's household size is compared with the total amount from available EDS or AVS used by the department. Attested income or resources must meet one of the following three criteria to meet the standards for reasonable compatibility:

1. Both the total attested income or resources and the total income or resources from the EDS or AVS are above, at, or below the applicable income or resource limit for Medicaid or hawki; or
2. The total attested income is within 10 percent of the total income from EDS or the total resources are below the resource limit for the applicable program; or
3. The total attested income or resources exceeds the total income or resources from EDS or AVS.

If the attested income or resources meet any of the reasonable compatibility criteria, the income or resources are considered to be verified.

"Reasonable opportunity period" means the 90-day period allowed for applicants and members to provide satisfactory documentation of citizenship, nationality, or qualified alien status pursuant to subparagraph 75.11(2)*"c"*(4).

"Refugee" means the same as defined in 8 U.S.C. §1101(a) INA 101 (a)(42).

"Retroactive period" means the three calendar months immediately preceding the month in which an application is filed.

"Sibling" means an individual who shares at least one common parent with another individual.

"Spouse" means a party to a legally recognized marriage, including a common-law marriage.

"Stepparent" means a person who is not the parent of the dependent child, but is the legal spouse of the dependent child's parent. A stepparent is considered a parent under a coverage group that is subject to MAGI methodology pursuant to 42 CFR 435.603.

"Supply" or *"supplying"* means the requested information is received by the department by the specified due date.

"Tax dependent" means an individual who can be claimed by another individual as a dependent for federal income tax purposes.

"Transfer of assets" means the transfer of resources or income for less than fair market value as provided in rule 441—75.23(249A).

"Unborn child" includes an unborn child during the entire term of pregnancy.

"United States Code" or *"U.S.C."* means the general and permanent laws of the United States. All references to the U.S.C. herein are as amended to August 1, 2025, unless another effective date is specified.

441—75.2(249A) Categories of persons covered. Persons who meet the criteria of one of the categorical groups below receive Medicaid if they meet the eligibility requirements of a related coverage group described in rules 441—75.3(249A) through 441—75.8(249A) and the general conditions of eligibility described within this chapter.

75.2(1) *Family-related Medicaid.* Medicaid is available to the following categories of persons who meet the eligibility requirements of one of the family-related Medicaid coverage groups described in rule 441—75.3(249A), the general conditions of eligibility specified in Division I of this chapter, and the eligibility factors specific to family-related medical assistance described in Division II of this chapter unless stated otherwise within this chapter:

a. Children under the age of 19.

b. Parents and caretakers.

c. Pregnant women.

d. Persons in foster care, a subsidized adoption arrangement, or subsidized guardianship.

e. Former foster care youth.

f. Persons living in a medical institution.

75.2(2) *Persons who need breast or cervical cancer treatment.* Pursuant to rule 441—75.4(249A), Medicaid is available to persons who have been screened and found to need treatment for breast or cervical cancer.

75.2(3) *Persons aged 19 through 64.* Medicaid is available to persons who are aged 19 or older and under the age of 65 who meet the eligibility requirements of the Iowa health and wellness plan (IHAWP) as described in subrule 75.5(1) and 441—Chapter 74.

75.2(4) *Persons who are refugees.* Medicaid is available to refugees who meet the requirements described in subrules 75.5(3) and 75.5(4) and who do not meet the requirements of another Medicaid coverage group or hawki.

75.2(5) *Aged, blind, or disabled persons.* The following coverage groups are available to persons who are aged, blind, or disabled and who meet the eligibility criteria of a coverage group described in rule 441—75.6(249A) and the general conditions of eligibility specified in this chapter:

a. Persons receiving SSI or state supplementary assistance or eligible for, but not receiving, SSI.

b. Aged, blind or disabled persons ineligible for SSI or state supplementary assistance due to income or other requirements.

c. Certain persons essential to the welfare of an aged, blind, or disabled person.

d. Persons residing in a medical institution.

e. Persons participating in Medicare savings programs.

f. Working persons with disabilities.

g. Children with disabilities.

h. Persons who may be eligible for additional services that are not available through regular Medicaid, and a waiver of federal policy has been approved. These are known as waiver services and are defined in 441—Chapter 83.

441—75.3(249A) Family-related Medicaid. Medicaid will be available to children, parents and other caretakers and to pregnant women who meet the eligibility requirements of a coverage group described within this rule and the general conditions of eligibility described in this chapter.

75.3(1) *Family medical assistance program (FMAP).* Medicaid will be available to low-income children and to the children's parent or other caretaker if the following criteria are met:

a. Children must meet the requirements described in rule 441—75.50(249A), and the parent or other caretaker must meet the requirements described in rule 441—75.51(249A).

b. Countable household income must not exceed the FMAP limits prescribed in rule 441—75.74(249A). Financial eligibility will be determined according to MAGI methodology pursuant to Division III of this chapter.

75.3(2) *Pregnant women, infants, and children (mothers and children (MAC)).* Medicaid will be available to pregnant women, infants (under one year of age), and children who have not attained the age of 19 if the following criteria are met.

a. Income.

(1) Household income must not exceed the applicable limits for the MAC program as stated in rule 441—75.74(249A).

(2) In establishing eligibility for pregnant women, infants, and children, income and household size will be determined pursuant to rule 441—75.72(249A).

(3) In establishing eligibility for a pregnant woman or any person whose MAGI household size includes a pregnant woman, the unborn child (or children) will be considered when determining the number of persons in the household. Attestation of pregnancy will be accepted in accordance with subrule 75.72(5).

b. Eligibility for pregnant women under this rule will begin no earlier than the first day of the month in which conception occurred and will continue throughout the pregnancy when requirements described in rule 441—75.18(249A) are met.

c. The effect of age on eligibility for an infant or a child will be determined pursuant to rule 441—75.52(249A).

d. When determining eligibility under this coverage group, the requirement to live with a parent or other caretaker as specified at subrule 75.50(2) and the age and school attendance provisions specified in subrule 75.50(1) do not apply.

e. A woman who was both eligible and enrolled in Medicaid on the date her pregnancy ends will be entitled to receive Medicaid through the postpartum period in accordance with subrule 75.3(4).

f. If an infant loses eligibility under this coverage group at the time of the first birthday due to exceeding the income limit for children or if a child loses eligibility at the time of the nineteenth birthday, but the infant or child is receiving inpatient services in a medical institution, Medicaid will continue under this coverage group for the duration of continuous inpatient services.

75.3(3) *Newborn children.* Medicaid will be available without an application to newborn children of women who are determined eligible for Medicaid for the month of the child's birth or for emergency services for labor and delivery for the child's birth. Eligibility begins with the month of the birth and continues through the month of the first birthday as long as the child remains an Iowa resident.

a. The department will accept any written or verbal statement as verification of the newborn's birth date unless the department determines the birth date is questionable.

b. In order for Medicaid to continue after the month of the first birthday, a redetermination of eligibility must be completed.

75.3(4) *Postpartum eligibility following pregnancy.* Medicaid will continue to be available for a period of 12 months beginning the first of the month following the end of pregnancy and continuing

for 12 months for a woman who was both eligible and enrolled in Medicaid on the date her pregnancy ends.

a. Except as described in this subrule, the woman is not required to meet any eligibility criteria described in this chapter or the reenrollment requirements in rule 441—76.14(249A) during the 12-month postpartum period.

b. The woman will not be required to file an application.

c. Pregnant women determined eligible only for emergency services pursuant to subrule 75.11(4) are eligible under this provision.

75.3(5) *Healthy and well kids in Iowa (hawki).* Hawki will be available to children under the age of 19 who are not eligible for Medicaid and who meet the provisions of 441—Chapter 86.

75.3(6) *Transitional Medicaid.*

a. Eligible persons. Transitional Medicaid will be available for a period of up to 12 months to the following persons:

(1) A dependent child who becomes ineligible for FMAP due to increased income from employment of the dependent child or the child's parent or other caretaker;

(2) The child's parent or caretaker who becomes ineligible for FMAP due to increased income from employment of the dependent child or the child's parent or other caretaker; and

(3) The following household members of persons described in subparagraph 75.3(6)*"a"*(1) or *"a"*(2) who currently meet all FMAP requirements, except for income:

1. Persons who were in the home prior to FMAP discontinuance but did not receive FMAP at the time; and

2. Persons who entered the home prior to FMAP discontinuance or during the transitional Medicaid period.

b. Increase in income from employment. Increased income from employment includes but is not limited to the following:

(1) Beginning employment.

(2) Increased rate of pay.

(3) Increased hours of employment.

c. Transitional Medicaid and continuous eligibility. Transitional Medicaid eligibility rules supersede continuous eligibility rules for a child as described in rule 441—75.19(249A).

d. FMAP received in three of six months. In order to receive transitional Medicaid coverage under the provisions of this subrule, at least one of the individuals described in subparagraph 75.3(6)*"a"*(1) or *"a"*(2) must have received FMAP during at least three of the six months immediately preceding the month in which ineligibility occurred. The months the member receives FMAP due to continuous eligibility as described in rule 441—75.19(249A) do not count toward the transitional Medicaid requirement of receiving FMAP for at least three of the last six months. If there is an increase in income from employment when a child's continuous eligibility is ending, the child will not be redetermined to the transitional Medicaid coverage group.

e. Period of transitional coverage. The 12 months of transitional Medicaid coverage begin the day following discontinuance of FMAP eligibility and will continue for a consecutive 12-month period without regard to income changes, subject to paragraphs 75.3(6)*"g," "h,"* and *"i."*

f. Reserved.

g. Fraud. Transitional Medicaid will not be allowed under the provisions of this subrule when it has been determined that the member received FMAP in any of the six months immediately preceding the month of discontinuance as the result of fraud. Fraud is defined in accordance with Iowa Code section 239B.14.

h. Eligible child. During the transitional Medicaid period, assistance will be discontinued at the end of the first month in which there is no longer an eligible child living in the household who meets the requirements in rule 441—75.50(249A).

i. Other conditions of eligibility. Members must meet all applicable general conditions of eligibility described in this chapter except for the income limits described in rule 441—75.74(249A).

j. Transitional period ends. Transitional Medicaid will be discontinued beginning with the first month following the month in which the household no longer meets the eligibility criteria. Notice will be provided to the household in accordance with adequate and timely notice provisions as specified in rule 441—16.2(17A).

75.3(7) *Extended Medicaid.*

a. Eligible persons. Extended Medicaid will be available for a period of up to four months to the following individuals:

(1) A dependent child who becomes ineligible for FMAP due to receipt of income from alimony or other spousal support;

(2) The child's parent or caretaker who becomes ineligible for FMAP due to receipt of income from alimony or other spousal support; and

(3) The following household members of persons described in subparagraph 75.3(7)*"a"*(1) or *"a"*(2) who currently meet all FMAP requirements, except for income:

1. Persons who were in the home prior to FMAP discontinuance but did not receive FMAP at the time; and

2. Persons who enter the home prior to FMAP discontinuance or during the extended Medicaid period.

b. FMAP received in three of six months. In order to receive extended Medicaid coverage under the provisions of this subrule, at least one member must have received FMAP during at least three of the six months immediately preceding the month in which ineligibility occurred.

c. Period of extended coverage. The four months of extended Medicaid coverage begins the day following discontinuance of FMAP eligibility and will continue for four consecutive months, subject to paragraph 75.3(7)*"f."*

d. Reserved.

e. Other conditions of eligibility. Members must meet all applicable general conditions of eligibility described in this chapter except for the income limits described in rule 441—75.74(249A).

f. Extended period ends. Extended Medicaid will be discontinued beginning with the first month following the month in which the household no longer meets eligibility criteria. Notice will be provided to the household in accordance with adequate and timely notice provisions as specified in rule 441—16.2(17A).

75.3(8) *Children in foster care, subsidized adoption arrangement, or subsidized guardianship arrangement not eligible under Title IV-E or Title XVI of the Act.* Medicaid will be available to persons under the age of 21 if the following criteria are met:

a. For the child medical assistance program (CMAP), the person is in foster care or a subsidized adoption arrangement in accordance with subparagraph 75.3(8)*"a"*(1), *"a"*(2), or *"a"*(3) and the person is not eligible for assistance under Title IV-E or Title XVI of the Act.

(1) The person is placed in licensed foster care for which the state pays foster care maintenance payments pursuant to Iowa Code section 234.35 and rule 441—156.20(234).

(2) The person is a special needs child in an adoption assistance agreement with the department pursuant to rule 441—201.5(600), regardless of whether the adoption assistance agreement provides for adoption subsidy maintenance payments.

(3) The person is a special needs child who resides in Iowa in a private home with the child's adoptive parent(s) and is in an adoption assistance agreement with another state with which Iowa has a reciprocity agreement as follows:

1. The other state is a member of the interstate compact on adoption and medical assistance (ICAMA); and

2. The other state provides medical assistance benefits pursuant to a program funded under Title XIX of the Act under the optional group in Section 1902(a)(10)(A)(ii)(VIII) of the Act to children residing in that state (at least until aged 18) for whom there is a state adoption assistance agreement in effect with the state of Iowa other than under Title IV-E of the Act.

b. For the subsidized guardianship medically needy program, the person resides in Iowa in a private home pursuant to a court-approved subsidized guardianship arrangement under 441—Chapter 204 and the person is not eligible for assistance under Title IV-E or Title XVI of the Act. As authorized under 42 CFR 435.308, this reasonable classification of individuals is a separate coverage group from the medical assistance available to medically needy persons described in rule 441—75.8(249A).

c. There are no financial eligibility requirements for these coverage groups.

d. The effect of reaching age 21 on the person's eligibility will be determined pursuant to rule 441—75.52(249A).

e. The age requirements and the requirement to live with a parent or other caretaker as provided in rule 441—75.50(249A) do not apply for persons under this coverage group.

75.3(9) *Children in foster care, subsidized adoption arrangement, or subsidized guardianship arrangement and eligible under Title IV-E.*

a. Medicaid will be available to a child under the age of 21 who is eligible under Title IV-E of the Act and for whom any of the following is provided:

(1) Foster care maintenance payments for a child placed in licensed foster care pursuant to Iowa Code section 234.35 and rule 441—156.20(234).

(2) Guardianship assistance pursuant to rule 441—204.4(234), regardless of whether the guardianship assistance agreement provides for guardianship subsidy maintenance payments.

(3) Adoption assistance pursuant to rule 441—201.5(600), regardless of whether the adoption assistance agreement provides for adoption subsidy maintenance payments.

b. IV-E assistance from another state. Medicaid will be available to children under the age of 21 who are eligible for federal foster care maintenance payments, adoption assistance, or guardianship assistance under Title IV-E of the Act from another state and live in Iowa, including children with an adoption or guardianship assistance agreement that does not provide for maintenance payments.

c. There are no financial eligibility requirements for these coverage groups.

d. The effect of reaching age 21 on the person's eligibility will be determined pursuant to rule 441—75.52(249A).

e. The age requirements and the requirement to live with a parent or other caretaker as provided in rule 441—75.50(249A) do not apply for persons under this coverage group.

75.3(10) *State-only funded medical assistance for children in foster care or a subsidized adoption arrangement for whom the department has financial responsibility in whole or in part.*

a. When the department is responsible for foster care maintenance payments for a child placed in licensed foster care pursuant to Iowa Code section 234.35 and rule 441—156.20(234), or has negotiated an adoption assistance agreement pursuant to rule 441—201.5(600) for a child living in a private home regardless of whether the agreement provides for adoption subsidy maintenance payments, state-only funded medical assistance will be available to the child if:

(1) The child is under the age of 21, lives in Iowa, and is not otherwise eligible under a category for which federal financial participation is available; or

(2) The child is under the age of 21, lives in another state, and is not eligible for benefits from the other state pursuant to a program funded under Title XIX of the Act, notwithstanding the residency requirements of 441—75.10(249A).

b. There are no financial eligibility requirements for this coverage group.

c. The effect of reaching the age of 21 on the person's eligibility will be determined pursuant to rule 441—75.52(249A).

d. The age requirements and the requirement to live with a parent or other caretaker as provided in rule 441—75.50(249A) do not apply for persons under this coverage group.

75.3(11) *State-only funded medical assistance for children in a court-approved subsidized guardianship home for whom the department has financial responsibility in whole or in part.*

a. When the department has negotiated a subsidized guardianship agreement for a child pursuant to 441—Chapter 204, state-only funded medical assistance will be available to the child

under this subrule if the child is under the age of 21 and living in a private home pursuant to a court-approved subsidized guardianship agreement if:

(1) The child lives in Iowa and is not eligible for Medicaid under a category for which federal financial participation is available due to reasons other than:

1. Failure to provide information, or
2. Failure to comply with other procedural requirements; or

(2) Notwithstanding the residency requirements of rule 441—75.10(249A), the child lives in another state and is not eligible for benefits from the other state pursuant to a program funded under Title XIX of the Act, due to reasons other than:

1. Failure to provide information, or
2. Failure to comply with other procedural requirements.

b. There are no financial eligibility requirements for this coverage group.

c. The effect of reaching the age of 21 on the person's eligibility will be determined pursuant to rule 441—75.52(249A).

d. The age requirements and the requirement to live with a parent or other caretaker as provided in rule 441—75.50(249A) do not apply for persons under this coverage group.

75.3(12) *Medicaid for former foster care youth (EMIYA).* Medicaid will be available to a person who meets all of the following conditions:

a. The person is at least 18 years of age (or such higher age to which foster care is provided to the person, as provided in paragraph 75.3(12)*"c"*) and under 26 years of age. The effect of reaching the age of 26 on the person's eligibility will be determined pursuant to rule 441—75.52(249A).

b. The person is:

(1) Not described in and is not enrolled under any of subclauses (I) through (VII) of Section 1902(a)(10)(A)(i) of Title XIX of the Act; or

(2) Described in any of such subclauses but has income that exceeds the level of income applicable under Iowa's state Medicaid plan for eligibility to enroll for Medicaid under such subclause.

c. The person was in foster care as defined in Iowa Code section 232.2(20B):

(1) Under the responsibility of Iowa or a tribe within Iowa on the date of attaining 18 years of age or such higher age as described in Iowa Code section 234.1 on or prior to December 31, 2022; or

(2) Under the responsibility of any state on the date of attaining 18 years of age or such higher age as defined under Section 1902(a)(10)(A)(i) of the Act on or after January 1, 2023.

d. The person was enrolled in the Iowa Medicaid program under Title XIX of the Act on the date of attaining 18 years of age or such higher age as described in Iowa Code section 234.1 on or prior to December 31, 2022; or

e. The person was enrolled in Medicaid in any state on the date of attaining 18 years of age or such higher age as defined under Section 1902(a)(10)(A)(i) of the Act on or after January 1, 2023.

f. There are no financial eligibility requirements for this coverage group.

75.3(13) *Persons under 21 receiving care in a medical facility who would be eligible under a special income standard.* Medicaid will be available to persons under the age of 21 who meet the requirements in paragraph 75.6(4)*"b."*

75.3(14) *Presumptive eligibility for family-related medical assistance.* Medicaid will be temporarily available to the following persons who are determined to be presumptively eligible for Medicaid pursuant to rule 441—75.7(249A):

a. Infants (within MAC income limits specified in rule 441—75.74(249A));

b. Children (within hawki income limits specified in 441—subrule 86.2(2));

c. Parents and other caretakers (within FMAP income limits specified in rule 441—75.74(249A));

d. Pregnant women (within MAC income limits specified in rule 441—75.74(249A)); and

e. EMIYA.

75.3(15) *Family-related medically needy.* Pursuant to rule 441—75.8(249A), Medicaid will be available to children under the age of 19 and pregnant women who would be eligible for a family-related coverage group except for excess income. The coverage group is also available to a "parent" and "caretaker" as defined in rule 441—75.1(249A) who meet the requirements described in rule 441—75.8(249A) and who would be eligible for a family-related coverage group or IHAWP except for excess income.

This rule is intended to implement Iowa Code sections 249A.3, 249A.3A and 249A.4.

441—75.4(249A) Persons who have been screened and found to need breast or cervical cancer treatment (BCCT).

75.4(1) Medicaid is available to persons who meet the eligibility requirements described within this rule and the general conditions of eligibility described in this chapter.

a. Medicaid will be available to persons who:

(1) Are under the age of 65:

(2) Have been screened for breast or cervical cancer under the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) established under Title XV of the Public Health Service Act as amended to August 1, 2025, and have been found to need BCCT (including a precancerous condition);

(3) Do not otherwise have creditable coverage, as that term is defined by the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. Section 300gg-3(c)(1)). An individual is not considered to have creditable coverage just because the individual may receive medical services provided by the Indian Health Service, a tribal organization, or an Urban Indian Organization; and

(4) Are not eligible for Medicaid under Iowa Code section 249A.3(1).

b. Eligibility established under this subrule continues until the person is:

(1) No longer receiving BCCT;

(2) Aged 65 or older; or

(3) Covered by creditable coverage or eligible for Medicaid under Iowa Code section 249A.3(1).

c. Persons applying for this coverage group are not subject to MAGI methodologies described in Division III of this chapter. Income eligibility is determined by the NBCCEDP.

75.4(2) Presumptive eligibility. Medicaid is temporarily available to persons who have been screened for breast or cervical cancer and found to need treatment for the cancer and who are determined to be presumptively eligible for Medicaid under BCCT pursuant to rule 441—75.7(249A).

441—75.5(249A) Persons under age 65; refugees. Medicaid is available to persons who are under age 65 and to persons admitted to the United States as refugees who meet the eligibility requirements of a coverage group described within this rule.

75.5(1) *Iowa health and wellness plan (IHAWP).* This coverage group is available to persons who are aged 19 or older and under the age of 65 who meet the eligibility requirements of the IHAWP as described in 441—Chapter 74 and who are not eligible for Medicaid under a family-related or non-MAGI-related coverage group.

75.5(2) *Presumptive eligibility for IHAWP.* Medicaid will be temporarily available to persons who are aged 19 or older and under the age of 65 who are determined to be presumptively eligible for IHAWP medical assistance pursuant to rule 441—75.7(249A).

75.5(3) *Refugee medical assistance (RMA).* RMA is available to refugees, subject to the time limit set forth in rule 441—60.7(217) and paragraph 75.5(3)*"a,"* when the requirements of this rule are met and eligibility does not exist under another Medicaid coverage group or hawki.

a. The time limit begins the month of entry, regardless of which day during the month is the refugee's date of entry. The time limit applies to each person, not to each case or household.

b. The refugee must meet the immigration status and other non-financial requirements described in 441—Chapter 60.

c. Financial eligibility will be determined according to MAGI methodology pursuant to Division III of this chapter. Countable household income must not exceed the FMAP limits prescribed at rule 441—75.74(249A).

d. For purposes of Medicaid, the refugee is not required to meet the work and training requirements specified in rule 441—60.9(217).

75.5(4) *Extended coverage for refugees.* RMA will be available to a refugee for the remainder of the time limit described in subrule 75.5(3) when the refugee, who is a member, becomes ineligible for RMA or Medicaid under another coverage group solely due to earnings of a household member and eligibility does not exist under another coverage group.

a. A refugee will not be required to meet any minimum program participation time frames to receive RMA coverage under this subrule.

b. A person who returns to the household after the family becomes ineligible for RMA or Medicaid may be included in the extended RMA household if the person was included in the RMA or Medicaid household the month the family became ineligible for RMA or other Medicaid.

441—75.6(249A) Aged, blind or disabled. Medicaid is available to persons who are aged, blind or disabled and who meet the eligibility requirements of a coverage group described within this rule, the general conditions of eligibility, and the eligibility factors specific to non-MAGI-related Medicaid described in Division IV unless stated otherwise within this chapter.

75.6(1) *Persons receiving SSI or state supplementary assistance; persons eligible for but not receiving SSI.*

a. SSI recipients. Medicaid will be available to all persons receiving SSI payments as authorized by the SSA under Title XVI of the Act.

b. State supplementary assistance recipients. Medicaid will be available to all recipients of state supplementary assistance as authorized by Iowa Code chapter 249, 441—Chapters 50 through 54 and 177, and Title XVI of the Act. This applies to mandatory and optional state supplementary assistance payments, whether administered by the department or the SSA.

c. Persons who meet the income and resource requirements of SSI. Medicaid will be available to aged, blind, or disabled persons as described below who meet the income and resource guidelines of SSI but who are not receiving SSI:

(1) Aged and blind persons, as defined in rule 441—75.1(249A).

(2) Disabled persons, as determined pursuant to rule 441—75.81(249A).

(3) In establishing eligibility for children for this coverage group, resources of the child and ineligible parent or stepparent, regardless of age, will be disregarded.

(4) In establishing eligibility for adults for this coverage group, resources of non-MAGI persons will be treated according to SSI policies.

d. Persons who do not receive an SSI payment but are considered as SSI recipients. Medicaid will be available to a person who is not receiving an SSI payment because the SSA has determined that the person exceeds the income limit when the department still considers the person to be an SSI recipient.

75.6(2) *Persons who are not eligible for SSI or state supplementary assistance.*

a. Persons who are ineligible for SSI because of requirements that do not apply under Title XIX of the Act. Medicaid will be available to persons who would be eligible for SSI except for an eligibility requirement used in that program that is specifically prohibited under Title XIX of the Act.

b. Persons who would be eligible for SSI or state supplementary assistance but for social security cost-of-living increases received. Medicaid will be available to all current social security recipients who meet the following conditions:

(1) They were entitled to and received concurrently in any month after April 1977 SSI and social security or state supplementary assistance and social security,

(2) They subsequently lost eligibility for SSI or state supplementary assistance, and

(3) They would be eligible for SSI or state supplementary assistance if all of the social security cost-of-living increases that they and their financially responsible spouses, parents, and dependent children received since they were last eligible for and received social security and SSI (or state supplementary assistance) concurrently were deducted from their income. Spouses, parents, and dependent children are considered financially responsible if their income would be considered in determining the applicant's eligibility.

c. Persons who would be eligible for SSI or state supplementary assistance, except that they receive social security benefits from a parent's account based on disability. Medicaid will be available to persons who receive SSI or state supplementary assistance after their eighteenth birthday because of a disability or blindness that began before the age of 22 and who would continue to receive SSI or state supplementary assistance except that they become entitled to or receive an increase in social security benefits from a parent's account.

d. Persons ineligible due to October 1, 1972, social security increase. Medicaid will be available to persons and families whose assistance grants were canceled as a result of the increase in social security benefits October 1, 1972, as long as these persons and families would be eligible for an assistance grant if the increase were not considered.

e. Persons who would be eligible for SSI or state supplementary assistance but for increases in social security benefits because of elimination of the actuarial reduction formula and cost-of-living increases received. Medicaid will be available to all current social security recipients who meet all of the following conditions:

(1) They were eligible for a social security benefit in December of 1983.

(2) They were eligible for and received a widow's or widower's disability benefit and SSI or state supplementary assistance for January of 1984.

(3) They became ineligible for SSI or state supplementary assistance because of an increase in their widow's or widower's benefit that resulted from the elimination of the reduction factor in the first month in which the increase was paid and in which a retroactive payment of that increase for prior months was not made.

(4) They have been continuously eligible for a widow's or widower's benefit from the first month the increase was received.

(5) They would be eligible for SSI or state supplementary assistance benefits if the amount of the increase from elimination of the reduction factor and any subsequent cost-of-living adjustments were disregarded.

(6) They submitted an application prior to July 1, 1988.

f. Widows and widowers who are no longer eligible for SSI or state supplementary assistance because of the receipt of social security benefits. Medicaid will be available to widows and widowers who meet the following conditions:

(1) They have applied for and received or were considered recipients of SSI or state supplementary assistance.

(2) They apply for and receive Title II widow's or widower's insurance benefits or any other Title II old age or survivor's benefits, if eligible for widow's or widower's benefits.

(3) They were not entitled to Part A Medicare hospital insurance benefits at the time of application and receipt of Title II old age or survivor's benefits. They are not currently entitled to Part A Medicare hospital insurance benefits.

(4) They are no longer eligible for SSI or state supplementary assistance solely because of the receipt of their social security benefits.

g. Continued Medicaid for disabled children from August 22, 1996. Medicaid will be available to persons who were receiving SSI as of August 22, 1996, and who would continue to be eligible for SSI but for Section 211(a) of the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104-193) as amended to August 1, 2025, and 42 U.S.C. 1382c(a)(3).

75.6(3) *Certain persons essential to the welfare of Title XVI beneficiaries.* Medicaid will be available to the person living with and essential to the welfare of a Title XVI beneficiary, provided the

essential person was eligible for Medicaid as of December 31, 1973. The person will continue to be eligible for Medicaid as long as the person continues to meet the definition of "essential person" in effect for the Old Age Assistance, Aid to the Blind, or Aid to the Permanently and Totally Disabled public assistance programs on December 31, 1973, and as determined by SSA.

75.6(4) *Persons residing in a medical institution.*

a. Persons who would be eligible for SSI or state supplementary assistance except for their institutional status. Medicaid will be available to persons receiving care in a medical institution who would be eligible for SSI or state supplementary assistance if they were not institutionalized.

b. Persons receiving care in a medical facility who would be eligible under a special income standard.

(1) Medicaid will be available to persons who:

1. Meet level of care requirements as set forth in rules 441—78.3(249A), 441—81.2(249A), 441—82.6(3) and 441—82.7(249A).

2. Receive care in a hospital, nursing facility, psychiatric medical institution, intermediate care facility for the intellectually disabled (ICF-ID), or Medicare-certified skilled nursing facility.

3. Have gross countable monthly income that does not exceed 300 percent of the federal SSI benefits for one.

4. Either meets all SSI eligibility requirements except for income or is under age 21 pursuant to subrule 75.3(14).

(2) For all persons in this coverage group, income will be considered as provided for non-MAGI-related coverage groups under rule 441—75.80(249A). In establishing eligibility for persons aged 21 or older for this coverage group, resources will be considered as provided for non-MAGI-related coverage groups.

(3) A person in this group will not be eligible until the person has been institutionalized for a period of 30 consecutive days, and eligibility will be effective no earlier than the first day of the month in which the 30-day period begins. A period of 30 days means beginning from 12 a.m. of the day of admission to the medical institution and ending no earlier than 12 midnight of the thirtieth day following the beginning of the period.

1. A person who enters a medical institution and who dies prior to completion of the 30-day period will be considered to meet the 30-day period provision.

2. Only one 30-day period is required to establish eligibility during a continuous stay in a medical institution. Discharge during a subsequent month, creating a partial month of care, does not affect eligibility for that partial month regardless of whether the eligibility determination was completed prior to discharge.

3. A temporary absence of not more than 14 full consecutive days during which the person remains under the jurisdiction of the institution does not interrupt the 30-day period. In order to remain under the jurisdiction of the institution, a person must first have been physically admitted to the institution.

75.6(5) *Medicare savings programs.* The purpose of the coverage groups within this subrule is to assist low-income persons with the payments of Medicare premiums, coinsurance, and deductibles. These groups are known as Medicare savings programs.

a. Qualified Medicare beneficiary (QMB) program.

(1) Medicaid will be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part A and B premiums, coinsurance, and deductibles, providing the following conditions are met:

1. The person's monthly income does not exceed 100 percent of the FPL applicable to the family size.

2. The amount of income will be determined as under the SSI program.

3. The person's resources do not exceed three times the maximum resource level allowed under the SSI program, annually adjusted by increases in the consumer price index for inflation as defined in Section 1905(p)(1)(C) of the Act.

(2) The amount of resources will be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home, in which case the resource determination will be made according to subrules 75.82(3) and 75.82(4).

(3) Income will not include any amount of social security income attributable to the cost-of-living increase beginning January 1 until the annual revision of the FPL on April 1.

(4) The effective date of eligibility is the first of the month after the month of decision.

(5) Pursuant to 42 CFR 435.909(b), SSI recipients are automatically enrolled in the QMB group.

b. Qualified disabled and working persons. Medicaid will be available to cover the cost of the premium for Part A of Medicare (hospital insurance benefits) for qualified disabled and working persons.

(1) Qualified disabled and working persons are persons who meet the following requirements:

1. The person's monthly income does not exceed 200 percent of the applicable FPL for the family size.

2. The person's resources do not exceed twice the maximum amount allowed under the SSI program.

3. The person is not eligible for any other Medicaid benefits.

4. The person is entitled to enroll in Medicare Part A of Title XVIII under Section 1818A of the Act (as added by Section 6012 of the Omnibus Budget Reconciliation Act (OBRA) 1989).

(2) The amount of the person's income and resources will be determined as under the SSI program.

c. Specified low-income Medicare beneficiaries.

(1) Medicaid will be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part B premium, provided the following conditions are met:

1. The person's monthly income exceeds 100 percent of the FPL but is less than 120 percent of the FPL applicable to a family of the size involved.

2. The person's resources do not exceed three times the maximum resource level allowed under the SSI program, annually adjusted by increases in the consumer price index for inflation as defined in section 1905(p)(1)(C) of the Act.

(2) The amount of income and resources will be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home, in which case the resource determination will be made according to subrules 75.82(3) and 75.82(4).

(3) Income will not include any amount of social security income attributable to the cost-of-living increase beginning January 1 until the annual revision of the FPL on April 1.

(4) The effective date of eligibility will be as set forth in 441—subrule 76.13(1).

d. Expanded specified low-income Medicare beneficiaries.

(1) Medicaid benefits to cover the cost of the Medicare Part B premium will be available to persons who are entitled to Medicare Part A provided the following conditions are met:

1. The person is not otherwise eligible for Medicaid.

2. The person's monthly income is at least 120 percent of the FPL but is less than 135 percent of the FPL applicable to a family of the size involved.

3. The person's resources do not exceed three times the maximum resource level allowed under the SSI program, annually adjusted by increases in the consumer price index for inflation as defined in Section 1905(p)(1)(C) of the Act.

(2) The amount of the income and resources will be determined the same as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home, in which case the resource determination will be made according to subrules 75.82(3) and 75.82(4).

(3) Income will not include any amount of social security income attributable to the cost-of-living increase beginning January 1 until the annual revision of the FPL on April 1.

(4) The effective date of eligibility will be as set forth in 441—subrule 76.13(1).

75.6(6) *Medicaid for employed people with disabilities (MEPD).*

a. Medicaid will be available to persons who meet all of the following conditions:

(1) They are disabled as determined pursuant to rule 441—75.81(249A), except that being engaged in substantial gainful activity will not preclude a determination of disability.

(2) They are less than 65 years of age.

(3) They are members of families (including families of one) whose income is less than 250 percent of the FPL for the family. Family income will include gross income of all family members, less SSI program disregards, exemptions, and exclusions, including the earned income disregards. The social security cost-of-living increase will be excluded in the current calendar year for January until April.

(4) They receive earned income from employment or self-employment or are eligible pursuant to paragraph 75.6(6)*"c."*

(5) They would be eligible for Medicaid under another coverage group set out in this rule (other than the medically needy coverage groups in rule 441—75.8(249A)), disregarding all income, up to $10,000 of available resources for an individual and $21,000 for a couple, and any additional resources held by the disabled individual in a retirement account, a medical savings account, or an assistive technology account.

(6) They have paid any premium assessed pursuant to paragraph 75.6(6)*"b."*

b. Persons whose gross income is greater than 150 percent of the FPL.

(1) For a person whose gross income exceeds 150 percent of the FPL for an individual, eligibility is conditional upon payment of a premium. Gross income includes all earned and unearned income of the conditionally eligible person, except that income attributable to a social security cost-of-living adjustment will be included only in determining premium liability based on a subsequently published FPL. A monthly premium will be assessed at the time of application and at the annual review. The premium amounts and the FPL increments above 150 percent of the FPL used to assess premiums will be adjusted annually on August 1.

(2) Beginning with the month of application, the monthly premium amount will be established based on projected average monthly income. The monthly premium established will not be increased for any reason before the next eligibility review. The premium will not be reduced due to a change in the FPL but may be reduced or eliminated prospectively before the next eligibility review if a reduction in projected average monthly income is verified.

(3) Eligible persons are required to complete and return forms specified by the department with income information during the twelfth month of the annual enrollment period to determine the premium to be assessed for the next 12-month enrollment period.

(4) Premiums will be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	$43
165% of Federal Poverty Level	$59
180% of Federal Poverty Level	$70
200% of Federal Poverty Level	$82
225% of Federal Poverty Level	$97
250% of Federal Poverty Level	$113
300% of Federal Poverty Level	$141
350% of Federal Poverty Level	$171
400% of Federal Poverty Level	$202
450% of Federal Poverty Level	$233
550% of Federal Poverty Level	$291

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
650% of Federal Poverty Level	$351
750% of Federal Poverty Level	$413
850% of Federal Poverty Level	$488
1000% of Federal Poverty Level	$586
1150% of Federal Poverty Level	$685
1300% of Federal Poverty Level	$790
1480% of Federal Poverty Level	$913

(5) Eligibility is contingent upon the payment of any assessed premiums. Medicaid eligibility will not be made effective for a month until the premium assessed for the month is paid. The premium must be paid within three months of the month of coverage or of the month of initial billing, whichever is later, for the person to be eligible for the month.

(6) When the department notifies the applicant of the amount of the premiums, the applicant shall pay any premiums due as follows:

1. The premium for each month is due the fourteenth day of the month the premium is to cover.

EXCEPTIONS: The premium for the month of initial billing is due the fourteenth day of the following month; premiums for any months prior to the month of initial billing are due on the fourteenth day of the third month following the month of billing.

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

3. When any premium payment due in the month it is to cover is not received by the due date, Medicaid eligibility will be canceled.

(7) Payments received will be applied in the following order:

1. To the month in which the payment is received if the premium for the current calendar month is unpaid.

2. To the following month when the payment is received after a billing statement has been issued for the following month.

3. To prior months when a full payment has not been received. Payments will be applied beginning with the most recent unpaid month before the current calendar month, then the oldest unpaid prior month and forward until all prior months have been paid.

4. When premiums for all months above have been paid, any excess will be held and applied to any months for which eligibility is subsequently established, as specified in numbered paragraphs 75.6(6)*"b"*(7)"1," "2," and "3" above, and then to future months when a premium becomes due.

5. Any excess on an inactive account will be refunded to the client after two calendar months of inactivity, or no longer being assessed a monthly premium, or upon request from the client.

(8) An individual's case may be reopened when Medicaid eligibility is canceled for nonpayment of premium. However, the full premium must be received by the department on or before the last day of the month following the month the premium is to cover.

(9) Premiums may be submitted in the form of money orders or personal checks to the address printed on the coupon attached to the MEPD billing statement.

(10) Once an individual is canceled from Medicaid due to nonpayment of premiums, the individual must reapply to establish Medicaid eligibility unless the reopening provisions of this subrule apply.

(11) When a premium due in the month it is to cover is not received by the due date, a notice of decision will be issued to cancel Medicaid. The notice will be provided in accordance with 441—Chapter 16 and will include reopening provisions that apply if payment is received, as well as appeal rights under 441—Chapter 7.

(12) A form specified by the department will be used for billing and collection.

c. Members in this coverage group who become unable to work due to a change in their medical condition or who lose employment will remain eligible for a period of six months from the month of the change in their medical condition or loss of employment as long as they intend to return to work and continue to meet all other eligibility criteria under this subrule. Members shall submit a form prescribed by the department to report on the end of their employment and their intent to return to employment.

d. For purposes of this subrule, the following definitions apply:

"Assistive technology" is the systematic application of technologies, engineering, methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, technology devices, and assistive technology services.

"Assistive technology accounts" include funds in contracts, savings, trust or other financial accounts, financial instruments or other arrangements with a definite cash value set aside and designated for the purchase, lease or acquisition of assistive technology, assistive technology devices, or assistive technology services. Assistive technology accounts must be held separate from other accounts, and funds and must be used to purchase, lease or otherwise acquire assistive technology, assistive technology services, or assistive technology devices for the working person with a disability when a physician, certified vocational rehabilitation counselor, licensed physical therapist, licensed speech therapist, or licensed occupational therapist has established the medical necessity of the device, technology, or service and determined the technology, device, or service can reasonably be expected to enhance the individual's employment.

"Assistive technology device" is any item, piece of equipment, product system, or component part, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities or address or eliminate architectural, communication, or other barriers confronted by persons with disabilities.

"Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device or other assistive technology. It includes but is not limited to services referred to or described in the Assistive Technology Act of 1998, 29 U.S.C. §3002(4).

"Family," if the individual is under the age of 18 and unmarried, includes parents living with the individual, unmarried siblings under the age of 18 and living with the individual, and children of the individual who live with the individual. If the individual is 18 years of age or older, or married, "family" includes the individual's spouse living with the individual and any children living with the individual who are under the age of 18 and unmarried. No other persons will be considered members of an individual's family. An individual living alone or with others not listed above will be considered to be a family of one.

"Medical savings account" means an account exempt from federal income taxation pursuant to Section 220 of the United States Internal Revenue Code (26 U.S.C. §220).

"Retirement account" means any retirement or pension fund or account, listed in Iowa Code section 627.6(8)*"f"* as exempt from execution, regardless of the amount of contribution, the interest generated, or the total amount in the fund or account.

75.6(7) *Medicaid for kids with special needs (MKSN).* Medicaid will be available to children who meet all of the following conditions on or after January 1, 2009:

a. The child is under 19 years of age.

b. The child is disabled as determined pursuant to rule 441—75.81(249A) based on the disability standards for children used for SSI benefits under Title XVI of the Act but without regard to any income or asset eligibility requirements of the SSI program.

c. The child is enrolled in any group health plan available through the employer of a parent living in the same household as the child if the employer contributes at least 50 percent of the total cost of annual premiums for that coverage. The parent shall enroll the child and pay any employee premium required to maintain coverage for the child.

d. The child's household has income at or below 300 percent of the FPL applicable to a family of that size.

(1) For this purpose, the child's household includes any of the following persons who are living with the child and are not receiving Medicaid on another case:

1. The child's parents.
2. The child's unmarried siblings under the age of 19.
3. The child's spouse.
4. The child's children.
5. The children of the child's spouse.

(2) Only those persons identified in subparagraph 75.6(7)*"d"*(1) will be considered a member of the child's household. A person who receives medically needy coverage with a spenddown or limited benefits such as Medicare savings programs is not considered to be "receiving Medicaid" for the purposes of subparagraph *"d"*(1). A child who lives alone or with persons not identified in subparagraph *"d"*(1) will be considered as having a household of one.

(3) For this purpose, all unearned and earned income of the household, unless specifically exempted, disregarded, deducted for work expenses, or diverted, will be considered in determining initial and continuing eligibility.

75.6(8) *Persons eligible for waiver services.* Medicaid will be available to members eligible for waiver services as defined in 441—Chapter 83.

441—75.7(249A) Presumptive eligibility. Medicaid will be temporarily available to persons who are determined to be presumptively eligible for Medicaid pursuant to this subrule. Presumptive eligibility will be determined by a qualified entity (QE) and will be based solely on the applicant's attested circumstances as provided to the QE and entered by the QE directly online into the Medicaid Presumptive Eligibility Portal (MPEP) system. Verification cannot be requested or required for a presumptive eligibility determination.

75.7(1) *Application process.* Persons and families requesting assistance under this subrule shall apply with a QE using the methods described in 441—subrule 76.7(3). The requirements for filing date of application, effective date of coverage, signature on application, notice and appeal rights, and full Medicaid eligibility determinations described in 441—subrules 76.7(4) through 76.7(7) apply.

75.7(2) *Eligibility requirements applicable to all presumptive eligibility determinations except as stated otherwise within this rule.* The following eligibility requirements are applicable to all presumptive eligibility determinations, except as stated otherwise within this rule.

a. Household size. Household size will be determined using MAGI methodology as described in rule 441—75.72(249A).

b. Countable income. Countable income will be determined using MAGI methodology as described in rule 441—75.73(249A).

c. Citizenship or qualified noncitizen status. The person for whom assistance is requested must be a citizen of the United States or a qualified noncitizen as defined in 441—75.11(249A), except for a pregnant woman described in paragraph 75.7(3)*"c."*

d. Iowa residency. The person for whom assistance is requested must be a resident of Iowa as described in rule 441—75.10(249A).

e. Prior presumptive eligibility. A person will not be determined presumptively eligible more than once in a 12 calendar month period, except as allowed in paragraph 75.7(3)*"g."* The first month of the 12 calendar month period begins with the calendar month the application is received by the qualified entity.

75.7(3) *Categories of eligibility and specific requirements.* The following categories of persons are eligible for a presumptive determination. Persons applying for a presumptive determination must meet all specific requirements related to the category of coverage in addition to the requirements in subrule 75.7(2), except as stated otherwise within this subrule. For categories where age is an

eligibility factor, the effect of reaching an age limit on the person's eligibility will be determined pursuant to rule 441—75.52(249A).

a. Presumptive eligibility for children. Presumptive eligibility is available to children who meet the following requirements:

(1) Age—the child must be under the age of 19 as described in rule 441—75.52(249A).

(2) Income limits—household income must not exceed:

1. The MAC program limit for infants and the applicable household size as specified in rule 441—75.74(249A) when the child is under the age of one; or

2. The hawki program limit for a household of the same size as specified in 441—subrule 86.2(2) when the child is aged 0 through 18.

b. Presumptive eligibility for parents and other caretakers. Presumptive eligibility will be available to a parent or other caretaker who meets the following requirements:

(1) Household income must not exceed the family medical assistance program income limits specified in rule 441—75.74(249A).

(2) The parent or caretaker lives with a dependent child as described in subrule 75.50(2) and has primary responsibility for the child's care as described in subrule 75.51(2).

c. Presumptive eligibility for pregnant women. Presumptive eligibility for ambulatory prenatal care is available to a woman who is pregnant and who also meets the following requirements:

(1) Household income must not exceed the MAC program limit for pregnant women specified at rule 441—75.74(249A) for the applicable household size.

(2) A pregnant woman will not be required to meet the citizen or noncitizen requirements of rule 441—75.11(249A).

d. Presumptive eligibility for IHAWP. Presumptive eligibility for IHAWP is available to a person who meets the following requirements:

(1) The non-financial eligibility requirements described in rule 441—74.2(249A,249N).

(2) Household income not exceeding 133 percent of the FPL based on the size of the household pursuant to rule 441—74.4(249A,249N).

e. Presumptive eligibility for former foster care youth. Presumptive eligibility will be available to a person who is under the age of 26, was formerly in foster care, and meets the requirements described in subrule 75.3(12).

f. Presumptive eligibility for persons who have been screened and found to need treatment for breast or cervical cancer. Presumptive eligibility is available to a person who has been screened and found to need treatment for either breast or cervical cancer, subject to the following:

(1) The person must be determined to meet the eligibility requirements described in subrule 75.4(1).

(2) The person will not be required to meet the eligibility requirements described in paragraph 75.7(2)*"a," "b,"* or *"c."*

g. Presumptive eligibility more than once in a 12 calendar month period. A person will be determined presumptively eligible only once in a 12 calendar month period beginning with the calendar month the application is received by the qualified entity, except as follows:

(1) A new period of presumptive eligibility will begin each time a person is screened as described in subparagraph 75.4(1)*"a"* and determined to need treatment for a new occurrence of breast or cervical cancer.

(2) A pregnant woman may be determined presumptively eligible for Medicaid once per pregnancy but no more than once per pregnancy.

75.7(4) *Presumptive eligibility period.* Presumptive eligibility is effective on the date that a qualified entity completes the presumptive eligibility determination pursuant to 441—subrule 76.7(5) and ends as described in the paragraphs below.

a. For persons determined presumptively eligible under paragraphs 75.7(3)*"b"* through *"f,"* presumptive eligibility will continue until:

(1) In the case of a person on whose behalf a Medicaid application has not been filed, the last day of the calendar month following the month of the presumptive eligibility determination; or

(2) In the case of a person on whose behalf a Medicaid application has been filed, the day on which a decision is made on that application. Withdrawal of a Medicaid application before a decision is made will not affect the person's eligibility during the presumptive period.

b. For children determined presumptively eligible under paragraph 75.7(3)*"a,"* presumptive eligibility will continue until:

(1) In the case of a child on whose behalf a Medicaid application has not been filed, the last day of the calendar month following the month of the presumptive eligibility determination; or

(2) In the case of a child on whose behalf a Medicaid (including hawki) application has been filed, the day the child is determined eligible for Medicaid, the last day of the month before the child is determined eligible for hawki, or the day the child is determined ineligible for both Medicaid and hawki. Withdrawal of a Medicaid (including hawki) application before a decision is made will not affect the child's eligibility during the presumptive period.

75.7(5) *Services covered.*

a. Persons determined presumptively eligible under paragraphs 75.7(3)*"a," "b," "e,"* and *"f"* will be entitled to all Medicaid-covered services, including early and periodic screening, diagnosis, and treatment (EPSDT) services for children. Payment of claims for Medicaid services provided during the presumptive period is not dependent upon the department's determination of Medicaid or hawki eligibility.

b. Covered services for pregnant women determined presumptively eligible under paragraph 75.7(3)*"c"* will be limited to ambulatory prenatal care services during the presumptive period. Payment of claims for ambulatory prenatal care services is not dependent upon a determination of Medicaid eligibility by the department. "Ambulatory prenatal care" means all Medicaid-covered services, except inpatient hospital or institutional care and charges associated with delivery of the baby (including miscarriage or termination of a pregnancy).

c. Persons determined presumptively eligible under paragraph 75.7(3)*"d"* will be limited to all services offered under IHAWP pursuant to 441—Chapter 74. Payment of claims for services offered under IHAWP and provided during the presumptive eligibility period is not dependent upon the department's determination of IHAWP eligibility.

441—75.8(249A) Medically needy persons.

75.8(1) *Medically needy definitions.* For purposes of this rule, the following definitions apply:

"Break in assistance" for medically needy means the lapse of more than three months from the end of the medically needy certification period to the beginning of the next current certification period.

"Certification period" for medically needy means the period of time not to exceed two consecutive months in which a person is conditionally eligible.

"Client" for medically needy means all of the following:

1. A medically needy applicant;
2. A medically needy member;
3. A person who is conditionally eligible for Medicaid under the medically needy coverage group; and
4. A person whose income or assets are considered in determining eligibility for an applicant or member.

"Conditionally eligible" means that a person has completed the application process and has been assigned a medically needy certification period and spenddown amount but has not met the spenddown amount for the certification period.

"Family-related medically needy" means those persons who would be eligible for a family-related coverage group pursuant to rule 441—75.3(249A) except for excess income.

"FMAP-related medically needy" means those persons who would be eligible for FMAP pursuant to subrule 75.3(1) except for excess income.

"Incurred medical expenses" for the medically needy program means:

1. Medical bills paid by a client, responsible relative, or state or political subdivision program other than Medicaid during the retroactive certification period or certification period, or
2. Unpaid medical expenses for which the client or responsible relative remains obligated.

"Member" for the medically needy program means a medically needy person who has income at or less than the medically needy income level (MNIL) or who has reduced countable income to the MNIL during the certification period through spenddown.

"Necessary medical and remedial services" for the medically needy program means medical services recognized by law that are currently covered under the Medicaid program.

"Needy specified relative" means a nonparental specified relative, as defined for the family investment program (FIP) in 441—subrule 41.3(1), who meets all of the eligibility requirements of the FMAP coverage group pursuant to subrule 75.3(1).

"Noncovered Medicaid services" for the medically needy program means medical services that are not covered under Medicaid because the provider was not enrolled in Medicaid, the services are ones that are otherwise not covered under Medicaid, the bill is for a responsible relative who is not included in the Medically needy eligibility determination pursuant to subrule 75.8(3) or the bill is for services delivered before the start of a certification period.

"Obligated medical expense" for the medically needy program means a medical expense for which the client or responsible relative continues to be legally liable.

"Ongoing eligibility" for the medically needy program means that eligibility continues for an SSI-related, family-related, or FMAP-related medically needy person with a zero spenddown.

"Recertification" in the medically needy coverage group means establishing a new certification period when the previous period has expired and there has not been a break in assistance.

"Responsible relative" for medically needy means a spouse, parent, or stepparent of the applicant or member who lives with the applicant or member.

"Retroactive certification period" for the medically needy program means one, two, or three calendar months prior to the date of application. When applicable pursuant to 441—subrule 76.13(3), the retroactive certification period begins with the first day of the first month within the three-month period that Medicaid-covered services were received and continues to the end of the month immediately prior to the month of application.

"Retroactive period" means the three calendar months immediately preceding the month in which an application is filed and applies when applicable pursuant to 441—subrule 76.13(3).

"Spenddown" means the process by which a medically needy person obligates excess income for allowable medical expenses to reduce income to the appropriate MNIL.

"SSI-related medically needy" means those persons whose eligibility is determined using regulations governing the supplemental security income (SSI) program except for income or resources.

75.8(2) *Coverage groups.* Medically needy will be available to the following persons who meet the general conditions of eligibility described in this chapter:

a. Pregnant women. Pregnant women who would be eligible for a family-related coverage group pursuant to rule 441—75.3(249A) except for excess income. For family-related programs, pregnant women will have the unborn child or children counted in the household size as if the child or children were born and living with them pursuant to subrule 75.72(5).

b. FMAP-related persons under 19. Persons under the age of 19 who would be eligible for a family-related coverage group pursuant to rule 441—75.3(249A) except for excess income.

c. SSI-related persons. Persons who would be eligible for SSI except for excess income or resources.

d. FMAP-related parents and caretakers. Parents and caretakers who:

(1) Meet the requirements of rule 441—75.51(249A) and whose income exceeds the limits for FMAP; and

(2) Live with a dependent child who meets the requirements of rule 441—75.50(249A).

75.8(3) *Family-related eligible group.*

a. The eligible group consists of all eligible people specified below and living together, except when one or more of these people receive SSI under Title XVI of the Act. There will be at least one eligible parent or needy specified relative and at least one dependent child in the eligible group, except when the only eligible child is receiving SSI. The parent or needy specified relative may be the only FMAP-related eligible group member receiving Medicaid if:

(1) The only dependent child receives SSI, or

(2) The dependent child is ineligible for Medicaid, or

(3) The parent or needy specific relative voluntarily chooses to exclude the dependent child or children in order to receive coverage for the parent or needy relative.

b. The following persons will be included (except as otherwise provided in these rules) without regard to the person's employment status, income, or resources:

(1) All dependent children who are siblings of whole or half blood or adoptive.

(2) Any parent of such children if the parent is living in the same home as the dependent children.

c. The following persons may be included:

(1) The needy specified relative who assumes the role of parent.

(2) The needy specified relative who acts as payee when the parent is in the home but is unable to act as payee.

(3) An incapacitated stepparent, upon request, when the stepparent is the legal spouse of the parent and the incapacitated stepparent does not have a child in the eligible group.

1. A stepparent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required to maintain a home for the stepchild. The incapacity shall be expected to last for a period of at least 30 days from the date of application.

2. The determination of incapacity shall be supported by medical or psychological evidence. The evidence may be obtained from either an independent licensed physician or psychologist or the state rehabilitation agency. The evidence may be submitted either by letter from the physician or on a form specified by the department. When an examination is required and other resources are not available to meet the expense of the examination, the physician will be authorized to make the examination and submit the claim for payment on a form specified by the department. A finding of eligibility for social security benefits or SSI benefits based on disability or blindness is acceptable proof of incapacity.

75.8(4) *Resources and income of all persons considered.*

a. Resources of all parents and other caretakers and of all potentially eligible individuals living together, except as specified at paragraph 75.8(4)*"b"* or those excluded in accordance with the provisions of paragraph 75.8(4)*"d,"* will be considered in determining eligibility of adults. Resources of all parents and other caretakers and of all potentially eligible individuals living together will be disregarded in determining eligibility of children. Income of all parents and other caretakers and of all potentially eligible individuals living together, except as specified in paragraph 75.8(4)*"b"* or those excluded in accordance with the provisions of paragraph 75.8(4)*"d,"* will be considered in determining eligibility.

b. The amount of income of the responsible relative that has been counted as available to a family-related household other than the medically needy applicant or member household or SSI individual will not be considered in determining the countable income for the medically needy applicant or member household.

c. The resource determination will be according to subrules 75.82(3) and 75.82(4) when one spouse is expected to reside at least 30 consecutive days in a medical institution.

d. Certain persons may be voluntarily excluded from the family-related medically needy eligibility determination as follows:

(1) Exclusions from the eligibility determination. In determining eligibility under the family-related medically needy coverage groups described in paragraphs 75.8(2)*"a," "b,"* and *"d,"* the following persons may be excluded from consideration when determining medically needy eligibility of other household members:

1. Siblings (of whole or half blood, or adoptive) of eligible children.
2. Self-supporting parents of minor unmarried parents.
3. Stepparents of eligible children.
4. Children living with a parent or caretaker.

(2) Needs, income, and resource exclusions. The needs, income, and resources of persons who are voluntarily excluded will also be excluded. If a self-supporting parent of a minor unmarried parent is voluntarily excluded, then the minor unmarried parent will not be counted in the household size when determining eligibility for the minor unmarried parent's child. However, the income and resources of the minor unmarried parent will be used in determining eligibility for the unmarried minor parent's child. If a stepparent is voluntarily excluded, the legally recognized natural or adoptive parent will not be counted in the household size when determining eligibility for the natural or adoptive parent's children. However, the income and resources of the natural or adoptive parent will be used in determining eligibility for the natural or adoptive parent's children.

(3) Medicaid entitlement. Persons whose needs are voluntarily excluded from the eligibility determination will not be entitled to Medicaid under this or any other coverage group.

(4) Situations where a parent's needs are excluded. In situations where the parent's needs are excluded but the parent's income and resources are considered in the eligibility determination (e.g., minor unmarried parent living with self-supporting parents), the excluded parent will be allowed the earned income deduction, child care expenses, and work incentive disregard as provided at paragraph 75.8(6)*"a."*

(5) Situations where a child's needs, income, and resources are excluded. In situations where the child's needs, income, and resources are excluded from the eligibility determination pursuant to subparagraph 75.8(4)*"d"*(2), and the child's income is not sufficient to meet the child's needs, the parent will be allowed to divert income to meet the unmet needs of the excluded child. The maximum amount to be diverted will be the difference between the schedule of basic needs of all potentially eligible individuals living together with the child included and the schedule of basic needs with the child excluded, in accordance with the FIP provisions in 441—subrule 41.9(2), minus any countable income of the child.

75.8(5) *Resources.*

a. The resource limit for adults in SSI-related households will be $10,000 per household.

b. Disposal of resources for less than fair market value by SSI-related applicants or members is governed by rule 441—75.23(249A).

c. The resource limit for family-related adults will be $10,000 per household. In establishing eligibility for children for this coverage group, resources of all persons in the medically needy household, regardless of age, will be disregarded. In establishing eligibility for adults for this coverage group, resources will be considered according to rule 441—41.7(239B).

d. The resources of SSI-related persons will be treated according to SSI policies.

e. When a resource is jointly owned by SSI-related persons and family-related persons, the resource will be treated according to SSI policies for the SSI-related person and according to the policies described in paragraph 75.8(5)*"c"* for the family-related persons.

75.8(6) *Income.* All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted, will be considered in determining initial and continuing eligibility.

a. Income policies for family-related medically needy coverage groups. MAGI income and household size policies do not apply to the family-related medically needy coverage groups described

in subrule 75.8(2). When determining eligibility for a family-related medically needy coverage group described in subrule 75.8(2), the department will determine countable income as described in the following subparagraphs.

(1) Earned income. "Earned income" means income in the form of a salary, wages, tips, bonuses, commission earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment.

(2) Earned income deductions. Deductions from earned income will be made as follows:

1. Each person in the household whose gross nonexempt earned income is considered in determining eligibility is entitled to one 20 percent earned income deduction from the monthly gross earnings. The deduction is intended to include work-related expenses other than child care such as taxes, transportation, meals, and uniforms.

2. Each person in the household is entitled to a deduction for child or incapacitated adult care expenses for employment-related hours subject to the following limitations:

- The going rate in the community up to $175 per month for each child aged two or older or each incapacitated adult.
- The going rate in the community up to $200 per month for each child under the age of two.
- No deduction is allowed for any portion of the cost of care that is paid for by a third-party such as but not limited to the child care assistance program.
- Stepparents and self-supporting parents on minor parent cases will be allowed incapacitated adult care or child care expenses for the ineligible dependents of the stepparent or self-supporting parent.
- No deduction is allowed when both parents are in the home and one parent is not employed during the hours that care is needed if the parent at home during those hours is physically and mentally able to provide the care.
- A deduction is allowable only when the care covers the actual employment hours plus a reasonable period of time for commuting, or the period of time when the person who would normally care for the child or incapacitated adult is employed at such hours that the person is required to sleep during the waking hours of the child or incapacitated adult, excluding any hours a child is in school.
- Any special needs of a physically or mentally handicapped child or adult will be taken into consideration in determining the deduction allowed.
- If the amount claimed is questionable, the expense shall be verified by a receipt or a statement from the provider of care. The expense will be allowed when paid to any person except a parent or legal guardian of the child or another member of the household.

(3) With respect to self-employment, a person is considered to be self-employed if the requirements of FIP in 441—paragraph 41.8(2)*"e"* are met. Income will be considered earned income when it is produced as a result of the performance of services by an individual.

1. Earned income means the net profit from self-employment, defined as gross income less the allowable costs of producing the income as allowed for FIP pursuant to 441—paragraph 41.8(2)*"e"* for a non-home based enterprise.

2. In determining net profit for a self-employed enterprise in the home other than providing room and board, renting apartments or providing child care services, the costs allowed for FIP pursuant to 441—paragraph 41.8(2)*"e"* will be allowed except deductions are limited to 10 percent of the total gross income to cover the costs of upkeep for the home.

(4) When the client is renting out apartments in the client's home, the following will be deducted from the gross rentals received to determine the profit:

1. Shelter expense in excess of that set forth on the chart of basic needs components for FIP in 441—subrule 41.9(2).

2. That portion of expense for utilities furnished to tenants that exceeds the amount set forth on the chart of basic needs components for FIP in 441—subrule 41.9(2).

3. Ten percent of gross rentals to cover the cost of upkeep.

(5) In determining profit from furnishing board, room, operating a family life home, or providing nursing care, the following amounts will be deducted from the payments received:

1. $41 plus an amount equivalent to the monthly maximum Supplemental Nutrition Assistance Program benefit for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or $41 for a roomer, or an amount equivalent to the monthly maximum food assistance program benefit for a one-member household for a boarder.

2. Ten percent of the total payment to cover the cost of upkeep for individuals receiving a room or nursing care.

(6) Gross income from providing child care in the applicant's or member's own home will include the total payments received for the service and any payment received due to the Child Nutrition Amendments of 1978 as amended to August 1, 2025, for the cost of providing meals to children.

1. In determining profit from providing child care services in the applicant's or member's own home, 40 percent of the total gross income received will be deducted to cover the costs of producing the income unless the applicant or member requests to have actual expenses in excess of the 40 percent considered.

2. When the applicant or member requests to have expenses in excess of the 40 percent considered, profit will be determined in the same manner as specified at numbered paragraph 75.8(6) *"a"*(3)"2."

(7) Unearned income. Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contributions Act as amended to August 1, 2025, state and federal income taxes). Net unearned income will be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction will be considered gross income available to meet the needs of the eligible group.

1. Social security income is the amount of the entitlement before withholding of a Medicare premium.

2. When the client sells property on contract, proceeds from the sale will be considered exempt as income. The portion of any payment that represents principal is considered a resource upon receipt as defined for FIP in 441—subrule 41.7(4). The interest portion of the payment is considered a resource the month following the month of receipt.

3. Support payments in cash will be considered as unearned income in determining initial and continuing eligibility.

- Any nonexempt cash support payment for a member of the eligible group made while the application is pending will be treated as unearned income.
- Support payments will be considered as unearned income in the month in which the IV-A agency (the department's income maintenance area) is notified of the payment by the IV-D agency (child support services). The amount of income to consider will be the actual amount paid or the monthly entitlement, whichever is less.
- Support payments reported by child support services during a past month for which eligibility is being determined will be used to determine eligibility for the month. Support payments anticipated to be received in future months will be used to determine eligibility for future months. When support payments terminate in the month of decision of a family-related application, both support payments already received and support payments anticipated to be received in the month of decision will be used to determine eligibility for that month.

(8) Income will be diverted to meet the unmet needs of ineligible children and to permit payment of court-ordered support to children not living with the parent as allowed for FIP pursuant to 441—subrule 41.8(4).

(9) The following FIP policies also apply to determining income eligibility for family-related medically needy: 441—subrules 41.8(3), 41.8(5), 41.8(6), 41.8(7), and 41.8(8) and 441—paragraphs 41.8(9)*"c," "g," "h,"* and *"i."*

b. Income policies as specified in federal SSI regulations regarding treatment of earned and unearned income are applied to SSI-related persons when determining initial and continuing eligibility.

c. The monthly income will be determined prospectively unless actual income is available.

d. The income for the certification period will be determined by adding both months' net income together to arrive at a total.

e. The income for the retroactive certification period when applicable pursuant to 441—subrule 76.13(3) will be determined by adding each month of the retroactive period to arrive at a total.

75.8(7) *Medically needy income level (MNIL).*

a. The MNIL is based on 133 1/3 percent of the schedule of basic needs, as provided for FIP in 441—subrule 41.9(2) with households of one treated as households of two, as follows:

Number of Persons	1	2	3	4	5	6	7	8	9	10
MNIL	$483	$483	$566	$666	$733	$816	$891	$975	$1058	$1158

Each additional person $116

b. When determining household size for the MNIL, all potentially eligibles and all individuals whose income is considered as specified in subrule 75.8(4) shall be included unless the person has been excluded according to the provisions of paragraph 75.8(4)*"d."*

c. The MNIL for the certification period will be determined by adding both months' MNIL to arrive at a total. The MNIL for the retroactive certification period when applicable pursuant to 441—subrule 76.13(3) will be determined by adding each month of the retroactive period to arrive at a total.

d. The total net countable income for the certification period will be compared to the total MNIL for the certification period based on family size as specified in paragraph 75.8(7)*"b."* If the total countable net income is equal to or less than the total MNIL, the medically needy individuals will be eligible for Medicaid. If the total countable net income exceeds the total MNIL, the medically needy individuals will not be eligible for Medicaid unless incurred medical expenses equal or exceed the difference between the net income and the MNIL.

e. Effective date of approval. Eligibility during the certification period, or the retroactive certification period when applicable pursuant to 441—subrule 76.13(3), will be effective as of the first day of the first month of the certification period or the retroactive certification period when the MNIL is met.

75.8(8) *Verification of medical expenses to be used in spenddown calculation.* The applicant or member shall submit evidence of medical expenses that are for noncovered Medicaid services and for covered services incurred prior to the certification period to the department on a claim form, which shall be completed by the medical provider.

a. Verification of medical expenses for the applicant or member that are covered Medicaid services and occurred during the certification period shall be submitted by the provider to Iowa Medicaid on a claim form. The applicant or member shall inform the provider of the applicant's or member's spenddown obligation at the time services are rendered or at the time the applicant or member receives notification of a spenddown obligation. In cases where the provider is uncooperative or where returning to the provider would constitute an unreasonable requirement on the applicant or member, the worker will obtain the claim form from the provider.

b. Verification of allowable expenses incurred for transportation to receive medical care as specified in rule 441—78.13(249A) will be on forms specified by the department. Applicants who have not established that they met spenddown in the current certification period will be allowed 12 months following the end of the certification period to submit medical expenses for that period or 12 months following the date of the notice of decision when the certification period had ended prior to the notice of decision.

75.8(9) *Spenddown calculation.*

a. Medical expenses that are incurred during the certification period may be used to meet spenddown. Medical expenses incurred prior to a certification period will be used to meet spenddown if not already used to meet spenddown in a previous certification period and if all of the following requirements are met:

(1) The expenses remain unpaid as of the first day of the certification period.

(2) The expenses are not Medicaid-payable in a previous certification period or the retroactive certification period when applicable pursuant to 441—subrule 76.13(3).

(3) The expenses are not incurred during any prior certification period with the exception of the retroactive period, when applicable pursuant to 441—subrule 76.13(3), in which the person was conditionally eligible but did not meet spenddown.

(4) Notwithstanding subparagraphs 75.8(9)*"a"*(1) through *"a"*(3), paid medical expenses from the retroactive period can be used to meet spenddown in the retroactive period or in the certification period for the two months immediately following the retroactive period.

b. Spenddown will be adjusted under the following circumstances:

(1) When a bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if a bill for a covered service incurred prior to the certification period is subsequently received.

(2) When a bill for a noncovered Medicaid service is subsequently received with a service date prior to the Medicaid-covered service.

(3) When an unpaid bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if a paid bill for a covered service incurred in the certification period is subsequently received with a service date prior to the date of the notice of spenddown status.

c. Order of deduction. Incurred medical expenses, including those reimbursed by a state or political subdivision program other than Medicaid but excluding those otherwise subject to payment by a third party, will be deducted in the following order:

(1) Medicare and other health insurance premiums, deductibles, or coinsurance charges.

EXCEPTION: When some of the household members are eligible for full Medicaid benefits under the Health Insurance Premium Payment Program (HIPP), as provided in rule 441—75.21(249A), the health insurance premium will not be allowed as a deduction to meet the spenddown obligation of household members in the medically needy coverage group.

(2) An average statewide monthly standard deduction for the cost of medically necessary personal care services provided in a licensed residential care facility will be allowed as a deduction for spenddown. These personal care services include assistance with activities of daily living such as preparation of a special diet, personal hygiene and bathing, dressing, ambulation, toilet use, transferring, eating, and managing medication. The average statewide monthly standard deduction for personal care services will be based on the average per day rate of health care costs associated with residential care facilities participating in the state supplementary assistance program for a 30.4-day month as computed by multiplying the previous year's average per day rate by the inflation factor increase during the preceding calendar year ending December 31 of the consumer price index for all urban Consumers as published by the United States Bureau of Labor Statistics.

(3) Medical expenses for necessary medical and remedial services that are recognized under state law but not covered by Medicaid, chronologically by date of submission.

(4) Medical expenses for acupuncture, chronologically by date of submission.

(5) Medical expenses for necessary medical and remedial services that are covered by Medicaid, chronologically by date of submission.

d. When spenddown has been met and a bill is received with a service date after spenddown has been met, the bill will not be deducted to meet spenddown.

e. When incurred medical expenses have reduced income to the applicable MNIL, the individuals will be eligible for Medicaid.

f. Medical expenses reimbursed by a public program other than Medicaid prior to the certification period will not be considered a medical deduction.

75.8(10) *Medicaid services.* Persons eligible for Medicaid as medically needy will be eligible for all services covered by Medicaid except:

a. Care in a nursing facility or an ICF-ID.

b. Care in an institution for mental disease.

c. Care in a Medicare-certified skilled nursing facility.

75.8(11) *Reviews.* Reviews of eligibility will be made for SSI-related and family-related medically needy members with a zero spenddown as often as circumstances indicate but in no instance will the period of time between reviews exceed 12 months. Family-related medically needy persons and SSI-related needy persons shall complete forms specified by the department as part of the review process when requested to do so by the department.

75.8(12) *Redetermination.* When an SSI-related or family-related member who has had ongoing eligibility because of a zero spenddown has income that exceeds the MNIL, a redetermination of eligibility will be completed to change the member's eligibility to a two-month certification with spenddown. This redetermination will be effective the month the income exceeds the MNIL or the first month following timely notice.

a. The department will determine eligibility for SSI-related medically needy when an SSI recipient has been determined to be ineligible for SSI due to excess income or resources in one or more of the months after the effective date of the SSI eligibility decision.

b. All eligibility factors will be reviewed on redeterminations of eligibility.

75.8(13) *Recertifications.* A new application must be submitted when the certification period has expired and there has been a break in assistance as defined at subrule 75.8(1). When the certification period has expired and there has not been a break in assistance, the family-related members and SSI-related members shall use forms specified by the department to be recertified.

75.8(14) *Disability determinations.* An applicant receiving social security disability benefits under Title II of the Act or railroad retirement benefits based on the Act's definition of disability by the Railroad Retirement Board will be deemed disabled without any further determination. In other cases under the medically needy program, the department will conduct an independent determination of disability unless the applicant has been denied SSI benefits based on lack of disability and the applicant does not allege either (1) a disabling condition different from or in addition to that considered by the SSA or (2) that the applicant's condition has changed or deteriorated since the most recent SSA determination.

a. In conducting an independent determination of disability, the department will use the same criteria required by federal law to be used by the SSA in determining disability for purposes of SSI under Title XVI of the Act. The disability determination services division of Iowa workforce development will make the initial disability determination on behalf of the department.

b. For an independent determination of disability, the applicant or the applicant's authorized representative shall complete, sign, and submit forms as specified by the department.

c. In connection with any independent determination of disability, the department will determine whether reexamination of the person's medical condition will be necessary for periodic redeterminations of eligibility. When reexamination is required, the member or the member's authorized representative shall complete and submit the same forms specified by the department as required in paragraph 75.8(14)*"b."*

441—75.9(249A) Furnishing of social security number.

75.9(1) *Requirement.* As a condition of eligibility, except as provided by subrule 75.9(2), a Medicaid client must provide to the department all social security numbers issued to each individual (including children) for whom Medicaid is sought.

75.9(2) *Exceptions to requirement.* The requirement of subrule 75.9(1) does not apply to an individual who:

a. Is not eligible to receive a social security number;

b. Does not have a social security number and may only be issued a social security number for a valid nonwork reason in accordance with 20 CFR §422.104; or

c. Refuses to obtain a social security number because of a well-established religious objection. For this purpose, a well-established religious objection means that the individual:

(1) Is a member of a recognized religious sect or division of the sect; and

(2) Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

75.9(3) *Cooperation in obtaining social security number.* If a social security number has not been issued or is not known, the individual seeking Medicaid must cooperate with the department in applying for a social security number with the SSA or in requesting the SSA to furnish the number.

441—75.10(249A) Residency requirements. Residency in Iowa is a condition of eligibility for medical assistance.

75.10(1) *Definitions.* The following definitions apply for the purposes of this subrule:

a. Institution. "Institution" means an "institution" or a "medical institution" as those terms are defined in 42 CFR §435.1010. For purposes of state placement, "institution" also includes foster care homes licensed as set forth in 45 CFR §1355.20 and providing food, shelter and supportive services to one or more persons unrelated to the proprietor.

b. Incapable of expressing intent regarding residency. For purposes of this rule, an individual is considered to be "incapable of indicating intent regarding residency" if the individual:

(1) Has an IQ of 49 or less or has a mental age of seven or less;

(2) Has been judged legally incompetent; or

(3) Has been determined to be incapable of indicating intent regarding residency by a physician, psychologist or other person licensed by the state in the field of intellectual disability.

c. Iowa resident. An Iowa resident is one:

(1) Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A person is a resident of Iowa when living there on other than a temporary basis. Residence will not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed.

75.10(2) *Determination of residency.* State residency is determined according to the following criteria. If more than one criterion applies, the applicable criterion listed first determines the individual's residency.

a. Individuals receiving Title IV-E payments. Individuals who are receiving federal foster care maintenance payments or have a guardianship assistance agreement or have an adoption assistance agreement under Title IV-E of the Act are considered to be residents of the state where the child lives.

b. Cases of disputed residency. If two or more states do not agree on an individual's state of residence, the state where the individual is physically located is the state of residence.

c. Temporary absence from state of residence. An individual who was a resident of a state pursuant to the other criteria of this rule, who is temporarily absent from that state, and who intends to return to that state when the purpose of the absence has been accomplished remains a resident of that state during the absence unless another state has determined that the person is a resident there for Medicaid purposes.

d. Individuals placed by a state in an out-of-state institution. If any agency of a state, including an entity recognized under state law as being under contract with the state for such purposes, arranges for an individual to be placed in an institution located in another state, the state arranging or actually making the placement is considered the individual's state of residence during that placement.

(1) Any action beyond providing information to the individual and the individual's family constitutes arranging or making a placement. However, the following actions do not constitute arranging or making a placement:

1. Providing basic information to individuals about another state's Medicaid program and information about the availability of health care services and providing facilities in another state.

2. Assisting an individual in locating an institution in another state, provided the individual is not incapable of indicating intent regarding residency and independently decides to move.

(2) When a competent individual leaves an out-of-state institution in which the individual was placed by a state, that individual's state of residence is the state where the individual is physically located.

e. Individuals receiving a state supplementary assistance payment. Individuals who are receiving a state supplementary assistance payment pursuant to 42 U.S.C. §1382e (including payments from Iowa pursuant to 441—Chapters 50 through 54 and Chapter 177) are considered to be residents of the state paying the supplementary assistance.

f. Individuals aged 21 and over who are residing in an institution and who are capable of indicating intent regarding residency. For an individual aged 21 or over who is residing in an institution and who is capable of indicating intent regarding residency, the state of residence is the state where the individual is living and intends to reside.

g. Individuals aged 21 and over who are residing in an institution and who became incapable of indicating intent regarding residency before the age of 21. For an individual aged 21 or over who is residing in an institution and who became incapable of indicating intent regarding residency before the age of 21, the state of residence is:

(1) That of the parent applying for Medicaid on the individual's behalf if the parents reside in separate states (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(2) The parent's or legal guardian's state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(3) The current state of residence of the parent or legal guardian who files the application if the individual is residing in an institution in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent); or

(4) The state of residence of the individual or party who files an application if the individual has been abandoned by the individual's parent(s), does not have a legal guardian, and is residing in an institution in that state.

h. Individuals aged 21 and over who are residing in an institution and who became incapable of indicating intent regarding residency at or after the age of 21. For an individual aged 21 or over who is residing in an institution and who became incapable of indicating intent regarding residency at or after the age of 21, the state of residence is the state in which the individual is physically present.

i. Individuals aged 21 and over who are not residing in an institution and who are incapable of indicating intent regarding residency. For an individual aged 21 or over who is not residing in an institution and who is incapable of indicating intent regarding residency, the state of residence is the state where the individual is living.

j. Individuals aged 21 and over who are not residing in an institution and who are capable of indicating intent regarding residency. For an individual aged 21 or over who is not residing in an institution and who is capable of indicating intent regarding residency, the state of residence is the state where the individual is living and either:

(1) Intends to reside, with or without a fixed address; or

(2) Entered with a job commitment or to seek employment, whether or not currently employed.

k. Individuals under the age of 21 who are residing in an institution and who are not married or emancipated. For an individual under the age of 21 who is residing in an institution and who is neither married nor emancipated, the state of residence is:

(1) The parent's or legal guardian's state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(2) The current state of residence of the parent or legal guardian who files the application if the individual is residing in an institution in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent); or

(3) The state of residence of the individual or party who files an application if the individual has been abandoned by the individual's parent(s), does not have a legal guardian, and is residing in an institution in that state.

l. Individuals under the age of 21 who are capable of indicating intent regarding residency and who are married or emancipated. For an individual under the age of 21 who is capable of indicating intent regarding residency and who is married or emancipated from the individual's parent, the state of residence is determined in accordance with paragraph 75.10(2)*"j."*

m. Other individuals under the age of 21. For an individual under the age of 21 who is not described in paragraph 75.10(2)*"k"* or *"l,"* the state of residence is:

(1) The state where the individual resides, with or without a fixed address; or

(2) The state of residency of the parent or caretaker, determined in accordance with paragraph 75.10(2)*"j,"* with whom the individual resides.

441—75.11(249A) Citizenship or alienage requirements.

75.11(1) *Definitions.* For purposes of this rule, the following definitions apply.

"Care and services necessary for the treatment of an emergency medical condition" means services provided in a hospital, clinic, office or other facility that is equipped to furnish the required care for an emergency medical condition, provided the care and services are not related to an organ transplant procedure furnished on or after August 10, 1993. Payment for emergency medical services will be limited to medical services that are required and directly related to the treatment of the emergency medical condition.

"Citizen" and *"citizenship"* includes both citizens of the United States and nationals of the United States as defined in 8 U.S.C. §1101(a)(22).

"Federal means-tested program" means all federal programs that are means-tested, with the exception of:

1. Medical assistance for care and services necessary for the treatment of an emergency medical condition not related to an organ transplant procedure furnished on or after August 10, 1993.
2. Short-term, non-cash, in-kind emergency disaster relief.
3. Assistance or benefits under the National School Lunch Act as amended to August 1, 2025.
4. Assistance or benefits under the Child Nutrition Act of 1966 as amended to August 1, 2025.
5. Public health assistance (not including any assistance under Title XIX of the Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by a communicable disease.
6. Payments of foster care and adoption assistance under Parts B and E of Title IV of the Act for a parent or a child who would, in the absence of numbered paragraph "1," be eligible to have payments made on the child's behalf under such part but only if the foster or adoptive parent (or parents) of the child is a qualified alien as defined in Section 431 of the Act.
7. Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the attorney general of the United States in the attorney general's sole and unreviewable discretion after consultation with appropriate federal agencies and departments that:

- Deliver in-kind services at the community level, including through public or private nonprofit agencies;
- Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

- Are necessary for the protection of life or safety.

8. Programs of student assistance under Titles IV, V, IX, and X of the Higher Education Act of 1965 as amended to August 1, 2025, and Titles III, VII, and VIII of the Public Health Services Act as amended to August 1, 2025.

9. Means-tested programs under the Elementary and Secondary Education Act of 1965 as amended to August 1, 2025.

10. Benefits under the Head Start Act, as amended to August 1, 2025.

11. Benefits funded through an employment and training program of the U.S. Department of Labor.

"INA" means the Immigration and Naturalization Act as amended to August 1, 2025, unless another effective date is specified.

"Noncitizen" means the same as "alien" as defined in 8 U.S.C. §1101(a)(3).

"Qualified noncitizen" means the same as "qualified alien" as defined in 8 U.S.C. §1641(b) and (c). A qualified noncitizen is:

1. Lawfully admitted for permanent residence in the United States under the INA;
2. Granted asylum in the United States under Section 208 of the INA;
3. A refugee admitted to the United States under Section 207 of the INA;
4. Paroled into the United States under Section 212(d)(5) of the INA for a period of at least one year;
5. An individual whose deportation from the United States is withheld under Section 243(h) of the INA as in effect before April 1, 1997, or under Section 241(b)(3) of the INA;
6. Granted conditional entry to the United States pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980;
7. An Amerasian admitted to the United States as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V);
8. A Cuban/Haitian entrant to the United States as described in Section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422) as amended to August 1, 2025;
9. A battered noncitizen as described in 8 U.S.C. Section 1641(c);
10. Certified as a victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to August 1, 2025;
11. An American Indian born in Canada to whom Section 289 of the INA applies or is a member of a federally recognized Indian tribe as defined in 25 U.S.C. Section 450b(e);
12. Under the age of 21 and is lawfully residing in the United States as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii); or
13. Lawfully residing in the United States in accordance with a Compact of Free Association with the Government of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau as described in 8 U.S.C. Section 1612(b)(2)(G) as amended by Section 208 of Division CC of Public Law 116-260 and as amended to August 1, 2025.

"Qualifying quarters" includes all of the qualifying quarters of coverage as defined under Title II of the Act worked by a parent of a noncitizen while the noncitizen was under the age of 18 and all of the qualifying quarters worked by a spouse of the noncitizen during their marriage if the noncitizen remains married to the spouse or the spouse is deceased. No qualifying quarter of coverage that is creditable under Title II of the Act for any period beginning after December 31, 1996, may be credited to a noncitizen if the parent or spouse of the noncitizen received any federal means-tested public benefit during the period for which the qualifying quarter is so credited.

75.11(2) *Citizenship and alienage.*

a. Eligibility. To be eligible for Medicaid, a person must be one of the following:

(1) A citizen or national of the United States.

(2) A qualified noncitizen continuously present (as described in Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility under Title IV of the Personal Responsibility and

Work Opportunity Reconciliation Act (PRWORA) at 62 FR 61415 dated November 11, 1997, and as amended to August 1, 2025) in the United States since before August 22, 1996.

(3) A qualified noncitizen under the age of 21.

(4) A refugee admitted to the United States under Section 207 of the INA.

(5) A noncitizen who has been granted asylum under Section 208 of the INA.

(6) A noncitizen whose deportation is withheld under Section 243(h) or 241(b)(3) of the INA.

(7) A qualified noncitizen veteran who has an honorable discharge that is not due to alienage.

(8) A qualified noncitizen who is on active duty in the Armed Forces of the United States other than active duty for training.

(9) A qualified noncitizen who is the spouse or unmarried dependent child of a qualified noncitizen described in subparagraph 75.11(2)*"a"*(7) or *"a"*(8), including a surviving spouse who has not remarried.

(10) A qualified noncitizen who has resided in the United States for a period of at least five years beginning on the date of the qualified noncitizen's entry into the United States with a status within the meaning of numbered paragraph "1," "4," or "9" under the definition of "qualified noncitizen" in subrule 75.11(1).

(11) An Amerasian admitted as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V).

(12) A Cuban/Haitian entrant as described in Section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).

(13) A certified victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to August 1, 2025.

(14) An American Indian born in Canada to whom Section 289 of the INA applies or who is a member of a federally recognized Indian tribe as defined in 25 U.S.C. Section 450b(e).

(15) An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of Public Law 110-181 as amended to August 1, 2025, or to Section 602(b)(8) of Public Law 111-8 as amended to August 1, 2025.

(16) An Afghan paroled into the United States treated as a refugee pursuant to Section 2502 of Public Law 117-43 as amended to August 1, 2025.

(17) A qualified noncitizen lawfully residing in the United States in accordance with a Compact of Free Association with the Government of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau as described in 8 U.S.C. Section 1612(b)(2)(G) as amended by Section 208 of Division CC of Public Law 116-260 and as amended to August 1, 2025.

(18) A conditional entrant pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980.

b. Attestation of citizenship or qualified noncitizen status. As a condition of eligibility, each applicant and member shall attest in writing to the applicant's or member's citizenship or qualified noncitizen status by signing the applicable form identified in subparagraph 75.11(2)*"b"*(1), *"b"*(2), *"b"*(3), or *"b"*(4). The attestation may be provided, in writing and under penalty of perjury, by an adult member of the individual's household, an authorized representative as defined in rule 441—76.1(249A), or, if the individual is a minor or incapacitated, by someone acting responsibly for the individual provided the person acting responsibly attests to having knowledge of the individual's status.

(1) All applicants for Medicaid shall attest to their citizenship or qualified noncitizen status by signing forms prescribed by the department that contain the declaration of their citizenship or qualified noncitizen status.

(2) Family-related Medicaid members and members subject to MAGI methodology shall attest to their citizenship or qualified noncitizen status by completing and signing forms prescribed by the department that contain the declaration of their citizenship or qualified noncitizen status.

(3) Non-MAGI-related Medicaid members not actually receiving SSI who have been continuous members since August 1, 1988, shall attest to their citizenship or qualified noncitizen status by signing the application form described in subparagraph 75.11(2)*"b"*(1) at time of review.

(4) The department will prescribe forms for an attestation of citizenship or qualified noncitizen status that will meet the requirements of subrule 75.11(2) for children under the age of 19 who are otherwise eligible pursuant to rule 441—76.4(249A).

c. Verification of citizenship and identity or qualified noncitizen status. An applicant or member attestation of citizenship or qualified noncitizen status must be verified as a condition of eligibility for Medicaid. An applicant or member who attests to citizenship must also verify their identity. The verification of citizenship status is acceptable as identity verification, except as stated otherwise within this subrule.

(1) Verification by electronic data sources. The department will accept applicant or member attestation of citizenship or qualified noncitizen status as verified when the attestation is consistent with available EDS.

(2) Satisfactory documentation of citizenship and identity is required. Except for the persons identified in paragraph 75.11(2)*"i,"* applicants or members for whom an attestation of United States citizenship has been made pursuant to paragraph 75.11(2)*"b"* shall present satisfactory documentation of the attested status and their identity when the attestation is not verified by available electronic data sources. Satisfactory documentation is identified in paragraphs 75.11(2)*"d," "e," "f," "g,"* and *"h."* The provisions of the reasonable opportunity period described in subparagraphs 75.11(2)*"c"*(4) and *"c"*(5) apply.

(3) Satisfactory documentation of qualified noncitizen status is required. Except for persons receiving SSI benefits under Title XVI of the Act, applicants or members for whom an attestation of a qualified noncitizen status has been made pursuant to paragraph 75.11(2)*"b"* shall present satisfactory documentation of the attested status when the attestation is not verified by available EDS. Satisfactory documentation of qualified noncitizen status is identified in paragraph 75.11(2)*"j."* The department will request documentation in writing from the applicant or member. The provisions of the reasonable opportunity period described in subparagraphs 75.11(2)*"c"*(4) and *"c"*(5) applies.

(4) Reasonable opportunity period for providing satisfactory documentation. Applicants and members will be allowed a reasonable opportunity period of 90 days to provide satisfactory documentation of citizenship and identity or qualified noncitizen status. The reasonable opportunity period begins on the date a written request for documentation or a notice pursuant to subparagraph 75.11(2)*"c"*(3) or *"c"*(7) above is issued to an applicant or member, whichever is later, and continues for 90 days.

(5) Medicaid approval pending reasonable opportunity period. Medicaid will be approved for new applicants and continue for members not previously required to provide documentation of citizenship and identity or qualified noncitizen status until the end of the reasonable opportunity period, subject to 441—subrule 76.16(1).

(6) No retroactive eligibility until citizenship and identity or qualified noncitizen status is verified. Retroactive eligibility pursuant to 441—subrule 76.13(3) is available only after citizenship and identity or qualified noncitizen status has been verified with EDS or documentation has been provided pursuant to paragraph 75.11(2)*"d," "e," "f," "g," "h,"* or *"j."* When applicable, the retroactive months are outside the reasonable opportunity period during which Medicaid coverage may be provided without required documentation of citizenship and identity or qualified noncitizen status.

(7) Verification of citizenship and identity or qualified noncitizen status not required. Applicants who reapply following a break in coverage and members who are subject to an eligibility review are not required to reverify citizenship and identity or qualified noncitizen status unless:

1. The individual reports a change in citizenship or qualified noncitizen status;

2. The individual's qualified noncitizen status is a type the department has determined is subject to change; or

3. The department receives information indicating a potential change in the individual's citizenship or qualified noncitizen status.

d. Standalone evidence of citizenship and identity. Any one of the documents described in 42 CFR 435.407(a) will be accepted as sufficient evidence of citizenship and identity. In addition, provision of an individual's name, social security number, and date of birth to the department will constitute satisfactory documentation of citizenship and identity if submission of the name, social security number, and date of birth to the SSA produces a data match response that substantiates the individual's citizenship and identity. If submission of the name, social security number, and date of birth to the SSA does not produce a data match response that substantiates the individual's citizenship and identity, the department will issue a written request for documentation or a notice to the applicant or member pursuant to subparagraph 75.11(2)*"c"*(4) giving the applicant or member 90 days to correct any errors in the name, social security number, or date of birth submitted; to correct any errors in the SSA's records; or to provide other documentation of citizenship and identity pursuant to paragraphs 75.11(2)*"d"* through *"h."*

e. Combination evidence of citizenship.

(1) If an applicant does not provide documentary evidence of citizenship and identity from the list in paragraph 75.11(2)*"d,"* information or documentation as described in 42 CFR 435.407(b) will be accepted as satisfactory evidence to establish citizenship if accompanied by an identity document listed in paragraph 75.11(2)*"f"*:

(2) If the applicant does not have one of the documents listed in paragraph 75.11(2)*"d"* or *"e,"* they may submit an affidavit provided by the department, signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.

f. Evidence of identity. Any of the following documents described in 42 CFR 435.407(c) or (d) will be accepted as proof of identify, provided the document has a photograph or other identifying information sufficient to establish identity, including but not limited to name, age, sex, race, height, weight, eye color, or address.

g. Reserved.

h. Documentary evidence. The department will accept documents in accordance with 42 CFR 435.407(f) and provide assistance in a timely manner to individuals who need assistance in securing satisfactory documentary evidence of citizenship or identity in accordance with 42 CFR 435.407(e).

i. Persons not required to verify citizenship and identity status. A person for whom an attestation of United States citizenship has been made pursuant to paragraph 75.11(2)*"b"* is not required to present documentation of citizenship and identity for Medicaid eligibility if any of the following circumstances apply:

(1) The person is entitled to or enrolled for benefits under any part of Title XVIII of the Act (Medicare).

(2) The person is receiving federal social security disability insurance (SSDI) benefits under Title II of the Act, Section 223 or 202, based on disability (as defined in Section 223(d)).

(3) The person is receiving SSI benefits under Title XVI of the Act.

(4) The person is or was exempted while assisted by child welfare services funded under Part B of Title IV of the Act on the basis of being a child in foster care as defined in Iowa Code section 232.2. This exemption does not apply and the person is subject to the citizenship and identity documentation requirements described in paragraph 75.11(2)*"c"* when services under Part B of Title IV were terminated due to failure to meet citizenship requirements.

(5) The person is or was exempted while assisted by foster care as defined in Iowa Code section 232.2 or adoption assistance funded under Part E of Title IV of the Act. This exemption does not apply and the person is subject to the citizenship and identity documentation requirements described in paragraph 75.11(2)*"c"* when services under Part E of Title IV were terminated due to failure to meet citizenship requirements.

(6) The person has previously presented satisfactory documentary evidence of citizenship and identity as specified by the United States Secretary of Health and Human Services.

(7) The person is or was deemed eligible for medical assistance pursuant to 42 U.S.C. Section 1396a(e)(4) on or after July 1, 2006, as the newborn of a Medicaid-eligible mother.

(8) The person is or was eligible for medical assistance pursuant to 42 U.S.C. Section 1397ll(e) as the newborn of a mother eligible for assistance under a State Children's Health Insurance Program (SCHIP) pursuant to Title XXI of the Act.

j. Satisfactory documentation of qualified noncitizen status. For the purpose of subparagraph 75.11(2)*"c"*(3), satisfactory documentation of qualified noncitizen status is documentation issued by the U.S. Citizenship and Immigration Services (USCIS) of the Department of Homeland Security (formerly Immigration and Naturalization Service (INS)) that identifies the person's qualified noncitizen status.

75.11(3) *Deeming of sponsor's income and resources.* When a qualified noncitizen admitted for lawful permanent residence (including those who applied for an immigrant visa or for adjustment of status, other than those whose status was adjusted from refugee or asylee status under 8 U.S.C. §1159 on or after December 19, 1997) is sponsored by a person who executed an affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the qualified noncitizen, the income and resources of each sponsor will be deemed to determine eligibility only for the sponsored qualified noncitizen and not for any nonsponsored members of the sponsored qualified noncitizen's household as follows:

a. Income. For the family-related and non-MAGI-related coverage groups described in rules 441—75.3(249A) through 441—75.9(249A) applicable to the sponsored qualified noncitizen, the amount deemed to the sponsored qualified noncitizen will be the total gross countable income of each sponsor less the following deductions that will be applied to both family-related and Non-MAGI-related applicants or members:

(1) The deductions described at 20 CFR §416.1166a, except that the amount to be deemed from each sponsor will be divided by the number of noncitizens sponsored by that sponsor.

(2) Diversion from countable earned and unearned income of the sponsor for the following:

1. Alimony or child support payments to persons not living with the sponsor.

2. Payments made to persons not living with the sponsor but who are claimed (or could be claimed) by the sponsor for federal income tax purposes.

b. Resources for non-MAGI-related coverage groups. When the sponsored qualified noncitizen's coverage group is non-MAGI-related, the total gross countable resources of each sponsor will be deemed to determine eligibility of the sponsored qualified noncitizen pursuant to 20 CFR §416.1204 less the applicable following deduction: $2,000 if the sponsor does not live with a spouse, $3,000 if the sponsor lives with a spouse who is not a sponsor, or $4,000 if the sponsor lives with a spouse who is also the qualified noncitizen's sponsor. Resources are not considered for family-related coverage groups and therefore not deemed to a sponsored qualified noncitizen applying for or receiving under a family-related coverage group.

c. An indigent qualified noncitizen is exempt from the deeming of a sponsor's income and resources for 12 months after indigence is determined. A qualified noncitizen will be considered indigent if the following are true:

(1) The qualified noncitizen does not live with the sponsor; and

(2) The qualified noncitizen's gross income, including any income actually received from or made available by the sponsor, is less than 100 percent of the FPL for the sponsored qualified noncitizen's household size.

d. A battered qualified noncitizen as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's income and resources for 12 months.

e. Deeming of the sponsor's income and resources does not apply when:

(1) The sponsored qualified noncitizen attains citizenship through naturalization pursuant to Chapter 2 of Title II of the INA as amended to August 1, 2025.

(2) The sponsored qualified noncitizen has earned 40 qualifying quarters of coverage as defined in Title II of the Act or can be credited with 40 qualifying quarters as defined in subrule 75.11(1).

(3) The sponsored qualified noncitizen or the sponsor dies.

(4) The sponsored qualified noncitizen is a lawfully residing child under the age of 21 as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii).

(5) For non-MAGI-related Medicaid, the sponsored qualified noncitizen becomes blind or disabled as defined under Title XVI of the Act after admission to the United States as a lawful permanent resident.

(6) For non-MAGI-related Medicaid, three years after the date the sponsored qualified noncitizen was admitted to the United States as a lawful permanent resident.

75.11(4) *Eligibility for payment of emergency medical services.* Noncitizens who do not meet the provisions of subrule 75.11(2) and who would otherwise qualify except for their noncitizen status are eligible to receive Medicaid for care and services necessary for the treatment of an emergency medical condition as defined in subrule 75.11(1). To qualify for payment under this provision, the noncitizen must meet all other eligibility criteria, including state residence requirements in rule 441—75.10(249A), with the exception of rule 441—75.9(249A) and subrules 75.11(2) and 75.11(3).

441—75.12(249A) Inmates of public institutions. A person is not eligible for medical assistance for any care or services received while the person is an inmate of a public institution. For the purpose of this rule, "inmate of a public institution" and "public institution" mean the same as defined in 42 CFR Section 435.1010.

75.12(1) *Suspension.* Medical assistance will be suspended rather than canceled while a person is an inmate of a public institution if all of the following conditions are met:

a. The department is notified of the person's entry into the public institution through either:

(1) A daily report that is provided to the department by the public institution and includes the person's first name and last name and the date the person entered the institution; or

(2) Other verified notice received by the department.

b. The person has entered a public institution on or after January 1, 2012, and has been in the public institution for 30 days or more.

c. On the date of entry into the public institution, the person was a Medicaid member.

d. The person is eligible for medical assistance as an individual except for institutional status.

75.12(2) *Coverage during suspension.* While medical assistance is suspended, payment will be made only for services limited to inpatient hospital claims only.

75.12(3) *Reinstatement.* The Medicaid case for an inmate who is released from a public institution while Medicaid is suspended will be reopened without an application if both of the following conditions are met:

a. The department is notified of the person's release from the public institution through either:

(1) A daily report provided to the department by the public institution that includes the person's first name and last name and the date the person was released from the institution; or

(2) Other verified notice received by the department.

b. All information available to the department indicates that the person is currently eligible for Iowa Medicaid as an individual.

This rule is intended to implement Iowa Code section 249A.3 and 2011 Iowa Acts, Senate File 482, division IX.

441—75.13 Reserved.

441—75.14(249A) Establishing liability and obtaining support.

75.14(1) As a condition of eligibility, adult Medicaid applicants and members shall cooperate in obtaining medical support for themselves and for any other person in the household for whom Medicaid is requested or received and for whom the applicant or member can legally assign rights for medical support, except when the member has good cause for refusal to cooperate as defined in subrule 75.14(7).

a. The adult applicant shall agree to cooperate in obtaining medical support at the time of application.

b. The adult member shall cooperate in the following:

(1) Identifying and locating parties liable for the support of household members receiving Medicaid.

(2) Establishing liability for the support of household members receiving Medicaid, including establishment of paternity if paternity has not previously been established.

(3) Obtaining medical support and payments for medical care for household members receiving Medicaid.

c. Cooperation is defined as including the following actions by the adult member upon request:

(1) Appearing at the child support services as defined in 441—Chapter 95 to provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the member that is relevant to achieving the objectives of the child support recovery program.

(2) Appearing as a witness at judicial or other hearings or proceedings.

(3) Providing information, or attesting to the lack of information, under penalty of perjury.

d. Upon request, the adult member shall cooperate with the department in supplying information with respect to potentially liable parties, the receipt of medical support or payments for medical care, and the establishment of liability for support to the extent necessary to establish eligibility for assistance.

e. Upon request, the adult member shall cooperate with child support services by supplying all known information and documents pertaining to the location of potentially liable parties and taking action as may be necessary to secure medical support and payments for medical care or to establish liability. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

f. Child support services will make the determination of whether or not the adult member has cooperated for the purposes of this rule.

75.14(2) Failure of an adult applicant to agree to cooperate or an adult member to cooperate will result in denial or cancellation of the noncooperating adult's Medicaid benefits. In family-related Medicaid cases, all exclusions, expenses and deductions described in rule 441—75.73(249A) will be allowed when otherwise applicable.

75.14(3) Each Medicaid member who is required to cooperate with child support services shall have the opportunity to claim good cause for refusing to cooperate in establishing liability or securing medical support and payments for medical care. The provisions set forth in subrules 75.14(7) through 75.14(11) will be used when making a determination of the existence of good cause.

75.14(4) Each Medicaid member shall assign to the department any rights to medical support and payments for medical care from any other person for which the person can legally make assignment. This shall include rights to medical support and payments for medical care on the member's own behalf or on behalf of any other person in the household who receives Medicaid.

An assignment is effective the same date the notice of eligibility is issued and is effective for the entire period for which eligibility is granted. Support payments not intended for medical support will not be assigned to the department.

75.14(5) Pregnant women establishing eligibility under the MAC coverage group as provided in subrule 75.3(2) will be exempt from the provisions in this rule for any born child for whom the pregnant woman applies for or receives Medicaid. Additionally, any previously pregnant woman eligible for postpartum coverage under the provision of subrule 75.3(4) will not be subject to the provisions in this rule until after the end of the month in which the postpartum period expires.

Pregnant women establishing eligibility under any other coverage groups, except those set forth in subrule 75.3(2) or 75.3(4), will be subject to the provisions in this rule when establishing eligibility for born children. However, when a pregnant woman who is subject to these provisions fails to cooperate, the woman will lose eligibility under her current coverage group and her eligibility for Medicaid will be automatically redetermined under subrule 75.3(2).

75.14(6) Notwithstanding subrule 75.14(5), any pregnant woman or previously pregnant woman establishing eligibility under subrule 75.3(2) or 75.3(4) will not be exempt from the provisions of 75.14(4) that require an adult member to assign any rights to medical support and payments for medical care.

75.14(7) Good cause exists when it is determined that cooperation in establishing liability and securing support is against the best interests of the child.

a. The department will determine that cooperation is against the child's best interest when the member's cooperation in establishing liability or securing support is reasonably anticipated to result in:

(1) Physical or emotional harm to the child for whom support is to be sought;

(2) Physical or emotional harm to the parent or other caretaker with whom the child is living which reduces the person's capacity to care for the child adequately.

b. The department will determine that cooperation is against the child's best interest when at least one of the following circumstances exists and the department believes that because of the existence of that circumstance, in the particular case, proceeding to establish liability or secure support would be detrimental to the child for whom support would be sought:

(1) The child was conceived as the result of incest or forcible rape.

(2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.

(3) The member is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption and the discussions have not gone on for more than three months.

c. Physical harm and emotional harm shall be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm will be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

d. When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the child, the parent, or the other caretaker, the following shall be considered:

(1) The present emotional state of the individual subject to emotional harm.

(2) The emotional health history of the individual subject to emotional harm.

(3) Intensity and probable duration of the emotional impairment.

(4) The degree of cooperation required.

(5) The extent of involvement of the child in the liability establishment or support enforcement activity to be undertaken.

75.14(8) Each Medicaid member who is required to cooperate with child support services will have the opportunity to claim good cause for refusing to cooperate in establishing liability or securing support payments.

a. Before requiring cooperation, the department will notify the member of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination.

b. The initial notice advising of the right to refuse to cooperate for good cause will:

(1) Advise the member of the potential benefits the child may derive from the establishment of liability and securing support.

(2) Advise the member that by law cooperation in establishing liability and securing support is a condition of eligibility for the Medicaid program.

(3) Advise the member of the sanctions provided for refusal to cooperate without good cause.

(4) Advise the member that good cause for refusal to cooperate may be claimed and that if the department determines, in accordance with these rules, that there is good cause, the member will be excused from the cooperation requirement.

(5) Advise the member that upon request, or following a claim of good cause, the department will provide further notice with additional details concerning good cause.

c. When the member makes a claim of good cause or requests additional information regarding the right to file a claim of good cause, the department will issue a second notice. To claim good cause, the member shall sign and date a form prescribed by the department and return it. This form:

(1) Indicates that the member must provide corroborative evidence of good cause circumstance and must, when requested, furnish sufficient information to permit the county office to investigate the circumstances.

(2) Informs the member that, upon request, the department will provide reasonable assistance in obtaining the corroborative evidence.

(3) Informs the member that on the basis of the corroborative evidence supplied and the department's investigation, when necessary, the department will determine whether cooperation would be against the best interests of the child for whom support would be sought.

(4) Lists the circumstances under which cooperation may be determined to be against the best interests of the child.

(5) Informs the member that child support recovery services may review the findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause.

(6) Informs the member that child support recovery services may attempt to establish liability and collect support in those cases where it is determined that this can be done without risk to the member if done without the member's participation.

d. The member who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Failure to meet these requirements shall constitute a sufficient basis for the department to determine that good cause does not exist. The member shall:

(1) Specify the circumstances that the member believes provide sufficient good cause for not cooperating.

(2) Corroborate the good cause circumstances.

(3) When requested, provide sufficient information to permit an investigation.

75.14(9) The department will determine whether good cause exists for each Medicaid member who claims to have good cause.

a. The department will notify the member of its determination that good cause does or does not exist. The determination will:

(1) Be in writing.

(2) Contain the findings and basis for determination.

(3) Be entered in the case record.

b. The determination of whether good cause exists will be made within 45 days from the day the good cause claim is made. The department may exceed this time standard only when:

(1) The case record documents that the department needs additional time because the information required to verify the claim cannot be obtained within the time standard, or

(2) The case record documents that the claimant did not provide corroborative evidence within the time period set forth in subrule 75.14(10).

c. When the department determines that good cause does not exist:

(1) The member will be so notified and be afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) Continued refusal to cooperate will result in the loss of Medicaid for the person who refuses to cooperate.

d. The department will make a good cause determination based on the corroborative evidence supplied by the member only after it has examined the evidence and found that it verifies the good cause claim.

e. Before making a final determination of good cause for refusing to cooperate, the department will:

(1) Afford child support services the opportunity to review and comment on the findings and basis for the proposed determination, and

(2) Consider any recommendation from child support services.

f. Child support services may participate in any appeal hearing that results from a member's appeal of a department action with respect to a decision on a claim of good cause.

g. Assistance will not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate when the member has specified the circumstances under which good cause can be claimed and provided the corroborative evidence and any additional information needed to establish good cause.

h. The department will:

(1) Periodically, but not less frequently than every six months, review those cases in which the department has determined that good cause exists based on a circumstance that is subject to change.

(2) When it determines that circumstances have changed so that good cause no longer exists, rescind its findings and proceed to enforce the requirements pertaining to cooperation in establishing liability and securing support.

75.14(10) The member who claims good cause shall provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the department determines that the member requires additional time because of the difficulty in obtaining the corroborative evidence, the department will allow a reasonable additional period upon approval by the worker's immediate supervisor.

a. A good cause claim may be corroborated with the following types of evidence:

(1) Birth certificates or medical or law enforcement records that indicate that the child was conceived as the result of incest or forcible rape.

(2) Court documents or other records that indicate that legal proceedings for adoption are pending before a court of competent jurisdiction.

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records that indicate that the potentially liable person might inflict physical or emotional harm on the child.

(4) Medical records that indicate emotional health history and present emotional health status of the parent or other caretaker or the children for whom support would be sought; also, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the parent or other caretaker or the child for whom support would be sought.

(5) A written statement from a public or licensed private social agency that the member is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(6) Sworn statements from individuals other than the member with knowledge of the circumstances that provide the basis for the good cause claim.

b. When, after examining the corroborative evidence submitted by the member, the department wishes to request additional corroborative evidence needed to permit a good cause determination, the department will:

(1) Promptly notify the member that additional corroborative evidence is needed, and

(2) Specify the type of corroborative evidence needed.

c. When the member requests assistance in securing evidence, the department will:

(1) Advise the member how to obtain the necessary documents, and

(2) Make a reasonable effort to obtain any specific documents which the member is not reasonably able to obtain without assistance.

d. When a claim is based on the member's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

(1) The department will investigate the good cause claim when it believes that the claim is credible without corroborative evidence and corroborative evidence is not available.

(2) Good cause will be found when the claimant's statement and investigation satisfies the department that the member has good cause for refusing to cooperate.

(3) A determination that good cause exists will be reviewed and approved or disapproved by a supervisor and the findings will be recorded in the case record.

e. The department may further verify the good cause claim when the member's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the department determines that it is necessary, the department may conduct an investigation of good cause claims to determine whether good cause exists.

f. When it conducts an investigation of a good cause claim, the department will:

(1) Contact the potentially liable person from whom support would be sought when the contact is determined to be necessary to establish the good cause claim.

(2) Before making the necessary contact, notify the member so the member may present additional corroborative evidence or information so that contact with the potentially liable person becomes unnecessary, withdraw the application for assistance or have the case closed, or have the good cause claim denied.

75.14(11) Enforcement without parent or other caretaker's cooperation. When the department makes a determination that good cause exists, the department will also make a determination of whether child support services can proceed without risk of harm to the child, parent, or other caretaker when the enforcement or collection activities do not involve their participation.

a. Child support services will have an opportunity to review and comment on the findings and basis for the proposed determination and the department will consider any recommendations from child support services.

b. The determination will be in writing, contain the department's findings and basis for the determination, and be entered into the case record.

c. When the department excuses cooperation but determines that child support services may proceed to establish liability or enforce support, the department will notify the member to enable the individual to have the case closed.

441—75.15(249A) Medical resources. Medical resources include health and accident insurance, eligibility for care through the Department of Veterans Affairs, specialized child health services, services received through Title XVIII of the Act (Medicare), and other resources for meeting the cost of medical care that may be available to the member. These resources must be used when reasonably available.

75.15(1) The department will approve payment only for those services or that part of the cost of a given service for which no medical resources exist unless pay and chase provisions as defined in rule 441—75.1(249A) are applicable.

75.15(2) As a condition of eligibility for Medicaid, a person who has the legal capacity to execute an assignment shall do all of the following:

a. Assign to the department all rights to payments of medical care from any third party to the extent that payment has been made under the Medicaid program. The applicant's signature on the application form listed in 441—paragraph 76.2(1)*"c"* shall constitute agreement to the assignment. The assignment shall be effective for the entire period during which Medicaid makes payment for medical care.

b. Cooperate with the department in obtaining third-party payments. The member or someone acting on the member's behalf shall:

(1) File a claim or submit an application for any reasonably available medical resource, and

(2) Cooperate in the processing of the claim or application.

c. Cooperate with the department in identifying and providing information to assist the department in pursuing any third party who may be liable to pay for medical care and services available under the Medicaid program.

75.15(3) Good cause for failure to cooperate in the filing or processing of a claim or application will be considered to exist when the member, or someone acting on behalf of a minor or legally incompetent adult member, is physically or mentally incapable of cooperation. Good cause will be considered to exist when cooperation is reasonably anticipated to result in:

a. Physical or emotional harm to the member for whom medical resources are being sought;

b. Physical or emotional harm to the parent or payee, acting on the behalf of a minor or legally incompetent adult member, for whom medical resources are being sought.

75.15(4) Failure to cooperate as required in subrule 75.15(2) without good cause as defined in subrule 75.15(3) will result in the termination of Medicaid benefits. The department will make the determination of good cause based on information and evidence provided by the member or by someone acting on the member's behalf.

a. The Medicaid benefits of a minor or legally incompetent adult member will not be terminated for failure to cooperate in reporting medical resources.

b. When a parent or payee acting on behalf of a minor or legally incompetent adult member fails to file a claim or application for reasonably available medical resources or fails to cooperate in the processing of a claim or application without good cause, the Medicaid benefits of the parent or payee will be terminated.

This rule is intended to implement Iowa Code sections 249A.4, 249A.5, and 249A.54.

441—75.16(249A) Medical assistance lien.

75.16(1) When the Medicaid program pays for a member's medical care or expenses, the department will have a lien upon all monetary claims that the member may have against third parties for those expenses. Monetary claims will include medical malpractice claims for injuries sustained on or after July 1, 2011. The lien will be to the extent of the Medicaid payments only.

a. A lien is not effective unless the department files a notice of lien with the clerk of the district court in the county where the member resides and with the member's attorney when the member's eligibility for Medicaid is established. The notice of lien will be filed before the third party has concluded a final settlement with the member, the member's attorney, or other representative.

b. The third party shall obtain a written determination from the department concerning the amount of the lien before a settlement is deemed final.

(1) A compromise, including but not limited to notification, settlement, waiver or release of a claim, does not defeat the department's lien except pursuant to the written agreement of the director or the director's designee under which the department would receive less than full reimbursement of the amounts it expended.

(2) A settlement, award, or judgment structured in any manner not to include medical expenses or an action brought by a member or on behalf of a member that fails to state a claim for recovery of medical expenses does not defeat the department's lien if there is any recovery on the member's claim.

c. All notifications required by law shall be directed to the department. Notification shall be considered made as of the time the notification is deposited so addressed, postage prepaid, in the United States Postal Service system.

75.16(2) The department may pursue its rights to recover either directly from any third party or from any recovery obtained by or on behalf of any member. If a member incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the department has a lien under this rule, upon the receipt of the judgment or settlement of the total claim, of which the lien for Medicaid payments is a part, the court costs and reasonable attorney fees will first be deducted from this total judgment or settlement. One-third of the remaining balance will then be deducted and paid to the member. From the remaining balance, the lien of the department will be paid. Any amount remaining will be paid to the member. An attorney acting on behalf of a member for the purpose of enforcing a claim to which the department has a lien shall not collect from the member any amount as attorney fees that is in excess of the amount the attorney customarily would collect on claims not subject to this rule. The department will provide computer-generated documents or claim

forms describing the services for which it has paid upon request of any affected member or the member's attorney. The documents may also be provided to a third party where necessary to establish the extent of the department's claim.

75.16(3) In those cases where appropriate notification is not given to the department or where the department's recovery rights are otherwise adversely affected by an action of the member or someone acting on the member's behalf, Medicaid benefits will be terminated. The Medicaid benefits of a minor child or a legally incompetent adult member will not be terminated under this subrule. Subsequent eligibility for Medicaid benefits will be denied until an amount equal to the unrecovered claim has been reimbursed to the department or the individual produces documentation of incurred medical expense equal to the amount of the unrecovered claim. The incurred medical expense will not be paid by the Medicaid program.

a. The member, or someone acting on the member's behalf, shall provide information and verification as required to establish the availability of medical or third-party resources.

b. The member or person acting on the member's behalf shall complete a form prescribed by the department, in a timely manner at the time of application, when any change in medical resources occurs during the application period, and when any changes in medical resources occur after the application is approved. A report will be considered timely when made within ten days from:

(1) The date that health insurance begins, changes, or ends.

(2) The date that eligibility begins for care through the Department of Veterans Affairs, specialized child health services, Title XVIII of the Act (Medicare) and other resources.

(3) The date the member, or someone acting on the member's behalf, files an insurance claim against an insured third party for the payment of medical expenses that otherwise would be paid by Medicaid.

(4) The date the member, or someone acting on the member's behalf, retains an attorney with the expectation of seeking restitution for injuries from a possibly liable third party, and the medical expenses resulting from those injuries would otherwise be paid by Medicaid.

(5) The date that the member, or someone acting on the member's behalf, receives a partial or total settlement for the payment of medical expenses that would otherwise be paid by Medicaid. The member may report the change in person, by telephone, by mail, or by using forms prescribed by the department when annual reviews are completed and when the client requests a form.

c. The member, or someone acting on the member's behalf, shall complete a form prescribed by the department when the department has reason to believe that the member has sustained an accident-related injury. Failure to cooperate in completing and returning this form or in giving complete and accurate information will result in the termination of Medicaid benefits.

d. When the recovery rights of the department are adversely affected by the actions of a parent or payee acting on behalf of a minor or legally incompetent adult member, the Medicaid benefits of the parent or payee will be terminated. When a parent or payee fails to cooperate in completing or returning any form required by the department, or fails to give complete and accurate information concerning the accident-related injuries of a minor legally incompetent adult member, the department will terminate the Medicaid benefits of the parent or payee.

e. The member, or someone acting on the member's behalf, shall refund to the department from any settlement or payment received the amount of any medical expenses paid by Medicaid. Failure of the member to do so will result in the termination of Medicaid benefits. In those instances where a parent or payee, acting on behalf of a minor or legally incompetent adult member, fails to refund a settlement overpayment to the department, the Medicaid benefits of the parent or payee will be terminated.

75.16(4) Third party and provider responsibilities.

a. The health care services provider shall inform the department by appropriate notation on Form CMS-1500 that other coverage exists but did not cover the service being billed or that payment was denied.

b. The health care services provider shall notify the department in writing by mailing copies of any billing information sent to a member, an attorney, an insurer or other third party after a claim has been submitted to or paid by the department.

c. An attorney representing an applicant for Medicaid or a past or present Medicaid member on a claim to which the department has filed a lien under this rule shall notify the department of the claim of which the attorney has actual knowledge, before filing a claim, commencing an action or negotiating a settlement offer. Actual knowledge shall include the notice to the attorney pursuant to subrule 75.16(1). The mailing and deposit in a U.S. post office or public mailing box of the notice, addressed to the department at its state or local office location, is adequate legal notice of the claim.

75.16(5) *Department's lien.*

a. The department's liens are valid and binding on an attorney, insurer or other third party only upon notice by the department or unless the attorney, insurer or other third party has actual notice that the member is receiving Medicaid from the department and only to the extent that the attorney, insurer or third party has not made payment to the member or an assignee of the member prior to the notice. Any information released to an attorney, insurer or other third party by the health care services provider that indicates that reimbursement from the state was contemplated or received will be construed as giving the attorney, insurer or other third party actual knowledge of the department's involvement. For example, information supplied by a health care services provider that indicates Medicaid involvement will be construed as showing involvement by the department under Iowa Code section 249A.54. Payment of benefits by an insurer or third party pursuant to the rights of the lienholder in this rule discharges the attorney, insurer or other third party from liability to the member or the member's assignee to the extent of the payment to the department.

b. When the department has reason to believe that an attorney is representing a member on a claim to which the department filed a lien under this rule, the department will issue notice to that attorney of the department's lien rights.

c. When the department has reason to believe that an insurer is liable for the costs of a member's medical expenses, the department will issue notice to the insurer of the department's lien rights.

d. The mailing and deposit in a U.S. post office or public mailing box of the notice, addressed to the attorney or insurer, is adequate legal notice of the department's subrogation rights.

75.16(6) For purposes of this rule, the term "third party" includes an attorney, individual, institution, corporation, or public or private agency that is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant for Medicaid or a past or present Medicaid member.

75.16(7) The department may enforce its lien by a civil action against any liable third party.

This rule is intended to implement Iowa Code sections 249A.4, 249A.5, and 249A.54.

441—75.17 Reserved.

441—75.18(249A) Continuous eligibility for pregnant women.

75.18(1) A pregnant woman who was eligible and enrolled in Medicaid under the provisions of this chapter prior to the end of her pregnancy shall remain continuously eligible throughout the pregnancy and the 12-month postpartum period as provided in subrule 75.3(4), regardless of changes in circumstances, except if any of the following occur:

a. The woman requests voluntary termination of eligibility.

b. The woman ceases to be a resident of the state of Iowa.

c. Iowa Medicaid finds that the woman's eligibility was determined incorrectly at the most recent determination or redetermination of eligibility because of agency error or fraud, abuse, or perjury.

d. The woman dies.

75.18(2) Except as described in subrule 75.3(4), the woman is not required to meet any eligibility criteria described in this chapter or the reenrollment requirements at 441—paragraph 76.14(1)*"a"* during the pregnancy and 12-month postpartum period.

75.18(3) At the end of the 12-month postpartum period, the woman will be subject to the reenrollment requirements at 441—paragraph 76.14(1)*"b."*

75.18(4) Pregnant women determined eligible only for emergency services pursuant to subrule 75.11(4) are eligible under this provision.

441—75.19(249A) Continuous eligibility for children. A child under the age of 19 who is determined eligible for ongoing Medicaid will retain that eligibility for up to 12 months regardless of changes in family circumstances, except as described in this rule.

75.19(1) *Exceptions to coverage.* This rule does not apply to the following:

a. Children whose eligibility was determined under the newborn coverage group described in subrule 75.3(3).

b. Children whose eligibility was determined under the medically needy coverage group described in rule 441—75.8(249A).

c. Children whose Medicaid is state-funded only.

d. Children eligible only in a retroactive month pursuant to 441—subrule 76.13(3).

e. Children whose U.S. citizenship and identity, or noncitizenship status, is not verified within the reasonable opportunity period described in paragraph 75.11(2)*"c."*

f. Children whose eligibility was determined under express lane procedures described in rule 441—76.4(249A).

g. Children whose initial eligibility was established incorrectly.

75.19(2) *Duration of coverage.* Coverage under this rule will extend through the earliest of the following:

a. The month of the household's annual eligibility review;

b. The month when the child reaches the age of 19, except as stated in rule 441—75.52(249A);

c. The month when the child ceases to be a resident of Iowa or fails to provide the department with adequate information to determine whether the child meets residency requirements pursuant to rule 441—75.10(249A);

d. The month that voluntary termination of eligibility is requested; or

e. The month the child is determined to be deceased.

75.19(3) *Assignment of review date.* Children entering an existing Medicaid household will be assigned the same annual eligibility review date as that established for the household.

441—75.20(249A) Medical assistance corrective payments. If a decision by the department or SSA following an appeal on a denied application for any of the coverage groups set forth in 441—75.3(249A) through 441—75.8(249A) is favorable to the claimant, reimbursement will be made to the claimant for any medical bills paid by the claimant during the period between the date of the denial on the initial application and the date regular Medicaid coverage began when the bills were for medical services rendered in the period now determined to be an eligible period based on the following conditions:

75.20(1) These bills must be for services covered by the Medicaid program as set forth in 441—Chapter 78.

75.20(2) Reimbursement will be based on Medicaid rates for services in effect at the time the services were provided.

75.20(3) If a county relief agency has paid medical bills on the member's behalf and has not received reimbursement through assignment as set forth in 441—Chapter 80, the department will reimburse the county relief agency directly on the same basis as if the reimbursement was made to the member.

75.20(4) Members and county relief agencies may file claims for payment under this subrule on forms prescribed the department. These forms are available from the county office. All requests for reimbursement will be acted upon within 60 days of receipt of the forms in the county office.

75.20(5) Any adverse action taken by the department with respect to an application for reimbursement is appealable under 441—Chapter 7.

441—75.21(249A) Health insurance premium payment (HIPP) program. Under the HIPP program, the department will pay for the cost of premiums, coinsurance, copayments, and deductibles for Medicaid-eligible individuals when the department determines that those costs will be less than the cost of paying for the individual's care through Medicaid, including managed care capitation fees. Payment will include only the cost to the Medicaid-eligible individual or household.

75.21(1) *Definitions.* For purposes of this rule, the following definitions apply:

"Absent parent" means a noncustodial parent or a parent who is not living with the member.

"Authorized representative" means an individual or organization authorized by a competent applicant or member; authorized by a responsible person acting for an incompetent applicant or member pursuant to 441—subrule 76.9(2); or with other legal authority to represent the applicant or member in the application process, renewal of eligibility and other ongoing communications with the department.

"Capitation payment" means a monthly payment to the managed care contractor on behalf of each member for the provision of health services under the managed care organization contract. Payment is made by the department regardless of whether the member receives services during the month. The managed care capitation payment varies based on the eligible member's sex, age, and eligibility aid type.

"Cost-effective" means a determination has been made that a savings will accrue to the department by paying the insurance premium, cost sharing, wrap benefits, and administrative cost.

"Cost sharing" means the member's portions of in-network health care costs not covered by an insurance plan. "Cost sharing" includes copayments, coinsurance and deductibles, which vary among health care plans.

"Custodian" means the person recognized as representing the interests of the member for Medicaid assistance. When the member reaches the age of 18 and the custodian is not used in determining Medicaid eligibility, there shall be legal documentation in place that the custodian is now the responsible person or authorized representative.

"Employer-sponsored insurance" or *"ESI"* means any health insurance plan paid for by a business on behalf of its employees.

"High-deductible health plan" or *"HDHP"* means a health insurance plan that meets the definition found in Section 223(c)(2) of the United States Internal Revenue Code as amended to August 1, 2025.

"HIPP-eligible member" or *"HIPP enrollee"* means a person whose Medicaid eligibility is calculated in the cost-effective determination for HIPP.

"Household" means the group of people who are used in the budgeting and size when determining Medicaid eligibility.

"Individual plan" means an insurance plan purchased through a government-run health insurance marketplace or through a local broker or agent.

"Insurance plan" means major medical comprehensive health coverage provided through an employer, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) as amended to August 1, 2025, a government-run health insurance marketplace, or a local broker or agent. Dental and vision plans are not considered to be insurance plans for purposes of this definition.

"Member" means an individual who has been determined eligible for Medicaid assistance and is enrolled to receive assistance.

"Policyholder" means the person in whose name an insurance policy is registered.

"Responsible person" means an individual recognized by the department pursuant to 441—subrule 76.9(1) as acting for an applicant or member who is unable to act on the applicant's or member's own behalf because the applicant or member is a minor or is incompetent, incapacitated, or deceased.

"Wrap benefits" means the services covered under the Medicaid state plans that are not paid for by insurance plans (i.e., waiver services, transportation).

75.21(2) *Insurance plans.* Participation in an insurance plan is not a condition of Medicaid eligibility. The department will pay for the cost of the insurance plan premiums, coinsurance, copayment, and deductibles of an insurance plan for a member if:

a. A member is enrolled in or can be added to the insurance plan; and

b. The insurance plan is cost-effective as described in subrule 75.21(3).

75.21(3) *Cost-effectiveness.* An insurance plan shall be considered cost-effective when the amount the department would pay for the member's insurance premiums, cost sharing, wrap benefits, and administrative costs is likely to be less than the amount the department would pay through Medicaid, including managed care capitation fees. When determining the cost-effectiveness of an insurance plan, the following data will be considered:

a. The cost to the member or household for the insurance premium, coinsurance, copayments and deductibles. Costs paid by an employer or other plan sponsor will not be considered in the cost-effectiveness determination.

b. The cost of care through Medicaid, including managed care capitation fees, the department would pay for the member.

c. The estimated cost of wrap benefits per member based on the member's sex, age, and eligibility aid type.

d. The specific health-related circumstances of the members covered under the health plan. The HIPP Medical History Questionnaire will be used to obtain this information. When the information indicates any health conditions that could be expected to result prospectively in higher-than-average bills for any Medicaid member:

(1) If the member is currently covered by the insurance plan, the department will request from the policyholder, or from the responsible person for the member, an insurance summary of the member's paid claims for the previous 12 months. If there is sufficient evidence to indicate that such claims can be expected to continue in the next 12 months, the claims will be considered in determining the cost-effectiveness of the insurance plan. The cost of the insurance plan premium, member's cost sharing, and administrative cost are compared to the actual claims to determine the cost-effectiveness of providing the coverage.

(2) If the member was not covered by the health plan in the previous 12 months, fee-for-service paid Medicaid claims may be used to project the cost-effectiveness of the plan.

e. Annual administrative expenditures of $150 per HIPP member covered under the health plan.

f. Whether the estimated savings to the department for members covered under the health insurance plan is at least $5 per month per household.

75.21(4) *Coverage of non-Medicaid-eligible family members.* When an insurance plan is determined to be cost-effective, the department will pay for insurance premiums for non-Medicaid-eligible family members if a non-Medicaid-eligible family member must be enrolled in the insurance plan in order to obtain coverage for the Medicaid-eligible family members. However:

a. The needs of the non-Medicaid-eligible family members will not be taken into consideration when determining cost-effectiveness; and

b. Payments for deductibles, coinsurances or other cost-sharing obligations will not be made on behalf of family members who are not Medicaid-eligible.

75.21(5) *Insurance plans ineligible for reimbursement.* Premiums will not be paid for insurance plans under any of the following circumstances:

a. The insurance plan is that of an absent parent.

b. The insurance plan is an indemnity policy that supplements the policyholder's income or pays only a predetermined amount for services covered under the policy (e.g., $50 per day for hospital services instead of 80 percent of the charge).

c. The insurance plan is a school plan offered on the basis of attendance or enrollment at the school.

d. The insurance premium is used to meet a spenddown obligation under the medically needy program, as provided in rule 441—75.8(249A), when all persons in the household are eligible or potentially eligible only under the medically needy program. When some of the household members are eligible for full Medicaid benefits under coverage groups other than medically needy, the premium will be paid if it is determined to be cost-effective when considering only the persons receiving full Medicaid coverage. In those cases, the insurance premium will not be allowed as a deduction to meet the spenddown obligation for those persons in the household participating in the medically needy program.

e. The insurance plan is designed to provide coverage only for a temporary period of time (e.g., 30 to 180 days).

f. The persons covered under the insurance plan are not Medicaid-eligible on the date the decision regarding eligibility for the HIPP program is made. No retroactive payments will be made if the case is not Medicaid-eligible on the date of decision.

g. The person is eligible only for a coverage group that does not provide full Medicaid services.

h. Insurance coverage is provided through the Iowa Comprehensive Health Insurance Association in accordance with Iowa Code chapter 514E.

i. Insurance on the member(s) is maintained by someone who does not live with the member(s), is not the legal guardian of the member(s), is not a responsible person, or does not have legal permission to access the Medicaid information of the member(s) (e.g., self-supporting adult children).

j. The member has Medicare. If other members in the household are covered by the insurance plan, cost-effectiveness is determined without including the Medicare-covered member.

k. The insurance plan does not provide major medical coverage but pays only for specific situations (i.e., accident plans) or illnesses (i.e., cancer policy).

l. The health plan pays secondary to another plan.

m. The only Medicaid member is in foster care.

n. The member is active for Medicaid under Medicaid for children with disabilities (i.e., MKSN) pursuant to subrule 75.6(7). Any other Medicaid members in the household who are covered by the health plan will be determined for cost-effectiveness.

o. The insurance plan is limited due to preexisting conditions.

p. The insurance plan is a subsidized insurance plan purchased through a government-run health insurance exchange.

q. On the date the decision regarding eligibility for the HIPP program is made, the insurance is no longer available.

r. The insurance plan is an HDHP.

75.21(6) *Department evaluation of ESI plans.* When evaluating ESI plans available through an employer, if there is more than one cost-effective insurance plan available, the department will pay the premium for only one plan. The member may choose the cost-effective plan in which to enroll.

75.21(7) *Effective date of premium payment.* The effective date of premium payments for a cost-effective health plan will be determined as follows:

a. Premium payments shall begin the later of:

(1) The first day of the month in which the Employer's Statement of Earnings, HIPP Program Application, or the automated HIPP referral is received by the HIPP unit; or

(2) The first day of the first month in which the health plan is determined to be cost-effective.

b. If the person is not enrolled in the insurance plan when eligibility for participation in the HIPP program is established, premium payments will begin in the month in which the first premium payment is due after enrollment occurs.

c. If there was a lapse in coverage during the application process (e.g., the health plan is dropped and reenrollment occurs at a later date), premium payments will not be made for any period of time before the current effective date of coverage.

d. In no case will payments be made for premiums that were used as a deduction to income for determining client participation or the amount of the spenddown obligation.

e. The Employer Verification of Insurance Coverage will be used to verify the effective date of coverage and costs for persons enrolled in group health plans through an employer.

f. The effective date of coverage of an insurance plan not obtained through an employer will be verified by a copy of the certificate of coverage for the plan or by some other verification from the insurer.

75.21(8) *Method of premium payment.* Payments of premiums will be made directly to the insurance carrier, except as follows:

a. The department may arrange for payment to an employer in order to circumvent a payroll deduction.

b. When an employer will not agree to accept premium payments from the department in lieu of a payroll deduction to the employee's wages, the department will reimburse the employee directly for payroll deductions or for payments made directly to the employer for the payment of premiums. The department will issue reimbursement to the employee five working days before the employee's pay date.

c. When premium payments are occurring through an automatic withdrawal from a bank account by the insurance carrier, the department may reimburse the policyholder for those withdrawals.

d. Payments for COBRA coverage will be made directly to the insurance carrier, the COBRA administrator, or the former employer. Payments may be made directly to the former employee only in those cases where:

(1) Information cannot be obtained for direct payment; or

(2) The department pays for only part of the total premium.

75.21(9) *Payment of claims.* Claims from medical providers for persons participating in this program will be paid in the same manner as claims are paid for other persons with a third-party resource in accordance with the provisions of 441—Chapters 79 and 80.

75.21(10) *Reviews of cost-effectiveness and eligibility.* Reviews of cost-effectiveness and eligibility will be completed annually and may be conducted more frequently at the discretion of the department.

a. Annual review of ESI cost-effectiveness and eligibility will be completed using the HIPP Program Review form.

b. Annual review of individual health plan cost-effectiveness and eligibility will be the HIPP Private Policy Review form.

c. Failure of the household to cooperate in the annual review process will result in cancellation of premium payment.

d. Redeterminations will be completed whenever:

(1) A premium rate, copayment, deductible, or coinsurance changes;

(2) A person covered under the policy loses full Medicaid eligibility;

(3) Changes in employment or hours of employment affect the availability of an insurance plan;

(4) The insurance carrier changes;

(5) The policyholder leaves the Medicaid home;

(6) There is a decrease in the services covered under the policy; or

(7) The Medicaid category of coverage changes.

e. The policyholder shall report changes that may affect the availability of the insurance plan reimbursed by the HIPP program, or changes that affect the cost-effectiveness of the policy, within ten calendar days from the date of the change.

f. If a change in the number of members in the Medicaid household causes the health plan not to be cost-effective, lesser health plan options, as defined in paragraph 75.21(15)*"a,"* will be considered if they are available and cost-effective.

g. When employment ends, hours of employment are reduced, or some other qualifying event affecting the availability of the group health plan occurs, the department will verify whether coverage may be continued under the provisions of COBRA.

(1) The Employer Verification of COBRA Eligibility form may be used for this purpose.

(2) If it is cost-effective to do so, the department will pay premiums to maintain insurance coverage for members after the occurrence of the event that would otherwise result in termination of coverage.

75.21(11) *Time frames for determining cost-effectiveness.* The department will determine cost-effectiveness of the insurance plan and notify the applicant of the decision regarding payment of the premiums within 65 calendar days from the date an application or referral (as defined in subrule 75.21(7)) is received. Additional time may be taken when, for reasons beyond the control of the department or the applicant, information needed to establish cost-effectiveness cannot be obtained within the 65-day period.

75.21(12) *Notices.*

a. Adequate notice will be provided to the household under the following circumstances:

(1) To inform the household of the initial decision on cost-effectiveness and premium payment.

(2) To inform the household that premium payments are being discontinued because Medicaid eligibility has been lost by all persons covered under the health plan.

(3) The insurance plan is no longer available to the family (e.g., the employer no longer provides health insurance coverage or the policy is terminated by the insurance company).

b. The department will provide timely and adequate notice as defined in rule 441—16.2(17A) to inform the household of a decision to discontinue payment of the health insurance premium because:

(1) The department has determined the insurance plan is no longer cost-effective; or

(2) The member has failed to cooperate in providing information necessary to establish continued eligibility for the HIPP program.

75.21(13) *Rate refund.* The department is entitled to any rate refund made when the insurance carrier determines a return of premiums to the policyholder is due for any time period for which the department paid the premium.

75.21(14) *Reinstatement of HIPP eligibility.*

a. When eligibility for the HIPP program is canceled because the persons covered under the insurance plan lose Medicaid eligibility, HIPP eligibility will be reinstated when Medicaid eligibility is reestablished if all other eligibility factors are met.

b. When HIPP eligibility is canceled because of the policyholder's failure to cooperate in providing information necessary to establish continued eligibility for the HIPP program, benefits will be reinstated the first day of the first month in which cooperation occurs if all other eligibility factors are met.

75.21(15) *Amount of insurance premium paid.*

a. For ESI plans, the policyholder shall provide verification of the cost of all possible insurance plan options (i.e., single, employee/children, family).

(1) The HIPP program will pay only for the option that provides coverage to the cost-effective members of the household.

(2) The HIPP program will not pay the portion of the premium cost that is the responsibility of the employer or other plan sponsor.

b. For individual health plans, the HIPP program will pay the cost of covering the cost-effective members covered by the plan.

c. For insurance plans, if another household member must be covered to obtain coverage for the members, the HIPP program will pay the cost of covering that household member if the coverage is cost-effective as determined pursuant to subrules 75.21(3) and 75.21(4).

75.21(16) *Reporting changes.* Failure to report and verify changes may result in cancellation of HIPP benefits.

a. The policyholder shall verify changes by providing a pay stub, a summary of benefits and coverage, a rate sheet, or a letter from the insurance carrier reflecting the change.

b. Changes in employment or the employment-related insurance carrier shall be verified by the employer.

c. Any benefits paid during a period in which there was ineligibility for HIPP due to unreported changes shall be subject to recovery in accordance with the provisions of 441—Chapter 11.

d. Any underpayment that results from an unreported change will be paid effective the first day of the month in which the change is reported.

75.21(17) *Discontinuation of premium payments.*

a. When the household loses Medicaid eligibility, premium payments will be discontinued as of the month of Medicaid ineligibility.

b. When only part of the household loses Medicaid eligibility, the department will complete a review in order to ascertain whether payment of the health insurance premium continues to be cost-effective. If the department determines that the insurance plan is no longer cost-effective, premium payment will be discontinued pending timely and adequate notice.

c. If the household fails to cooperate in providing information necessary to establish ongoing eligibility for the HIPP program, the department will discontinue premium payment after timely and adequate notice. The department will request all information in writing and allow the household ten calendar days in which to provide it.

d. If the policyholder leaves the Medicaid household, premium payments will be discontinued pending timely and adequate notice.

e. If the insurance plan is no longer available or the policy has lapsed, premium payments will be discontinued as of the effective date of the termination of the coverage.

441—75.22(249A) AIDS/HIV health insurance premium payment program. For the purposes of this rule, "AIDS" and "HIV" mean the same as defined in Iowa Code section 141A.1.

75.22(1) *Conditions of eligibility.* The department will pay for the cost of continuing health insurance coverage to persons with AIDS or an HIV-related illness when the following criteria are met:

a. The person with AIDS or an HIV-related illness shall be the policyholder, or the spouse of the policyholder, of an individual or group health plan.

b. The person shall be a resident of Iowa in accordance with the provisions of rule 441—75.10(249A).

c. The person shall not be eligible for Medicaid. The person shall be required to apply for Medicaid benefits when it appears Medicaid eligibility may exist. Persons who are required to meet a spenddown obligation under the medically needy program, as provided in rule 441—75.8(249A), are not considered Medicaid-eligible for the purpose of establishing eligibility under these provisions. When Medicaid eligibility is attained, premium payments shall be made under the provisions of rule 441—75.21(249A) if all criteria of that rule are met.

d. A physician's statement shall be provided verifying the policyholder or the spouse of the policyholder suffers from AIDS or an HIV-related illness. The physician's statement shall also verify that the policyholder or the spouse of the policyholder is or will be unable to continue employment in the person's current position or that hours of employment will be significantly reduced due to AIDS or an HIV-related illness. The Physician's Verification of Diagnosis form shall be used to obtain this information from the physician.

e. Gross income shall not exceed 300 percent of the FPL for a family of the same size. The gross income of all family members will be counted using the definition of gross income under the SSI program.

f. Liquid resources shall not exceed $10,000 per household. The following are examples of countable resources:

(1) Unobligated cash.

(2) Bank accounts.

(3) Stocks, bonds, and certificates of deposit, excluding IRS-defined retirement plans.

g. The health insurance plan must be cost-effective based on the amount of the premium and the services covered.

75.22(2) *Application process.*

a. Application. Persons applying for participation in this program shall complete the AIDS/HIV HIPP Application. The applicant shall be required to provide documentation of income and assets. The application will be available from and may be filed at any county office or the department.

An application will be considered as filed on the date an AIDS/HIV HIPP Application containing the applicant's name, address and signature is received and date-stamped in any county office or the department.

b. Time limit for decision. Every reasonable effort will be made to render a decision within 30 days. Additional time for rendering a decision may be taken when, due to circumstances beyond the control of the applicant or the department, a decision regarding the applicant's eligibility cannot be reached within 30 days (e.g., verification from a third party has not been received).

c. Eligible on the day of decision. No payments will be made for current or retroactive premiums if the person with AIDS or an HIV-related illness is deceased prior to a final eligibility determination being made on the application, if the insurance plan has lapsed, or if the person has otherwise lost coverage under the insurance plan.

d. Waiting list. After funds appropriated for this purpose are obligated, the department will deny pending applications. The department will mail a notice of decision within ten calendar days following the determination that funds have been obligated. The notice will state that the applicant meets eligibility requirements but no funds are available and that the applicant will be placed on the waiting list or that the applicant does not meet eligibility requirements. Applicants not awarded funding who meet the eligibility requirements will be placed on a statewide waiting list according to the order in which the completed applications were filed. In the event that more than one application is received at one time, applicants will be entered on the waiting list on the basis of the day of the month of the applicant's birthday, lowest number being first on the waiting list. Any subsequent tie will be decided by the month of birth, January being month one and the lowest number.

75.22(3) *Presumed eligibility.* The applicant may be presumed eligible to participate in the program for a period of two calendar months or until a decision regarding eligibility can be made, whichever is earlier. Presumed eligibility will be granted when all of the following occur:

a. The application is accompanied by a completed Physician's Verification of Diagnosis form.

b. The application is accompanied by a premium statement from the insurance carrier indicating the policy will lapse before an eligibility determination can be made.

c. It can be reasonably anticipated that the applicant will be determined eligible from income and resource statements on the application.

75.22(4) *Family coverage.* When the person is enrolled in a policy that provides health insurance coverage to other members of the family, only that portion of the premium required to maintain coverage for the policyholder or the policyholder's spouse with AIDS or an HIV-related illness will be paid under this rule unless modification of the policy would result in a loss of coverage for the person with AIDS or an HIV-related illness.

75.22(5) *Method of premium payment.* Premiums shall be paid in accordance with the provisions of subrule 75.21(8).

75.22(6) *Effective date of premium payment.* Premium payments will be effective with the month of application or the effective date of eligibility, whichever is later.

75.22(7) *Reviews.* The department will review circumstances of persons participating in the program quarterly to ensure eligibility criteria continue to be met. The AIDS/HIV HIPP Program

Review form shall be completed by the recipient or someone acting on the recipient's behalf for this purpose.

75.22(8) *Termination of assistance.* Premium payments for otherwise eligible persons shall be paid under this rule until one of the following conditions is met:

a. The person becomes eligible for Medicaid. In which case, premium payments shall be paid in accordance with the provisions of rule 441—75.21(249A).

b. The insurance coverage is no longer available.

c. Maintaining the insurance plan is no longer considered the most cost-effective way to pay for medical services.

d. Funding appropriated for the program is exhausted.

e. The person with AIDS or an HIV-related illness dies.

f. The person fails to provide requested information necessary to establish continued eligibility for the program.

75.22(9) *Notices.*

a. An adequate notice as defined in 441—subrule 16.3(2) will be provided under the following circumstances:

(1) To inform the applicant of the initial decision regarding eligibility to participate in the program.

(2) To inform the recipient that premium payments are being discontinued under these provisions because Medicaid eligibility has been attained and premium payments will be made under the provisions of rule 441—75.21(249A).

(3) To inform the recipient that premium payments are being discontinued because the policy is no longer available.

(4) To inform the recipient that premium payments are being discontinued because funding for the program is exhausted.

(5) The person with AIDS or an HIV-related illness dies.

b. A timely and adequate notice as defined in rule 441—16.2(17A) will be provided to the recipient informing the recipient of a decision to discontinue payment of the health insurance premium when the recipient no longer meets the eligibility requirements of the program or fails to cooperate in providing information to establish eligibility.

75.22(10) *Confidentiality.* The department will protect the confidentiality of persons participating in the program in accordance with Iowa Code section 141A.9. When it is necessary for the department to contact a third party to obtain information in order to determine initial or ongoing eligibility, a Consent to Obtain and Release Information form shall be signed by the recipient authorizing the department to make the contact.

441—75.23(249A) Disposal of assets for less than fair market value after August 10, 1993. In determining Medicaid eligibility for persons described in 441—Chapters 75 and 83, a transfer of assets occurring after August 10, 1993, will affect Medicaid payment for medical services as provided in this rule.

75.23(1) *Ineligibility for services.* When an individual or spouse has transferred or disposed of assets for less than fair market value as defined in 75.23(11) on or after the look-back date specified in subrule 75.23(2), the individual shall be ineligible for medical assistance as provided in this subrule.

a. Institutionalized individual. When an institutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date, the institutionalized individual is ineligible for medical assistance payment for nursing facility services, a level of care in any institution equivalent to that of nursing facility services, and home- and community-based waiver services. The period of ineligibility is equal to the number of months specified in subrule 75.23(3). The department will determine the beginning of the period of ineligibility as follows:

(1) Transfer before February 8, 2006. When assets were transferred before February 8, 2006, the period of ineligibility begins on the first day of the first month during which the assets were transferred, except as provided in subparagraph 75.23(1)*"a"*(3).

(2) Transfer on or after February 8, 2006. Within the limits of subparagraph 75.23(1)*"a"*(3), when the assets were transferred on or after February 8, 2006, the period of ineligibility begins on the later of:

1. The first day of the first month during which the assets were transferred; or

2. The date on which the individual is eligible for medical assistance under this chapter and would be receiving nursing facility services, a level of care in any institution equivalent to that of nursing facility services, or home- and community-based waiver services, based on an approved application for such care, but for the application of this rule.

(3) Exclusive period. The period of ineligibility due to the transfer will not begin during any other period of ineligibility under this rule.

b. Noninstitutionalized individual. When a noninstitutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date, the individual is ineligible for medical assistance payment for home health care services, home and community care for functionally disabled elderly individuals, personal care services, and other long-term care services. The period of ineligibility is equal to the number of months specified in subrule 75.23(3). The department will determine the beginning of the period of ineligibility as follows:

(1) Transfer before February 8, 2006. When the assets were transferred before February 8, 2006, the period of ineligibility begins on the first day of the first month during which the assets were transferred, except as provided in subparagraph 75.23(1)*"b"*(3).

(2) Transfer on or after February 8, 2006. Within the limits of subparagraph 75.23(1)*"b"*(3), when the assets were transferred on or after February 8, 2006, the period of ineligibility begins on the later of:

1. The first day of the first month during which the assets were transferred; or

2. The date on which the individual is eligible for medical assistance under this chapter and would be receiving home health care services, home and community care for functionally disabled elderly individuals, personal care services, or other long-term care services, based on an approved application for such care, but for the application of this rule.

(3) Exclusive period. The period of ineligibility due to the transfer will not begin during any other period of ineligibility under this rule.

c. Client participation after period of ineligibility. Expenses incurred for long-term care services during a transfer of assets penalty period will not be deducted as medical expenses in determining client participation pursuant to subrule 75.83(2).

75.23(2) *Look-back date.*

a. Transfer before February 8, 2006. When assets were transferred before February 8, 2006, the look-back date is the date that is 36 months (or, in the case of payments from a trust or portion of a trust that are treated as assets disposed of by the individual, 60 months) before:

(1) The date an institutionalized individual is both an institutionalized individual and has applied for medical assistance; or

(2) The date a noninstitutionalized individual applies for medical assistance.

b. Transfer on or after February 8, 2006. When assets were transferred on or after February 8, 2006, the look-back date is the date that is 60 months before:

(1) The date an institutionalized individual is both an institutionalized individual and has applied for medical assistance; or

(2) The date a noninstitutionalized individual applies for medical assistance.

75.23(3) *Period of ineligibility.* The number of months of ineligibility will be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department will determine the

average statewide cost to a private-pay resident for nursing facilities and update the cost annually. Current average statewide costs will be published on the department's website.

75.23(4) *Reduction of period of ineligibility.* The number of months of ineligibility otherwise determined with respect to the disposal of an asset will be reduced by the months of ineligibility applicable to the individual prior to a change in institutional status.

75.23(5) *Exceptions.* An individual will not be ineligible for medical assistance under this rule to the extent that:

a. The assets transferred were a home and title to the home was transferred to either:

(1) A spouse of the individual.

(2) A child of the individual who is under the age of 21 or is blind or permanently and totally disabled as defined in 42 U.S.C. Section 1382c.

(3) A sibling of the individual who has an equity interest in the home and who was residing in the individual's home for a period of at least one year immediately before the individual became institutionalized.

(4) A child of the individual who was residing in the individual's home for a period of at least two years immediately before the date of institutionalization and who provided care to the individual that permitted the individual to reside at home rather than in an institution or facility.

b. The assets were transferred:

(1) To the individual's spouse or to another for the sole benefit of the individual's spouse.

(2) From the individual's spouse to another for the sole benefit of the individual's spouse.

(3) To a child of the individual who is blind or permanently and totally disabled as defined in 42 U.S.C. Section 1382c or to a trust established solely for the benefit of such a child.

(4) To a trust established solely for the benefit of an individual under 65 years of age who is disabled as defined in 42 U.S.C. Section 1382c.

c. A satisfactory showing is made that one of the following is true:

(1) The individual intended to dispose of the assets either at fair market value or for other valuable consideration.

(2) The assets were transferred exclusively for a purpose other than to qualify for medical assistance.

(3) All assets transferred for less than fair market value have been returned to the individual.

d. The denial of eligibility would work an undue hardship. Undue hardship exists only when all of the following conditions are met:

(1) Applying the transfer of asset penalty would deprive the individual of medical care such that the individual's health or life would be endangered or of food, clothing, shelter, or other necessities of life.

(2) The person who transferred the resource or the person's spouse has exhausted all means including legal remedies and consultation with an attorney to recover the resource.

(3) The person's remaining available resources (after the attribution for the community spouse) are less than the monthly statewide average cost of nursing facility services to a private pay resident, counting the value of all resources, except for:

1. The home if occupied by a dependent relative or if a licensed physician verifies that the person is expected to return home.
2. Household goods.
3. A vehicle required by the client for transportation.
4. Funds for burial of $4,000 or less.

Hardship will not be found if the resource was transferred to a person who was handling the financial affairs of the client or to the spouse or children of a person handling the financial affairs of the client unless the client demonstrates that payments cannot be obtained from the funds of the person who handled the financial affairs to pay for long-term care services.

75.23(6) *Assets held in common.* In the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset, or

the affected portion of the asset, will be considered to be transferred by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual's ownership or control of the asset.

75.23(7) *Transfer by spouse.* In the case of a transfer by a spouse of an individual that results in a period of ineligibility for medical assistance under the state plan for the individual, the period of ineligibility will be apportioned between the individual and the individual's spouse if the spouse otherwise becomes eligible for medical assistance under the state plan. The remaining penalty period will be evenly divided on a monthly basis, with any remaining month of penalty (prorated as a half month to each spouse) applied to the spouse who initiated the transfer action.

If a spouse subsequently dies prior to the end of the penalty period, the remaining penalty period will be applied to the surviving spouse's period of ineligibility.

75.23(8) *Definitions.* For the purposes of this rule the following definitions apply:

"Assets" includes all income and resources of the individual and the individual's spouse, including any income or resources that the individual or the individual's spouse is entitled to but does not receive because of action by:

1. The individual or the individual's spouse.
2. A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse.
3. Any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

"Income" means the same as defined in 42 U.S.C. Section 1382a.

"Institutionalized individual" means an individual who is an inpatient in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility, or who is eligible for home- and community-based waiver services.

"Resources" means the same as defined in 42 U.S.C. Section 1382b without regard (in the case of an institutionalized individual) to the exclusion of the home and land appertaining thereto.

"Transfer or disposal of assets" means any transfer or assignment of any legal or equitable interest in any asset as defined above, including:

1. Giving away or selling an interest in an asset;
2. Placing an interest in an asset in a trust that is not available to the grantor (subparagraph 75.24(2)*"b"*(2));
3. Removing or eliminating an interest in a jointly owned asset in favor of other owners;
4. Disclaiming an inheritance of any property, interest, or right pursuant to Iowa Code section 633E.5 on or after July 1, 2000 (Iowa Code section 249A.3(11)*"c"*);

75.23(9) *Purchase of annuities.* Funds used to purchase an annuity for more than its fair market value will be treated as assets transferred for less than fair market value regardless of when the annuity was purchased or whether the conditions described in this subrule were met.

a. The entire amount used to purchase an annuity on or after February 8, 2006, with a Medicaid applicant or member as the annuitant will be treated as assets transferred for less than fair market value unless the annuity meets one of the conditions described in paragraph 75.23(9)*"b"* and also meets the condition described in paragraph 75.23(9)*"c."*

b. To be exempted from treatment as an asset transferred at less than fair market value, an annuity described in paragraph 75.23(9)*"a"* must meet one of the following conditions:

(1) The annuity is an annuity described in Subsection (b) or (q) of Section 408 of the United States Internal Revenue Code of 1986 as amended to August 1, 2025 (U.S. IRC).

(2) The annuity is purchased with proceeds from:

1. An account or trust described in Subsection (a), (c), or (p) of Section 408 of the U.S. IRC;
2. A simplified employee pension (within the meaning of Section 408(k) of the U.S. IRC); or
3. A Roth IRA described in Section 408A of the U.S. IRC.

(3) The annuity:

1. Is irrevocable and nonassignable;

2. Is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the SSA); and

3. Provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

c. To be exempted from treatment as an asset transferred at less than fair market value, an annuity described in paragraph 75.23(9)*"a"* must have Iowa named as the remainder beneficiary for at least the total amount of medical assistance paid on behalf of the annuitant or the annuitant's spouse if either is institutionalized. Iowa may be named either:

(1) In the first position; or

(2) In the second position after the spouse or minor or disabled child and in the first position if the spouse or a representative of the child disposes of any of the remainder for less than fair market value.

d. The entire amount used to purchase an annuity on or after February 8, 2006, with the spouse of a Medicaid applicant or member as the annuitant will be treated as assets transferred for less than fair market value unless Iowa is named as the remainder beneficiary for at least the total amount of medical assistance paid on behalf of the annuitant or the annuitant's spouse if either is institutionalized. Iowa may be named either:

(1) In the first position; or

(2) In the second position after the spouse or minor or disabled child and in the first position if the spouse or a representative of the child disposes of any of the remainder for less than fair market value.

75.23(10) *Purchase of promissory notes, loans, or mortgages.*

a. Funds used to purchase a promissory note, loan, or mortgage after February 8, 2006, will be treated as assets transferred for less than fair market value in the amount of the outstanding balance due on the note, loan, or mortgage as of the date of the individual's application for medical assistance for services described in subrule 75.23(1) unless the note, loan, or mortgage meets all of the following conditions:

(1) Has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the SSA).

(2) Provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made.

(3) Prohibits the cancellation of the balance upon the death of the lender.

b. Funds used to purchase a promissory note, loan, or mortgage for less than its fair market value will be treated as assets transferred for less than fair market value regardless of whether the note, loan, or mortgage was:

(1) Purchased before February 8, 2006; or

(2) Purchased on or after February 8, 2006, and the conditions described in paragraph 75.23(9)*"a"* were met.

75.23(11) *Purchase of life estates.*

a. The entire amount used to purchase a life estate in another individual's home after February 8, 2006, will be treated as assets transferred for less than fair market value unless the purchaser resides in the home for at least one year after the date of the purchase.

b. Funds used to purchase a life estate in another individual's home for more than its fair market value will be treated as assets transferred for less than fair market value regardless of whether the life estate was:

(1) Purchased before February 8, 2006; or

(2) Purchased on or after February 8, 2006, and the purchaser resided in the home for one year after the date of purchase.

441—75.24(249A) Treatment of trusts established after August 10, 1993. For purposes of determining an individual's eligibility for, or the amount of, medical assistance benefits, trusts (except

for trusts specified in subrule 75.24(3)) established after August 10, 1993, will be treated in accordance with subrule 75.24(2).

75.24(1) *Establishment of trust.*

a. For the purposes of this rule, an individual is considered to have established a trust if assets of the individual were used to form all or part of the principal of the trust and if any of the following individuals established the trust other than by will:

(1) The individual,

(2) The individual's spouse, or

(3) A person, including a court or administrative body:

1. With legal authority to act in place of or on behalf of the individual or the individual's spouse, or

2. Acting at the direction or upon the request of the individual or the individual's spouse.

b. The term "assets," with respect to an individual, includes all income and resources of the individual and of the individual's spouse, including any income or resources that the individual or the individual's spouse is entitled to but does not receive because of action by:

(1) The individual,

(2) The individual's spouse, or

(3) A person, including a court or administrative body:

1. With legal authority to act in place of or on behalf of the individual or the individual's spouse, or

2. Acting at the direction or upon the request of the individual or the individual's spouse.

c. In the case of a trust, the principal of which includes assets of an individual and assets of any other person or persons, the provisions of this rule apply to the portion of the trust attributable to the individual.

d. This rule applies without regard to:

(1) The purposes for which a trust is established.

(2) Whether the trustees have or exercise any discretion under the trust.

(3) Any restrictions on when or whether distribution may be made for the trust.

(4) Any restriction on the use of distributions from the trust.

e. The term "trust" includes any legal instrument or device that is similar to a trust, including a conservatorship.

75.24(2) *Treatment of revocable and irrevocable trusts.*

a. In the case of a revocable trust:

(1) The principal of the trust will be considered an available resource.

(2) Payments from the trust to or for the benefit of the individual will be considered income of the individual.

(3) Any other payments from the trust will be considered assets disposed of by the individual subject to the penalties described in rule 441—75.23(249A) and 441—Chapter 89.

b. In the case of an irrevocable trust:

(1) If there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of or income on the principal from which payment to the individual could be made will be considered an available resource to the individual and payments from that principal or income to or for the benefit of the individual will be considered income to the individual. Payments for any other purpose will be considered a transfer of assets by the individual subject to the penalties described in rule 441—75.23(249A) and 441—Chapter 89.

(2) Any portion of the trust from which, or any income on the principal from which no payment could under any circumstances be made to the individual will be considered as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed) to be assets disposed of by the individual subject to the penalties specified in subrule 75.23(3) and 441—Chapter 89. The value of the trust will be determined for this purpose by including the amount of any payments made from this portion of the trust after this date.

75.24(3) *Exceptions.* This rule does not apply to any of the following:

a. A trust that contains the assets of an individual under the age of 65 who is disabled (as defined in Section 1614(a)(3) of the Act) and that is established for the benefit of the individual by a parent, grandparent, legal guardian of the individual, or court if the state will receive all amounts remaining in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual.

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust); the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code chapter 633C, the average statewide charges and Medicaid rates are updated annually and will be published on the department's website.

c. A trust containing the assets of an individual who is disabled (as defined in Section 1614(a)(3) of the Act) that meets the following conditions:

(1) The trust is established and managed by a nonprofit association.

(2) A separate account is maintained for each beneficiary of the trust, but for purposes of investment and management of funds, the trust pools these accounts.

(3) Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in Section 1614(a)(3) of the Act) by the parent, grandparent, or legal guardian of the individuals; by the individuals; or by a court.

(4) To the extent that amounts remaining in the beneficiary's account upon death of the beneficiary are not retained by the trust, the trust pays to the state from the remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary.

441—75.25(249A) Treatment of Medicaid qualifying trusts.

75.25(1) A Medicaid qualifying trust is a trust or similar legal device established on or before August 10, 1993, other than by will by a person or that person's spouse under which the person may be the beneficiary of payments from the trust and the distribution of these payments is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the person. Trusts or initial trust decrees established prior to April 7, 1986, solely for the benefit of an intellectually disabled person who resides in an ICF-ID are exempt.

75.25(2) The amount of income and principal from a Medicaid qualifying trust that will be considered available will be the maximum amount permitted under the terms of the trust assuming the full exercise of discretion by the trustee or trustees for the distribution of the funds.

a. Trust income considered available will be counted as income.

b. Trust principal (including accumulated income) considered available will be counted as a resource, except where the trust explicitly limits the amount of principal that can be made available on an annual or less frequent basis. Where the trust limits the amount, the principal considered available over any particular period of time will be counted as income for that period of time.

c. To the extent that the trust principal and income are available only for medical care, the principal or income will not be used to determine eligibility. To the extent that the trust is restricted to medical expenses, it will be used as a third-party resource.

441—75.26(249A) Conservatorships.

75.26(1) *Conservatorships established prior to February 9, 1994.* The department will determine whether assets from a conservatorship established prior to February 9, 1994, except one established solely for the payment of medical expenses, are available by examining the language of the order establishing the conservatorship.

a. Funds clearly conserved and available for care, support, or maintenance will be considered toward income limitations and resource limitations when applicable for the coverage group.

b. When assets in the conservatorship are not clearly available, the department may contact the conservator and request that the funds in the conservatorship be made available for current support and maintenance. When the conservator chooses not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments.

c. Funds in a conservatorship that are not clearly available will be considered unavailable until the conservator or court actually makes the funds available.

d. Payments received from the conservatorship for basic or special needs are considered income.

75.26(2) *Conservatorships established on or after February 9, 1994.* Conservatorships established on or after February 9, 1994, will be treated according to the provisions of paragraphs 75.24(1)*"e"* and 75.24(2)*"b."*

441—75.27(249A) AIDS/HIV settlement payments. The following payments are exempt as income and resources when determining eligibility for or the amount of Medicaid benefits under any coverage group if the payments are kept in a separate, identifiable account:

75.27(1) *Class settlement payments.* Payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.) are exempt.

75.27(2) *Other settlement payments.* Payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement referred to in subrule 75.27(1) and that is signed by all affected parties in the cases on or before the later of December 31, 1997, or the date that is 270 days after the date on which the release is first sent to the person (or the legal representative of the person) to whom payment is to be made are exempt.

441—75.28(249A) Recovery.

75.28(1) *Definitions.* For the purposes of this rule, the following definitions apply:

"Administrative overpayment" means medical assistance incorrectly paid to or for the client because of continuing assistance during the appeal process or allowing a deduction for the Medicare Part B premium in determining client participation while the department arranges to pay the Medicare premium directly.

"Agency error" means medical assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the department.
6. Failure to make prompt revisions in medical payment following changes in policies requiring the changes as of a specific date.

"Client" means a current or former Medicaid member.

"Client error" means medical assistance incorrectly paid to or for the client because the client or client's representative failed to disclose information or gave false or misleading statements, oral or written, regarding the client's income, resources, or other eligibility and benefit factors. "Client error" also means assistance incorrectly paid to or for the client because of failure by the client or client's representative to timely report as defined in rule 441—76.15(249A).

"Premiums paid for medical assistance" means monthly premiums assessed to a member or household for Medicaid or IHAWP coverage.

75.28(2) *Amount subject to recovery.* The department will recover from a client all Medicaid funds incorrectly expended to or on behalf of the client and all unpaid premiums assessed by the

department for medical assistance. The incorrect expenditures or unpaid premiums may result from client or agency error or administrative overpayment.

75.28(3) *Notification.* All clients will be promptly notified when it is determined that assistance was incorrectly expended or when assessed premiums are unpaid.

a. Notification of incorrect expenditures will include:

(1) The person for whom assistance was paid;

(2) The period during which assistance was incorrectly paid;

(3) The amount of assistance subject to recovery; and

(4) The reason for the incorrect expenditure.

b. Notification of unpaid premiums will include:

(1) The amount of the premium; and

(2) The month covered by the medical assistance premium.

75.28(4) *Source of recovery.* Recovery will be made from the client or from parents of children under the age of 21 when the parents completed the application and had responsibility for reporting changes. Recovery may come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

75.28(5) *Repayment.* The repayment of incorrectly expended Medicaid funds shall be made to the department. However, repayment of funds incorrectly paid to a nursing facility, a Medicare-certified skilled nursing facility, a psychiatric medical institution for children, an ICF-ID, or a mental health institute enrolled as an inpatient psychiatric facility may be made by the client to the facility. The department will then recover the funds from the facility through a vendor adjustment.

75.28(6) *Appeals.* The client shall have the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

75.28(7) *Estate recovery.* Medical assistance, including the amount the state paid to a managed care organization (MCO) for provision of medical services, also called capitation fees, is subject to recovery from the estate of a Medicaid member, of the member's surviving spouse, or of the member's surviving child as provided in this subrule. Effective January 1, 2010, medical assistance that has been paid for Medicare cost sharing or for benefits described in Section 1902(a)(10)(E) of the Act is not subject to recovery. All assets included in the estate of the member, the surviving spouse, or the surviving child are subject to probate for the purposes of medical assistance estate recovery pursuant to Iowa Code section 249A.53(2)*"d."* The classification of the debt is defined in Iowa Code section 633.425(7).

a. Definitions. In addition to the definitions in subrule 75.28(1), the following definitions apply:

"Capitated payment/rate" means a monthly payment to the contractor on behalf of each member for the provision of health services under the contract. Payment is made regardless of whether the member receives services during the month.

"Estate." For the purpose of this subrule, the "estate" of a Medicaid member, a surviving spouse, or a surviving child shall include all real property, personal property, or any other asset in which the member, spouse, or surviving child had any legal title or interest at the time of death, or at the time a child reaches the age of 21, to the extent of that interest. An estate includes but is not limited to interest in jointly held property, retained life estates, and interests in trusts.

"Managed care organization" or *"MCO"* means an entity that:

1. Is under contract with the department to provide services to Medicaid recipients, and

2. Meets the definition of "health maintenance organization" in Iowa Code section 514B.1.

b. Debt due for member 55 years of age or older. Receipt of medical assistance when a member is 55 years of age or older creates a debt due to the department from the member's estate upon the member's death for all medical assistance provided on the member's behalf on or after July 1, 1994.

c. Debt due for member under the age of 55 in a medical institution.

(1) Receipt of medical assistance creates a debt due to the department from the member's estate upon the member's death for all medical assistance provided on the member's behalf on or after July 1, 1994, when the member:

1. Is under the age of 55;
2. Is a resident of a nursing facility, an ICF-ID, or a mental health institute; and
3. Cannot reasonably be expected to be discharged and return home.

(2) If the member is discharged from the facility and returns home before staying six consecutive months, no debt will be assessed for medical assistance payments made on the member's behalf for the time in the institution.

(3) If the member remains in the facility for six consecutive months or longer or dies before staying six consecutive months, the department will presume that the member cannot or could not reasonably be expected to be discharged and return home and a debt due will be established. The department will notify the member of the presumption and the establishment of a debt due.

d. Request for a determination of ability to return home. Upon receipt of a notice of the establishment of a debt due based on the presumption that the member cannot return home, the member or someone acting on the member's behalf may request that the department determine whether the member can or could reasonably have been expected to return home.

(1) When a written request is made within 30 days of the notice that a debt due will be established, no debt due will be established until the department has made a decision on the member's ability to return home. If the determination is that there is or was no ability to return home, a debt due will be established for all medical assistance as of the date of entry into the institution.

(2) When a written request is made more than 30 days after the notice that a debt due will be established, a debt due will be established for medical assistance provided before the request even if the determination is that the member can or could have returned home.

e. Determination of ability to return home. When the member or someone acting on the member's behalf requests a determination, the department will determine if the member can or could have returned home.

(1) The department cannot make a determination until the member has been in an institution at least six months or after the death of the member, whichever is earlier. The department will notify the member or the member's representative and the department of the determination.

(2) If the determination is that the member can or could return home, Iowa Medicaid will establish the date the return is expected or could have been expected to occur.

(3) If the determination is that the member cannot or could not return home, a debt due will be established unless the member or the member's representative asks for a reconsideration of the decision. The department will notify the member or the member's representative of the reconsideration decision.

(4) If the reconsideration decision is that the member cannot or could not return home, a debt due will be established against the member unless the decision is appealed pursuant to 441—Chapter 7. The appeal decision will determine the final outcome for the establishment of a debt due and the period when the debt is established.

f. Debt collection.

(1) A nursing facility participating in the medical assistance program shall notify the department upon the death of a member residing in the facility by submitting a form prescribed by the department.

(2) Upon receipt of the form or a report of a member's death through other means, the department will request a statement of the member's assets from the member's personal representative. The representative shall sign and return a form prescribed by the department indicating whether assets remain and, if so, what the assets are and what higher priority expenses exist.

EXCEPTION: The procedures in this subparagraph are not necessary when a probate estate has been opened because those procedures provide for an inventory, an accounting, and a final report of the estate.

g. Waiving the collection of debt.

(1) The department will waive the collection of the debt created under this subrule from the estate of the member to the extent that collection of the debt would result in either of the following:

1. Reduction in the amount received from the member's estate by a surviving spouse or by a surviving child who is under the age of 21, blind, or permanently and totally disabled at the time of the member's death.

2. Creation of an undue hardship for the person seeking a waiver of estate recovery. Undue hardship exists when total household income is less than 200 percent of the FPL for a household of the same size; total household resources do not exceed $10,000; and application of estate recovery would result in deprivation of food, clothing, shelter, or medical care such that life or health would be endangered. For this purpose, "income" and "resources" will be defined as being under FIP.

(2) To apply for a waiver of estate recovery due to undue hardship, the person shall provide a written statement and supporting verification to the department within 30 days of the notice of estate recovery pursuant to Iowa Code section 249A.53(2).

(3) The department will determine whether undue hardship exists on a case-by-case basis. Appeals of adverse decisions regarding an undue hardship determination may be filed in accordance with 441—Chapter 7.

h. Amount waived. If collection of all or part of a debt is waived pursuant to paragraph 75.28(7)*"g,"* to the extent that the person received the member's estate, the amount waived will be a debt due from the following:

(1) The estate of the member's surviving spouse, upon the death of the spouse.

(2) The estate of the member's surviving child who is blind or has a disability, upon the death of the child.

(3) A surviving child who was under 21 years of age at the time of the member's death, when the child reaches the age of 21.

(4) The estate of a surviving child who was under 21 years of age at the time of the member's death, if the child dies before reaching the age of 21.

(5) The hardship waiver recipient, when the hardship no longer exists.

(6) The estate of the recipient of the undue hardship waiver, at the time of death of the hardship waiver recipient.

i. Impact of asset disregard on debt due. The estate of a member who is eligible for Medicaid under subrule 75.82(5) will not be subject to a claim for Medicaid paid on the member's behalf up to the amount of the assets disregarded by asset disregard. Medicaid paid on behalf of the member before these conditions will be recovered from the estate, regardless of the member's having purchased precertified or approved insurance.

j. Interest on debt. Interest will accrue on a debt due under this subrule in accordance with Iowa Code section 249A.53(2)*"e."*

k. Reimbursement to a county. If a county reimburses the department for medical assistance provided under this subrule and the amount of medical assistance is subsequently repaid through a medical assistance income trust or a medical assistance special needs trust as defined in Iowa Code chapter 633C, the department will reimburse the county on a proportionate basis.

441—75.29(249A) Investigation of eligibility. An applicant or member shall cooperate when the applicant's or member's case is selected by the department or the department of inspections, appeals, and licensing for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect Medicaid eligibility. (More information is contained in 481—Chapter 72.) Failure to cooperate will serve as a basis for denial of an application or discontinuance of Medicaid unless the Medicaid eligibility is determined by SSA. Once a person's eligibility is denied or discontinued for failure to cooperate, the person may reapply but will not be determined eligible until cooperation occurs.

441—75.30 to **75.49** Reserved.

DIVISION II
ELIGIBILITY FACTORS SPECIFIC TO FAMILY-RELATED COVERAGE GROUPS

441—75.50(249A) Eligibility factors specific to child. A child must meet the requirements of this rule to be eligible for FMAP or the coverage groups specified in subrules 75.3(6), 75.3(7), and 75.3(14).

75.50(1) *Age and school attendance.* Medicaid will be available to a child under the age of 18 without regard to school attendance.

a. The effect of age on the child's eligibility will be determined pursuant to rule 441—75.52(249A).

b. Medicaid will also be available to a child aged 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who is reasonably expected to complete the program before reaching the age of 19 if the following criteria are met:

(1) A child will be considered attending school full-time when enrolled or accepted in a full-time (as certified by the school or institute attended) elementary, secondary or the equivalent level of vocational or technical school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) A child will also be considered to be in regular attendance in months when the child is not attending because of an official school or training program vacation, illness, convalescence, or family emergency. A child meets the definition of regular school attendance until the child has been officially dropped from the school rolls.

(3) When a child's education is temporarily interrupted pending adjustment of an education or training program, exemption will be continued for a reasonable period of time to complete the adjustment.

75.50(2) *Residing with a parent or other caretaker.* The child shall be living in the home of a parent or other caretaker as defined in rule 441—75.1(249A). The parent or other caretaker must meet the requirements of rule 441—75.51(249A).

a. When the mother intends to place her child for adoption shortly after birth, the child will be considered as living with the mother until the time custody is actually relinquished.

b. Living with a parent or other caretaker implies the existence of a relationship involving an accepted responsibility on the part of the caretaker for the primary care of the child. A non-parental caretaker must attest to having primary responsibility for the child's care pursuant to paragraph 75.51(2)*"b."*

c. A child can receive Medicaid in one household only. In a joint custody situation, when a child lives in the home of one parent or other caretaker some of the time and also lives in the separate home of the other parent or another caretaker, who the child will be considered to be living with is determined as follows:

(1) As specified in a court order or binding separation, divorce or custody agreement, or,

(2) If there is no such order, the parent or other caretaker with whom the child spends most nights will be considered the custodial parent or other caretaker. When a child spends equal amounts of time in the home of each parent and both parents apply for Medicaid for the child, the parents must decide which parent will continue with the application. Likewise, when a child spends equal amounts of time in the home of a parent and the home of another caretaker, the parent or other caretaker must decide which caretaker will continue with the application. If the parents, or the parent and other caretaker, cannot reach a decision, the department will make the determination based on the totality of the available information.

d. Upon the determination that a child is living with a parent or other caretaker, the Medicaid household size for each applicant or member is determined according to rule 441—75.72(249A) for the purpose of determining eligibility.

441—75.51(249A) Eligibility factors specific to parents and caretakers.

75.51(1) *FMAP and other requirements.* To be eligible for FMAP or the coverage groups specified in subrules 75.3(6), 75.3(7), and 75.3(14), a parent or other caretaker must:

a. Meet the definition of "parent" or "caretaker" in rule 441—75.1(249A);

b. Live with an eligible child as defined in rule 441—75.50(249A); and

c. Satisfy the FMAP requirements specified in subrule 75.3(1) and the general conditions of eligibility specified in this chapter.

75.51(2) *Assumes primary responsibility for care of child.* To be eligible for FMAP, the parent or other caretaker living in the home with the child must assume primary responsibility for the care of the child.

a. A parent who is living with their child is presumed to have primary responsibility for the child's care.

b. For a child and a non-parental caretaker to meet the requirements of this subrule, the non-parental caretaker who is living with the child must attest to having primary responsibility for the child's care on an application or other document submitted to the department.

441—75.52(249A) The effect of age on eligibility. When age is an eligibility factor and a person has reached the age limit, the birth date impacts eligibility for the birth month.

75.52(1) A person is eligible for the entire month in which the person's birth date occurs, unless the birthday falls on the first day of the month. Ineligibility based on age will be effective the first of the month following the birth month.

75.52(2) A person whose birth date is on the first day of the month is not eligible for the age-limited coverage group for the birth month. Ineligibility based on age will be effective on the person's birth date.

75.52(3) This rule applies to the following coverage groups:

a. FMAP;

b. MAC;

c. Child medical assistance program (CMAP);

d. Subsidized guardianship medically needy program;

e. Children eligible under Title IV-E;

f. State-only funded medical assistance for children in foster care or subsidized adoption;

g. State-only funded medical assistance for children in subsidized guardianship; and

h. Medicaid for former foster care youth (EMIYA).

441—75.53(249A) Absence from the home.

75.53(1) A person who is absent from the home will not be included in the household, except when temporarily absent as described in subrule 75.53(2).

a. A parent who is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

b. A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.

c. A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

75.53(2) The needs of a person who is temporarily absent from the home are included in a household if otherwise eligible. A temporary absence exists in any of the following circumstances:

a. A person is anticipated to be in a medical institution for less than a year, as verified by a physician's statement. Failure to return within one year from the date of entry into the medical institution will result in the person no longer being included in the household;

b. A child is out of the home to secure education or training as defined in paragraph 75.50(1)*"b"* as long as the child remains a dependent;

c. A parent or other caretaker is temporarily out of the home to secure education or training and was in the household before leaving the home to secure education or training. For this purpose, "education or training" means any academic or vocational training program that prepares a person for a specific professional or vocational area of employment; or

d. A person is out of the home for reasons other than reasons in paragraphs 75.53(2)*"a"* through *"c"* and intends to return to the home within three months. Failure to return within three months from the date the person left the home will result in the person no longer being included in the household.

441—75.54(249A) Pending SSI approval. When a person who would ordinarily be in the family-related Medicaid household has applied for SSI benefits, the person's needs will be included in the family-related Medicaid household pending approval of SSI.

441—75.55(249A) Resources not considered. There is no resource test to determine eligibility for family-related Medicaid coverage groups.

441—75.56(249A) Income eligibility. Unless otherwise stated within this chapter, income eligibility under family-related coverage groups will be determined using MAGI methodologies pursuant to Division III of this chapter.

441—75.57 to **75.69** Reserved.

DIVISION III
FINANCIAL ELIGIBILITY BASED ON MODIFIED ADJUSTED GROSS INCOME (MAGI)

441—75.70(249A) Financial eligibility based on MAGI. Notwithstanding any other provision of this chapter, financial eligibility for Medicaid is determined using MAGI and household income pursuant to 42 U.S.C. §1396a(e)(14) to the extent required by that section as a condition of federal funding under Title XIX of the Act. For this purpose, financial eligibility for Medicaid includes any applicable purpose for which a determination of income is required for a coverage group that is subject to MAGI methodology as specified in rule 441—75.71(249A) and defined in rule 441—75.1(249A), including the imposition of any premiums or cost sharing.

441—75.71(249A) Coverage groups subject to MAGI methodology. Financial eligibility will be determined under MAGI methodology for the following coverage groups:

1. FMAP as described in subrule 75.3(1).
2. MAC program as described in subrule 75.3(2).
3. Hawki as described in 441—Chapter 86.
4. IHAWP as described in 441—Chapter 74.
5. RMA as described in subrule 75.5(3).

441—75.72(249A) MAGI household composition. For the purpose of determining financial eligibility, each applicant's or member's household is determined based on federal tax policy and with regard to the applicant's or member's federal tax status as described below.

75.72(1) *Applicant or member is a tax-filer.* An applicant or member who expects to file a federal tax return for the year in which the applicant or member requests Medicaid and does not expect to be claimed as a tax dependent by another taxpayer is considered a tax-filer. A tax-filer's Medicaid household includes:

a. The tax-filer,

b. The tax-filer's spouse, under either of the following circumstances:

(1) The tax-filer and spouse are living together, or

(2) The expected tax status is married filing jointly, regardless of whether the spouse is present in the home, and

c. Each dependent that the tax-filer expects to claim.

75.72(2) *Applicant or member is a tax dependent.* An applicant or member who expects to be claimed as a tax dependent on a federal tax return for the year in which the applicant or member requests Medicaid is a tax dependent. A tax dependent's Medicaid household is the same as the tax-filer who claims the dependent, except the dependent's household is determined pursuant to subrule 75.72(3) when the dependent:

a. Expects to be claimed by someone other than a spouse or parent.

b. Is a child under the age of 19 who expects to be claimed by one parent while living with two parents who do not expect to file a joint return.

c. Is a child under the age of 19 who expects to be claimed by a noncustodial parent in accordance with a court order or binding separation, divorce, or custody agreement establishing physical custody controls. If there is no such order or agreement, the custodial parent is the parent with whom the child spends most nights pursuant to subparagraph 75.50(2)*"c"*(2).

75.72(3) *Applicant or member is a non-filer (does not file taxes) and is not claimed as a tax dependent.*

a. This subrule applies to an applicant or member who:

(1) Does not expect to file a federal tax return for the year in which Medicaid is requested,

(2) Does not expect to be claimed as a tax dependent for the year in which Medicaid is requested, or

(3) Meets an exception described in paragraph 75.72(2)*"a," "b,"* or *"c."*

b. The household consists of the applicant or member and each of the following who is living with and in relation to the applicant:

(1) Parent, when the applicant or member is a child under the age of 19.

(2) Spouse.

(3) Child under the age of 19.

(4) Sibling under the age of 19, when the applicant or member is a child under the age of 19.

c. For the purpose of paragraph 75.72(3)*"b,"* "living with" must be in accordance with subrule 75.50(2).

75.72(4) *Married couples.* In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of federal tax status.

75.72(5) *Pregnancy.*

a. Household size. In establishing eligibility for a pregnant woman or any person whose household includes a pregnant woman, the unborn child (or children if more than one fetus exists) will be considered when determining the number of persons in the household.

b. Verification of pregnancy. The applicant's or member's attestation of the pregnancy, date of conception, due date, and number of children expected to deliver will serve as verification unless questionable as determined by the department.

75.72(6) *Applicant or member attestation of federal tax status.* The department will accept the applicant's or member's statement of the applicant's or member's federal tax status and claimed dependents or such statement from an adult who is living with and in the Medicaid household of an applicant or member who is a child.

441—75.73(249A) Income under MAGI methodology. The total countable earned and unearned income of the applicant or member included in the household as defined in rule 441—75.72(249A) will be considered when determining initial and ongoing Medicaid eligibility for coverage groups that are subject to MAGI methodology as specified in rule 441—75.71(249A). For eligibility to exist, the total countable monthly income of the applicant's or member's household must be at or below the income limit for the applicable coverage group pursuant to rule 441—75.74(249A).

75.73(1) *Household member income exclusions under MAGI.* The income of a household member that meets the requirements of paragraph 75.73(1)*"a"* or *"b"* is excluded from the household's total countable income.

a. Income of children under age 19.

(1) The income of a child under the age of 19 who is:

1. Included in the household of the child's parent, and

2. Not expected to be required to file a federal tax return under 26 U.S.C. Section 6012(a)(1) for the taxable year in which Medicaid is being determined, regardless of whether a tax return is filed by the child for the tax year.

(2) A child with income of less than the threshold determined annually by the IRS is considered not expected to be required to file a tax return for the taxable year in which Medicaid is being determined.

b. Income of tax dependent other than spouse or child.

(1) The income of a tax dependent other than a spouse or a child who is not expected to be required to file a federal tax return under 26 U.S.C. Section 6012(a)(1) for the taxable year in which Medicaid is being determined is not included, regardless of whether a tax return is filed by the tax dependent for the tax year.

(2) A dependent with income of less than the threshold determined annually by the IRS is considered not expected to be required to file a tax return for the taxable year in which Medicaid is being determined.

(3) Any cash support provided to the claimed dependent by the tax-filer.

75.73(2) *Countable income under MAGI.* For the purpose of determining initial and ongoing MAGI Medicaid eligibility, countable income is the amount that remains after allowable expenses and deductions have been subtracted from gross countable income as defined in paragraph 75.73(2)*"a."* Income described in paragraph 75.73(2)*"b"* is excluded as countable income. Allowable expenses and deductions are limited to those allowed in accordance with paragraphs 75.73(2)*"c"* and *"d."*

a. Gross countable income. Gross countable income under MAGI includes income types that are considered as gross income for federal tax purposes pursuant to 26 U.S.C. Sections 61 and 71 through 91 and calculated pursuant to 26 U.S.C. Section 36B(d)(2)(B), except as specified in paragraph 75.73(2)*"b."* Gross countable income for the purpose of Medicaid eligibility under MAGI includes but is not limited to the following income types:

(1) Earned income, including salaries, wages, tips and other compensation for services that include fees, commissions, fringe benefits such as sick pay, vacation pay, severance pay, and similar items, and including foreign earned income and housing expenses of a U.S. citizen or resident who lives abroad even though these types of income may not be taxable.

(2) Gross profit derived from a self-employment trade or business as defined in paragraph 75.73(2)*"e"* and 26 U.S.C. Section 1402;

(3) Capital gains derived from dealings in assets or property;

(4) Interest (taxable and non-taxable);

(5) Rental income, including room and board;

(6) Royalties;

(7) Taxable dividends;

(8) Alimony and separate maintenance payments;

(9) Taxable annuities;

(10) Income from life insurance and endowment contracts;

(11) Pensions;

(12) Income from discharge of indebtedness;

(13) Distributive share of partnership or S-corporation gross income;

(14) Income in respect of a deceased person;

(15) Income from an interest in an estate or trust;

(16) Deemed sponsor income;

(17) Social security benefits (taxable and nontaxable);

(18) Disability payments, including government, private, temporary and permanent payments;

(19) Unemployment Insurance Benefits (UIB);

(20) Gambling winnings;

(21) Survivor's benefits; and

(22) Strike pay.

b. Income types excluded from gross income. Income that meets the following criteria is not considered when determining countable gross income under MAGI despite the fact that the income may be considered for federal tax purposes. The exclusion of these income types is in accordance with 42 CFR Section 435.603(e).

(1) An amount received as a nonrecurring lump sum from a source that is considered in determining adjusted gross income for federal tax purposes pursuant to paragraph 75.73(2)*"a"* is counted only in the month received for determining Medicaid eligibility under MAGI. A nonrecurring lump sum received from a source that is not considered in determining adjusted gross income for federal tax purposes is entirely excluded.

(2) Scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income.

(3) Certain American Indian and Alaska Native income derived from distributions, payments, ownership interests, real property usage rights, and student financial assistance pursuant to 42 CFR Section 435.603(e)(3) is excluded from income.

(4) Student financial assistance provided under the Bureau of Indian Affairs education programs is excluded from income.

(5) Any other type of income that is not identified as countable in paragraph 75.73(2)*"a"* and is not otherwise included in "adjusted gross income" for federal tax purposes pursuant to 26 U.S.C. Section 62 is excluded from income.

c. Allowable expenses. Expenses that are allowed as deductions from gross income when determining a person's adjusted gross income for federal tax purposes pursuant to 26 U.S.C. Section 62 are subtracted from gross income as defined in paragraphs 75.73(2)*"a"* and *"b"* when determining countable income under MAGI. Allowable expenses include:

(1) Educator expenses.

(2) Certain business expenses of reservists, performing artists, and fee-based government officials.

(3) Health savings account contributions.

(4) Moving expenses for members of the Armed Forces.

(5) Deductible part of self-employment tax.

(6) Contributions to self-employed Simplified Employee Pension (SEP), Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) and Qualified Plans.

(7) Self-employed health insurance contributions.

(8) Amount of penalty for early withdrawal of savings.

(9) Alimony payments made under a divorce or separation agreement executed before January 1, 2019.

(10) Certain individual retirement account (IRA) contributions.

(11) Student loan interest expense.

(12) Expenses directly related with the conduct of a self-employment trade or business, including but not limited to depreciation and capital losses.

d. MAGI Income Deduction. An amount equal to 5 percent of the FPL for the applicable household size will be subtracted from the total monthly countable MAGI income amount when:

(1) An applicant's monthly MAGI income exceeds the highest income limit of all of the coverage groups for which the applicant meets the categorical requirements, and

(2) Deducting 5 percent results in the applicant's income being within the income limit of the coverage group with the highest income limit for which the applicant meets categorical requirements.

e. Self-employment defined for MAGI purposes. A person is considered self-employed if the person:

(1) Carries on a trade or business with the goal of making a profit and is the sole proprietor of the trade or business, or

(2) Is an independent contractor and the person paying for the work has the right to control or to direct only the result of the work and not how the work will be done.

75.73(3) *Income verification.* The department will accept an applicant's or member's attestation of income and use the attested income to determine eligibility when the attested amount is reasonably compatible with electronic data sources as defined in rule 441—75.1(249A).

a. Verification not required. The department will not require the applicant or member to provide verification when attested income is reasonably compatible with EDS or verification is available to the department from other sources.

b. Verification required. When attested income is not reasonably compatible with EDS or verification is not available to the department from other sources, the applicant or member must provide verification of the income in accordance with 441—subrule 76.8(2) or provide a statement that reasonably explains the discrepancy between the attested income and electronic data sources.

75.73(4) *Budgeting procedures for determining financial eligibility under MAGI.* Initial and ongoing financial eligibility under MAGI is based on current monthly household composition and income with consideration given to any anticipated changes or fluctuation in income or expenses pursuant to 42 CFR Section 435.603(h). Total countable earned and unearned income of all persons in the applicant or member household after applicable expenses and deductions is considered in determining financial eligibility under MAGI in accordance with subrules 75.73(1) and 75.73(2).

a. Current monthly household income. Both initial and ongoing eligibility will be based on current monthly income when current income and any applicable expenses are a good indicator of future income except when the income is unemployment insurance benefits as described in paragraph 75.73(4)*"c."*

b. Change in current month's income. If the household indicates that current countable income is not indicative of future income due to a change that is reasonably expected to occur in the current or next month, the amount of monthly income used for initial and ongoing eligibility will be calculated based on the change. When the anticipated change is with unemployment insurance benefits, income will be budgeted as described in paragraph 75.73(4)*"c."*

c. Unemployment insurance benefits (UIB). When current income includes UIB, the monthly amount of UIB income used for initial and ongoing eligibility will be determined by annualizing the remaining balance according to the applicable item below:

(1) For applicants, the monthly amount is determined by using the remaining balance as of the first day of the month in which the application was filed and dividing the balance by 12. If the UIB will end in the application month, the annualized amount will be used for the application month only and no UIB income will be used for months thereafter.

(2) For members in the review process described in rule 441—76.14(249A), the monthly amount is determined by using the remaining balance as of the first day of the month of the new certification period and dividing the balance by 12. If the UIB will end in the first month of the new certification period, the annualized amount will be used for the first month and no UIB income will be used for months thereafter.

(3) For members reporting a change and not due for review as described in rule 441—76.14(249A), the monthly amount is determined by using the remaining balance as of the first day of the month in which the change can be acted upon in accordance with rule 441—76.16(249A).

d. Recurring lump-sum income. Recurring lump-sum earned and unearned income, except for the income of the self-employed, will be prorated over the number of months for which the income was received and applied to the eligibility determination for the same number of months.

(1) Income received by an individual employed under a contract will be prorated over the period of the contract.

(2) Income received at periodic intervals or intermittently will be prorated over the period covered by the income and applied to the eligibility determination for the same number of months.

EXCEPTION: Periodic or intermittent income from self-employment will be treated as described in paragraph 75.73(4)*"h."*

(3) Applicable expenses and deductions will be applied to the monthly prorated income.

e. Conversion of weekly or biweekly income to a monthly amount. When income received weekly or biweekly (once every two weeks) is projected for future months, it will be projected by adding all income received in the time period being used and dividing the result by the number of instances of income received in that time period. The result will be multiplied by four if the income is received weekly, or by two if the income is received biweekly, regardless of the number of weekly or biweekly payments to be made in future months.

f. Self-employment income. Countable income from self-employment not received on a regular weekly, biweekly, semimonthly or monthly basis will be annualized (annual income averaged over a 12-month period of time) to arrive at the monthly amount to be used to determine eligibility, even if the income is received within a short period of time during that 12-month period. Countable self-employment income is gross countable income as defined in paragraph 75.73(2)*"a"* less allowable expenses pursuant to subrule 75.73(2)*"c."* Any change in self-employment will be handled in accordance with subparagraph 75.73(4)*"f"*(3).

(1) When a self-employment enterprise that does not produce a regular weekly, biweekly, semimonthly or monthly income has been in existence for less than a year, income will be averaged over the period of time the enterprise has been in existence to arrive at a projected monthly amount to be used to determine eligibility. If the enterprise has been in existence for such a short time that there is very little income information or income in the period of time is not a good indicator of future income, the department will establish, with the cooperation of the applicant or member, a reasonable estimate of the projected monthly income to be used for eligibility.

(2) The policies outlined in this paragraph apply when self-employment income is received before the month of decision and the income is expected to continue, in the month of decision, after assistance is approved.

(3) A change in the cost of producing self-employment income is defined as an established, permanent, ongoing change in the operating expenses of a self-employment enterprise that will result in a significant change in the person's annual net income. Change in self-employment income is defined as a change that will result in a significant change in the person's annual income.

1. When an applicant or member reports that change in operating expenses has occurred and the person's self-employment income has been annualized, the department will recalculate the expenses on the basis of the change.

2. When a change in self-employment income occurs and the person's self-employment income has been annualized, the department will recalculate income and expenses on the basis of the change.

3. A change in the cost of producing self-employment income or income received from self-employment that occurs as a result of seasonal business fluctuations is not considered a change for the purpose of this subparagraph.

g. Rounding procedures. The following rounding procedures apply when determining countable MAGI income.

(1) The third digit to the right of the decimal point in any calculation of income will be dropped.

(2) When the monthly countable income is converted to a percentage of the FPL and the resulting percentage is not a whole number, the FPL percentage is rounded up to the next whole percentage.

75.73(5) *Shared living arrangements.* When an applicant or member shares living arrangements with another family or person, funds combined to meet mutual obligations for shelter and other basic needs are not income. Funds made available to the applicant or member exclusively for the applicant's or member's needs are considered income, except as described at 75.73(1)*"b"*(3).

441—75.74(249A) Income limits. The following income limits apply to the MAGI-related coverage groups specified below, as identified by the legal references provided:

Coverage Group	Legal Reference	Household Size (persons)	Income Limit (per month)
FMAP	441—subrule 75.3(1); 42 CFR Part 435.110 and 435.118; Title XIX of the Act, Section 1931	1	$447
		2	$716
		3	$872
		4	$1,033
		5	$1,177
		6	$1,330
		7	$1,481
		8	$1,633
		9	$1,784
		10	$1,950
		over 10	$1,950 plus $178 for each additional person
Mothers and Children (MAC) for pregnant women	441—subrule 75.3(2); 42 CFR Part 435.116 and 435.118; Title XIX of the Act, Section 1902	215% of the FPL for the household	
MAC for infants under one year of age		300% of the FPL for the household	
MAC for children aged 1 through 18	441—subrule 75.3(2); 42 CFR Part 435.118; Title XIX of the Act, Section 1902	167% of the FPL for the household	

441—75.75 to **75.79** Reserved.

DIVISION IV
ELIGIBILITY FACTORS SPECIFIC TO NON-MAGI-RELATED COVERAGE GROUPS, PERSONS IN MEDICAL INSTITUTIONS AND PERSONS RECEIVING LONG-TERM CARE SERVICES

441—75.80(249A) Categorical relatedness to supplemental security income (SSI). Except as otherwise provided in 441—Chapters 75 and 76, persons who are 65 years of age or older, blind, or disabled are eligible for Medicaid only if eligible for the SSI program administered by the SSA.

75.80(1) *SSI policy reference.* The statutes, regulations, and policy governing eligibility for SSI (collectively, "SSI policies") are found in Title XVI of the Act (42 U.S.C. Sections 1381 through 1383f), in the federal regulations promulgated pursuant to Title XVI of the Act (20 CFR 416.101 to 416.2227), and in Part 5 of the program operations manual system published by the SSA. The program operations manual system is available online; at SSA offices in Ames, Burlington, Carroll, Cedar Rapids, Coralville, Council Bluffs, Creston, Davenport, Des Moines, Dubuque, Fort Dodge, Marshalltown, Mason City, Ottumwa, Sioux City, Spencer, and Waterloo; and through the department.

75.80(2) *Income considered.* For non-MAGI-related Medicaid eligibility purposes, income will be considered prospectively.

75.80(3) *Trust contributions.* Income that a person contributes to a trust as specified in paragraph 75.24(3)*"b"* will not be considered for purposes of determining eligibility for non-MAGI-related Medicaid.

75.80(4) *Conditional eligibility.* For purposes of determining eligibility for non-MAGI-related Medicaid, the SSI conditional eligibility process, by which a client may receive SSI benefits while attempting to sell excess resources found at 20 CFR Sections 416.1240 through 416.1245, is not considered an eligibility methodology.

75.80(5) *Valuation of life estates and remainder interests.* In the absence of other evidence, the value of a life estate or remainder interest in property will be determined using the following table by multiplying the fair market value of the entire underlying property (including all life estates and all remainder interests) by the life estate or remainder interest decimal corresponding to the age of the life estate holder or other person whose life controls the life estate. If a Medicaid applicant or member disputes the value determined using the following table, the applicant or member may submit other evidence and the value of the life estate or remainder interest will be determined based on the preponderance of all the evidence submitted to or obtained by the department, including the value given by the following table.

Age	Life Estate	Remainder	Age	Life Estate	Remainder	Age	Life Estate	Remainder
0	.97188	.02812	37	.93026	.06974	74	.53862	.46138
1	.98988	.01012	38	.92567	.07433	75	.52149	.47851
2	.99017	.00983	39	.92083	.07917	76	.51441	.49559
3	.99008	.00992	40	.91571	.08429	77	.48742	.51258
4	.98981	.01019	41	.91030	.08970	78	.47049	.52951
5	.98938	.01062	42	.90457	.09543	79	.45357	.54643
6	.98884	.01116	43	.89855	.10145	80	.43569	.56341
7	.98822	.01178	44	.89221	.10779	81	.41967	.58033
8	.98748	.01252	45	.88558	.11442	82	.40295	.59705
9	.98663	.01337	46	.87863	.12137	83	.38642	.61358
10	.98565	.01435	47	.87137	.12863	84	.36998	.63002
11	.98453	.01547	48	.86374	.13626	85	.35359	.64641
12	.98329	.01671	49	.85578	.14422	86	.33764	.66236
13	.98198	.01802	50	.84743	.15257	87	.32262	.67738
14	.98066	.01934	51	.83674	.16126	88	.30859	.69141
15	.97937	.02063	52	.82969	.17031	89	.29526	.70474
16	.97815	.02185	53	.82028	.17972	90	.28221	.71779
17	.97700	.02300	54	.81054	.18946	91	.26955	.73045
18	.97590	.02410	55	.80046	.19954	92	.25771	.74229
19	.97480	.02520	56	.79006	.20994	93	.24692	.75308
20	.97365	.02635	57	.77931	.22069	94	.23728	.76272
21	.97245	.02755	58	.76822	.23178	95	.22887	.77113
22	.97120	.02880	59	.75675	.24325	96	.22181	.77819
23	.96986	.03014	60	.74491	.25509	97	.21550	.78450
24	.96841	.03159	61	.73267	.26733	98	.21000	.79000
25	.96678	.03322	62	.72002	.27998	99	.20486	.79514
26	.96495	.03505	63	.70696	.29304	100	.19975	.80025
27	.96290	.03710	64	.69352	.30648	101	.19532	.80468
28	.96062	.03938	65	.67970	.32030	102	.19054	.80946
29	.95813	.04187	66	.66551	.33449	103	.18437	.81563
30	.95543	.04457	67	.65098	.343902	104	.17856	.82144

Age	Life Estate	Remainder	Age	Life Estate	Remainder	Age	Life Estate	Remainder
31	.95254	.04746	68	.63610	.363690	105	.16962	.83038
32	.94942	.05058	69	.62086	.37914	106	.15488	.84512
33	.94608	.05392	70	.60522	.39478	107	.13409	.86591
34	.94250	.05750	71	.58914	.41086	108	.10068	.89932
35	.93868	.06132	72	.57261	.42739	109	.04545	.95455
36	.93460	.06540	73	.55571	.44429			

75.80(6) *Resource eligibility for non-MAGI-related Medicaid for children.* Resources of all household members will be disregarded when determining eligibility for children under any non-MAGI-related coverage group except for those groups in paragraphs 75.6(1)*"a"* and *"b"*; 75.6(2)*"a," "b," "c," "d," "e,"* and *"g"*; 75.6(4)*"a"*; and 75.6(5)*"a," "b," "c,"* and *"d."*

441—75.81(249A) Disability requirements for non-MAGI-related Medicaid.

75.81(1) *Applicants receiving federal benefits.* An applicant receiving SSI on the basis of disability, social security disability benefits under Title II of the Act, or railroad retirement benefits based on the Social Security Act's definition of disability by the Railroad Retirement Board, will be deemed disabled without further determination of disability.

75.81(2) *Applicants not receiving federal benefits.* When disability has not been established based on the receipt of social security disability or railroad retirement benefits based on the same disability criteria as used by the SSA, the department will determine eligibility for non-MAGI-related Medicaid based on disability as follows:

a. An SSA disability determination under either a social security disability (Title II) application or an SSI application is binding on the department until changed by SSA unless the applicant meets one of the following criteria:

(1) The applicant alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

(2) The applicant alleges more than 12 months after the most recent SSA determination denying disability that the applicant's condition has changed or deteriorated since that SSA determination and alleges a new period of disability that meets the durational requirements, and has not applied to SSA for a determination with respect to these allegations.

(3) The applicant alleges less than 12 months after the most recent SSA determination denying disability that the applicant's condition has changed or deteriorated since that SSA determination, alleges a new period of disability that meets the durational requirements, and:

1. The applicant has applied to SSA for reconsideration or reopening of its disability decision and SSA refused to consider the new allegations, or

2. The applicant no longer meets the nondisability requirements for SSI but may meet the department's nondisability requirements for Medicaid eligibility.

b. When there is no binding SSA decision and the department is required to establish eligibility for non-MAGI-related Medicaid based on disability, initial determinations will be made by the department of workforce development's disability determination services division. The applicant or the applicant's authorized representative shall complete and submit forms as prescribed by the department.

c. When an SSA decision on disability is pending when the person applies for Medicaid or when the person applies for either Title II benefits or SSI within ten working days of the Medicaid application, the department will stay a decision on disability pending the SSA decision on disability.

75.81(3) *Time frames for decisions.* Determination of eligibility based on disability will be completed within 90 days unless the applicant or an examining physician delays or fails to take a required action or there is an administrative or other emergency beyond the department's or applicant's control.

75.81(4) *Reviews of disability.* In connection with any independent determination of disability, the department will determine whether reexamination of the member's disability will be required for periodic eligibility reviews. When a disability review is required, the member or the member's authorized representative shall complete and submit forms as prescribed by the department.

75.81(5) *Members whose disability was determined by the department.* When a Medicaid member has been approved for Medicaid based on disability determined by the department and later is determined by SSA not to be disabled for SSI, the member will continue to be considered disabled for Medicaid eligibility purposes for 65 days from the date of the SSA denial. If at the end of the 65 days there is no appeal to the SSA, Medicaid will be canceled with timely notice in accordance with 441—Chapter 16. If there is an appeal to SSA within 65 days, the member will continue to be considered disabled for Medicaid eligibility purposes until a final SSA decision.

75.81(6) *Disability redeterminations for members who attain age 18.* If a member is eligible based on an independent determination of disability made under the standards applicable to persons under 18 years of age, the department will redetermine the member's disability after the member attains the age of 18 years. The member's disability will be redetermined:

a. Using the standards applicable to persons who are 18 years of age or older, and

b. Regardless of whether a review of the member's disability would otherwise be due.

441—75.82(249A) Determination of countable income and resources for persons in a medical institution. In determining eligibility for any coverage group under rules 441—75.3(249A) through 441—75.8(249A), certain factors must be considered differently for persons who reside in a medical institution, as follows.

75.82(1) *Determining income from property.*

a. Nontrust property. Where there is nontrust property, unless the document providing income specifies differently, income paid in the name of one person shall be available only to that person. If payment of income is in the name of two persons, one-half is attributed to each. If payment is in the name of several persons, including a Medicaid client, a client's spouse, or both, the income will be considered in proportion to the Medicaid client's or spouse's interest. If payment is made jointly to both spouses and no interest is specified, one-half of the couple's joint interest will be considered available for each spouse. If the client or the client's spouse can establish different ownership by a preponderance of evidence, the income will be divided in proportion to the ownership.

b. Trust property. Where there is trust property, the payment of income will be considered available as provided in the trust. In the absence of specific provisions in the trust, the income will be considered as stated above for nontrust property.

75.82(2) *Division of income between married people for non-MAGI coverage groups.*

a. Institutionalized spouse and community spouse. If there is a community spouse, only the institutionalized spouse's income will be considered in determining eligibility for the institutionalized spouse.

b. Spouses institutionalized and living together. Partners in a marriage who are residing in the same room in a medical institution will be treated as a couple until the first day of the seventh calendar month that they continuously reside in the facility. The couple may continue to be considered as a couple for Medicaid effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for Medicaid or receive reduced benefits by considering them separate individuals or if they choose to be considered together. When spouses are treated as a couple, the combined income of the couple shall not exceed twice the amount of the income limit established in subrule 75.6(4). Persons treated together as a couple for income must be treated together for resources, and persons treated individually for income must be treated individually for resources. Spouses residing in the same room in a medical institution may be treated as individuals effective the first day of the seventh calendar month. The income of each spouse shall not exceed the income limit established in subrule 75.6(4).

c. Spouses institutionalized and living apart. Partners in a marriage who are both institutionalized, although not residing in the same room of the institution, will be treated as individuals effective the month after the month the partners cease living together. Their income will be treated separately for eligibility. If they live in the same facility after six months of continuous residence, they may be considered as a couple for Medicaid effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for Medicaid or receive reduced benefits by considering them separate individuals or if they choose to be considered together.

In the month of entry into a medical institution, income shall not exceed the amount of the income limit established in subrule 75.6(4).

75.82(3) *Attribution of resources to institutionalized spouse and community spouse.* The department will determine the attribution of a couple's resources to the institutionalized spouse and to the community spouse when the institutionalized spouse is expected to remain in a medical institution at least 30 consecutive days on or after September 30, 1989, at the beginning of the first continuous period of institutionalization.

a. When determined. The department will determine the attribution of resources between spouses at the earlier of the following:

(1) When either spouse requests that the department determine the attribution of resources at the beginning of the person's continuous stay in a medical facility prior to an application for Medicaid benefits. This request must be accompanied by a form prescribed by the department and necessary documentation.

(2) When the institutionalized spouse or someone acting on that person's behalf applies for Medicaid benefits. If the application is not made in the month of entry, the applicant shall also complete a form prescribed by the department and provide necessary documentation.

b. Information required. The couple must provide the social security number of the community spouse. The attribution process will include a match of the IRS data for both the institutionalized and community spouses.

c. Resources considered. The resources attributed shall include resources owned by both the community spouse and institutionalized spouse, except for the following resources:

(1) The home in which the spouse or relatives as defined in 441—paragraph 41.3(1)*"a"* live (including the land that appertains to the home).

(2) Household goods, personal effects, and one automobile.

(3) The value of any burial spaces held for the purpose of providing a place for the burial of either spouse or any other member of the immediate family.

(4) Other property essential to the means of self-support of either spouse as to warrant its exclusion under the SSI program.

(5) Resources of a blind or disabled person who has a plan for achieving self-support as determined by division of vocational rehabilitation or by the department.

(6) For natives of Alaska, shares of stock held in a regional or village corporation, during the period of 20 years in which the stock is inalienable, as provided in Sections 7(h) and 8(c) of the Alaska Native Claims Settlement Act as amended to August 1, 2025.

(7) Assistance under the Disaster Relief Act and Emergency Assistance Act as amended to August 1, 2025, or other assistance provided pursuant to federal statute on account of a presidentially declared major disaster and interest earned on these funds for the nine-month period beginning on the date these funds are received or for a longer period where good cause is shown.

(8) Any amount of underpayment of SSI or social security benefits due either spouse for one or more months prior to the month of receipt. This exclusion is limited to the first six months following receipt.

(9) A life insurance policy (or policies) whose total face value is $1,500 or less per spouse.

(10) An amount, not more than $1,500 for each spouse, that is separately identifiable and has been set aside to meet the burial and related expenses of that spouse. The amount of $1,500 will be reduced by an amount equal to the total face value of all insurance policies that are owned by the person or

spouse and the total of any amounts in an irrevocable trust or other irrevocable arrangement available to meet the burial and related expenses of that spouse.

(11) Federal assistance paid for housing occupied by the spouse.

(12) Assistance from a fund established by a state to aid victims of crime for nine months from receipt when the client demonstrates that the amount was paid as compensation for expenses incurred or losses suffered as a result of a crime.

(13) Relocation assistance provided by a state or local government to a client comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended to August 1, 2025, which is subject to the treatment required by Section 216 of that Act.

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized spouse and the community spouse as of the first moment of the first day of the month of the spouse's first entry to a medical facility. However, if one-half of the resources is less than the minimum set by the federal spousal impoverishment provisions, then the greater of $24,000 or the federally established minimum will be protected for the community spouse. Also, when one-half of the resources attributed to the community spouse exceeds the maximum amount allowed as a community spouse resource allowance under the federal spousal impoverishment provisions, the amount over the maximum will be attributed to the institutionalized spouse. (The minimum and maximum limits are indexed annually according to the consumer price index.) The federal spousal impoverishment provisions are defined in Section 1924(f)(2)(A)(i) of the Act (42 U.S.C. §1396r-5(f)(2)(A)(i)). If the institutionalized spouse has transferred resources to the community spouse under a court order for the support of the community spouse, the amount transferred will be the amount attributed to the community spouse if it exceeds the specified limits above.

e. Notice and appeal rights. The department will provide each spouse a notice of the attribution results. The notice will state that either spouse has a right to appeal the attribution if the spouse believes:

(1) That the attribution is incorrect, or

(2) That the amount of income generated by the resources attributed to the community spouse is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance. If an attribution has not previously been appealed, either spouse may appeal the attribution upon the denial of an application for Medicaid benefits based on the attribution.

f. Appeals. Hearings on attribution decisions are governed by procedures in 441—Chapter 7. If the hearing establishes that the community spouse's resource allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance, there will be substituted an amount adequate to provide the minimum monthly maintenance needs allowance.

(1) To establish that the resource allowance is inadequate and receive a substituted allowance, the applicant must provide verification of all the income of the community spouse. For an applicant who became an institutionalized spouse on or after February 8, 2006, all income of the institutionalized spouse that could be made available to the community spouse pursuant to paragraph 75.83(2)*"d"* will be treated as countable income of the community spouse when the attribution decision was made on or after February 8, 2006.

(2) The amount of resources adequate to provide the community spouse minimum maintenance needs allowance will be based on the cost of a single premium lifetime annuity with monthly payments equal to the difference between the monthly maintenance needs allowance and other countable income not generated by either spouse's countable resources.

(3) The resources necessary to provide the minimum maintenance needs allowance will be based on the maintenance needs allowance as provided by these rules at the time the appeal is filed.

(4) To receive the substituted allowance, the applicant will be required to obtain one estimate of the cost of the annuity.

(5) The estimated cost of an annuity will be substituted for the amount of resources attributed to the community spouse when the amount of resources previously determined is less than the estimated cost of an annuity. If the amount of resources previously attributed for the community spouse is greater than the estimated cost of an annuity, there will be no substitution for the cost of the annuity and the attribution will remain as previously determined.

(6) The applicant will not be required to purchase this annuity as a condition of Medicaid eligibility.

(7) If the appellant provides a statement from an insurance company that it will not provide an estimate due to the potential annuitant's age, the amount to be set aside will be determined using the following calculation: the difference between the community spouse's gross monthly income not generated by countable resources (multiplied by 12) and the minimum monthly maintenance needs allowance (multiplied by 12) will be multiplied by the annuity factor for the age of the community spouse. This amount will be substituted for the amount of resources attributed to the community spouse pursuant to subparagraph 75.82(3)*"f"*(5).

75.82(4) *Consideration of resources of married people.*

a. One spouse in a medical facility who entered the facility on or after September 30, 1989.

(1) Initial month. When the institutionalized spouse is expected to stay in a medical facility less than 30 consecutive days, the resources of both spouses will be considered in determining initial Medicaid eligibility. When the institutionalized spouse is expected to be in a medical facility 30 consecutive days or more, only the resources not attributed to the community spouse according to subrule 75.82(3) will be considered in determining initial eligibility for the institutionalized spouse. The amount of resources counted for eligibility for the institutionalized spouse shall be the difference between the couple's total resources at the time of application and the amount attributed to the community spouse under this rule.

(2) Ongoing eligibility. After the month in which the institutionalized spouse is determined eligible, no resources of the community spouse will be deemed available to the institutionalized spouse during the continuous period in which the spouse is in an institution. Resources that are owned wholly or in part by the institutionalized spouse and that are not transferred to the community spouse will be counted in determining ongoing eligibility. The resources of the institutionalized spouse will not count for ongoing eligibility to the extent that the institutionalized spouse intends to transfer and does transfer the resources to the community spouse within 90 days unless unable to effect the transfer.

(3) Exception based on estrangement. When it is established by a disinterested third-party source that the institutionalized spouse is estranged from the community spouse, Medicaid eligibility will not be denied on the basis of resources when the applicant can demonstrate hardship. The applicant can demonstrate hardship when the applicant is unable to obtain information about the community spouse's resources after exploring all legal means. The applicant can also demonstrate hardship when resources attributed from the community spouse cause the applicant to be ineligible but the applicant is unable to access these resources after exhausting legal means.

(4) Exception based on assignment of support rights. The institutionalized spouse will not be ineligible by attribution of resources that are not actually available when:

1. The institutionalized spouse has assigned to the state any rights to support from the community spouse, or

2. The institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the state has the right to bring a support proceeding against a community spouse without an assignment.

b. One spouse in a medical institution prior to September 30, 1989. When one spouse is in the medical institution prior to September 30, 1989, only the resources of the institutionalized spouse will count for eligibility according to SSI policies the month after the month of entry. In the month of entry, the resources of both spouses are countable toward the couple resource limit.

c. Spouses institutionalized and living together. The combined resources of both partners in a marriage who are residing in the same room in a medical institution will be subject to the resource limit for a married couple until the first of the seventh calendar month that they continuously reside in the facility. The couple may continue to be considered as a couple for Medicaid effective with the seventh month if one partner would be ineligible for Medicaid or would receive reduced benefits by considering them separately or if they choose to be considered together. Persons treated together as a couple for resources must be treated together for income, and persons treated individually for resources must be treated individually for income. Effective the first of the seventh calendar month of continuous residence, they may be treated as individuals, with the resource limit for each spouse the limit for a single person.

d. Spouses institutionalized and living apart. Partners in a marriage who are both institutionalized, although not residing in the same room of the institution, will be treated as individuals effective the month after the month the partners cease living together. If they live in the same facility after six months of continuous residence, they may be considered as a couple for Medicaid effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for Medicaid or would receive reduced benefits by considering them separately or if they choose to be considered together. In the month of entry into a medical institution, all resources of both spouses will be combined and will be subject to the resource limit for a married couple.

75.82(5) *Consideration of resources for persons in a medical institution who have purchased and used a qualified or approved long-term care insurance policy pursuant to 191—Chapter 39 or 72.*

a. Eligibility. A person may be eligible for Medicaid under this subrule if:

(1) The person is the beneficiary of a qualified long-term care insurance policy or is enrolled in a prepaid health care delivery plan that provides long-term care services pursuant to 191—Chapter 39 or 72; and

(2) The person is eligible for Medicaid under subrule 75.3(14), 75.3(15), 75.6(4), or 75.6(8), except for excess resources; and

(3) The excess resources causing ineligibility under the listed coverage groups do not exceed the "asset adjustment" provided in this subrule.

b. Definition.

"Asset adjustment" means a $1 disregard of resources for each $1 that has been paid out under the person's qualified or approved long-term care insurance policy.

c. Estate recovery. An amount equal to the benefits paid out under a member's qualified or approved long-term care insurance policy will be exempt from recovery from the estate of the member or the member's spouse for payments made by the Medicaid program on behalf of the member.

This rule is intended to implement Iowa Code sections 249A.3, 249A.4, and 249A.35 and chapter 514H.

441—75.83(249A) Client participation in payment for medical institution care. Medicaid clients are required to participate in the cost of medical institution care. However, no client participation is charged when the combination of Medicare payments and the Medicaid benefits available to qualified Medicare beneficiaries covers the cost of institutional care.

75.83(1) *Income considered in determining client participation.* The department determines the amount of client participation based on the client's total monthly income. Income is determined pursuant to the SSI program under Title XVI of the Act (42 U.S.C. §1396r-5(f)(2)(A)(i)), with the following exceptions.

a. MAGI-related clients. The income of a client and family whose eligibility is MAGI-related is not available for client participation when both of the following conditions exist:

(1) The client has a parent or child at home.

(2) The family's income is considered together in determining eligibility.

b. Non-MAGI-related clients who are employed. If a client receives SSI and is substantially gainfully employed, as determined by SSA, the client shall have the SSI and any mandatory state

supplementary assistance payment exempt from client participation for the two full months after entry to a medical institution.

c. Non-MAGI-related clients returning home within three months. If SSA continues a client's SSI or federally administered state supplementary assistance payments for three months because it is expected that the client will return home within three months, these payments will be exempt from client participation.

d. Married couples.

(1) Institutionalized spouse and community spouse. If there is a community spouse, only the institutionalized person's income will be considered in determining client participation.

(2) Both spouses institutionalized. Client participation for each partner in a marriage will be based on one-half of the couple's combined income when the partners are considered together for eligibility. Client participation for each partner who is considered individually for eligibility will be determined individually from each person's income.

e. State supplementary assistance recipients. The amount of client participation that a client paid under the state supplementary assistance program is not available for Medicaid client participation in the month of the client's entry to a medical institution.

f. Foster care recipients. The amount of income paid for foster care for the days that a child is in foster care in the same month as entry to a medical institution is not available for client participation.

g. Clients receiving a VA pension. The amount of $90 of veteran's pension income will be exempt from client participation if the client is a veteran or a surviving spouse of a veteran who:

(1) Receives a reduced pension pursuant to 38 U.S.C. Section 5503(d)(2); or

(2) Resides at the Iowa Veterans Home and does not have a spouse or minor child.

75.83(2) *Allowable deductions from income.* In determining the amount of client participation, the department allows the following deductions from the client's income, taken in the order they appear.

a. Ongoing personal needs allowance. All clients shall retain $55 of their monthly income for a personal needs allowance. Iowa Code section 249A.30A contains information regarding potential state-funded personal needs supplements.

(1) If the client has a trust described in Section 1917(d)(4) of the Act (including Medicaid income trusts and special needs trusts), a reasonable amount paid or set aside for necessary expenses of the trust is added to the personal needs allowance. This amount will not exceed $10 per month except with court approval.

(2) If the client has earned income, an additional $65 is added to the ongoing personal needs allowance from the earned income only.

b. Personal needs in the month of entry.

(1) Single person. A single person will be given an allowance for stated home living expenses during the month of entry, up to the amount of the SSI benefit for a single person.

(2) Spouses entering institutions together and living together. Partners in a marriage who enter a medical institution in the same month and live in the same room will be given an allowance for stated home living expenses during the month of entry, up to the amount of the SSI benefit for a couple.

(3) Spouses entering an institution together but living apart. Partners in a marriage who enter a medical institution during the same month and who are considered separately for eligibility will each be given an allowance for stated home living expenses during the month of entry, up to one-half of the amount of the SSI benefit for a married couple. However, if the income of one spouse is less than one-half of the SSI benefit for a couple, the remainder of the allowance will be given to the other spouse. If the couple's eligibility is determined together, an allowance for stated home living expenses will be given to them during the month of entry up to the SSI benefit for a married couple.

(4) Community spouse enters a medical institution. When the second member of a married couple enters a medical institution in a later month, that spouse will be given an allowance for stated expenses during the month of entry, up to the amount of the SSI benefit for one person.

c. Personal needs in the month of discharge. The client will be allowed a deduction for home living expenses in the month of discharge. The amount of the deduction will be the SSI benefit for one person (or for a couple if both members are discharged in the same month). This deduction does not apply when a spouse is at home.

d. Maintenance needs of spouse and other dependents.

(1) Persons covered. An ongoing allowance will be given for the maintenance needs of a community spouse. The allowance is limited to the extent that income of the institutionalized spouse is made available to or for the benefit of the community spouse. If there are minor or dependent children, dependent parents, or dependent siblings of either spouse who live with the community spouse, an ongoing allowance will also be given to meet their needs.

(2) Income considered. The verified gross income of the spouse and dependents will be considered in determining maintenance needs. The gross income of the spouse and dependent will include all monthly earned and unearned income and assistance from FIP, SSI, and state supplementary assistance. It will also include the proceeds of any annuity or contract for sale of real property. Otherwise, the income will be considered as the SSI program considers income.

(3) Needs of spouse. The maintenance needs of the spouse will be determined by subtracting the spouse's gross income from the maximum amount allowed as a minimum monthly maintenance needs allowance for the community spouse by Section 1924(d)(3)(C) of the Act (42 U.S.C. §1396r-5(d)(3)(C)). (This amount is indexed for inflation annually according to the consumer price index.)

However, if either spouse has established through the appeal process that the community spouse needs income above the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, an amount adequate to provide additional income as is necessary will be substituted.

Also, if a court has entered an order against an institutionalized spouse for monthly income to support the community spouse, then the community spouse income allowance will not be less than this amount.

(4) Needs of other dependents. The maintenance needs of the other dependents will be established by subtracting each person's gross income from 150 percent of the monthly FPL for a family of two and dividing the result by three.

e. Maintenance needs of children (without spouse). When the client has children under the age of 21 at home, an ongoing allowance will be given to meet the children's maintenance needs.

The income of the children is considered in determining maintenance needs. The children's countable income will be their gross income less the disregards allowed in FIP.

The children's maintenance needs will be determined by subtracting the children's countable income from the FIP payment standard for that number of children. However, if the children receive FIP, no deduction is allowed for their maintenance needs.

f. Client's medical expenses. A deduction will be allowed for the client's incurred expenses for medical or remedial care that are not subject to payment by a third party and were not incurred for long-term care services during the imposition of a transfer of assets penalty period pursuant to rule 441—75.23(249A). This includes Medicare premiums and other health insurance premiums, deductibles, or coinsurance, and necessary medical or remedial care recognized under state law but not covered under the state Medicaid plan.

441—75.84(249A) Entrance fee for continuing care retirement community or life care community. When an individual resides in a continuing care retirement community or life care community that collects an entrance fee on admission, the entrance fee paid will be considered a resource available to the individual for purposes of determining the individual's Medicaid eligibility and the amount of benefits to the extent that:

75.84(1) The individual has the ability to use the entrance fee, or the contract between the individual and the community provides that the entrance fee may be used to pay for care should the individual's other resources or income be insufficient to pay for such care;

75.84(2) The individual is eligible for a refund of any remaining entrance fee when the individual dies or when the individual terminates the community contract and leaves the community; and

75.84(3) The entrance fee does not confer an ownership interest in the community.

441—75.85(249A) Disqualification for long-term care assistance due to substantial home equity. Notwithstanding any other provision of this chapter, if an individual's equity interest in the individual's home exceeds the limit set annually according to subrule 75.85(1), the individual will not be eligible for Medicaid with respect to nursing facility services or other long-term care services, except as provided in subrule 75.85(2).

75.85(1) *Equity interest limit.* The limit on the equity interest in the individual's home for purposes of this rule will be increased from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest $1,000.

75.85(2) *Exception to disqualification.* Disqualification based on equity interest in the individual's home will not apply when one of the following persons is lawfully residing in the home:

a. The individual's spouse; or

b. The individual's child who is under the age of 21 or is blind or disabled as defined in Section 1614 of the Act.

These rules are intended to implement Iowa Code sections 249A.3 and 249A.4.

Regulatory Analysis

Notice of Intended Action to be published: 441—Chapters 98, 99, 101, and 102
"Changes to Child Support Rules to Conform to Iowa Supreme Court Guidelines"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 96.3, 234.39, 252B.3, 252B.4, 252B.5, 252B.7A, 252B.9, 252B.21, 252D, 252E, 252I, 252J, 421.65, and 598.21(4)

State or federal law(s) implemented by the rulemaking: Iowa Court Rules Chapter 9 and 15 U.S.C. §1673(b)

Public Hearing

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

September 9, 2025 10 a.m.	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. 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

Purpose and Summary

This proposed rulemaking implements changes to conform to anticipated updates to the Iowa Supreme Court Guidelines based on the quadrennial review required by 45 CFR §302.56(e) and Chapter 9 of the Iowa Court Rules. One of the proposed changes to the Iowa Supreme Court Guidelines is, when appropriate, to include a child care add-on when calculating the amount of child support.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking.

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

Qualifying Iowa parents receiving child support who provide child care expenses and request a child care add-on will benefit from the proposed rulemaking.

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

- **Quantitative description of impact:**

Child Support Services provided services to customers of 136,174 cases in SFY 2024 and collected $307,827,757 in support for families in SFY 2024.

- **Qualitative description of impact:**

Qualifying Iowa parents receiving child support who provide child care expenses and request a child care add-on will benefit from the proposed rulemaking.

3. **Costs to the State:**

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

The Department incurs personnel and other administrative costs associated with enforcing the proposed rulemaking.

- **Anticipated effect on State revenues:**

The proposed rulemaking has no effect on State revenues.

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

The rulemaking is appropriate in order to implement changes to the Iowa Court Rules' chapter regarding child support.

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

No other methods were considered.

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:**

The rulemaking is appropriate in order to implement changes to the Iowa Court Rules' chapter regarding child support.

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 impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** definition of "Current support," in rule **441—98.1(252B,252E)**:

"Current support" means an amount for the ongoing support of a child and means the same as "support" as defined in Iowa Code section 252D.16.

ITEM 2. Amend paragraph **98.42(1)"a"** as follows:

a. A claim or offset is contested as provided in subrule ~~98.29(2), 98.30(3), or~~ 98.30(8) by a person's alleging a mistake of fact.

ITEM 3. Amend paragraph **99.1(1)"b"** as follows:

b. Income or other benefits derived from public assistance programs funded by a federal, state, or local governmental agency or entity that are listed in ~~441—41.8~~ 441—41.27(239B) as exempt from consideration in determining eligibility under FIP.

ITEM 4. Rescind subrule **99.2(3)**.

ITEM 5. Renumber subrules **99.2(4)** and **99.2(5)** as **99.2(3)** and **99.2(4)**.

ITEM 6. Adopt the following **new** paragraph **99.4(2)"c"**:

c. Child care expense add-on. When requested by a parent and if applicable, child support services will calculate the amount of the child care add-on as prescribed by the Iowa Supreme Court guidelines.

(1) Actual child care expenses will be verified by a copy of the custodial parent's federal or state income tax return or by a signed statement from the persons or agencies providing the child care showing the total expenses and the time period the expenses represent. The child care expenses must be reasonably expected to continue.

(2) If the child care expense verification submitted represents a period that is less than 12 months, child support services will convert the expenses provided to an annual expense amount for the calculation.

(3) If the child care expense verification submitted shows varying levels of care during the year, such as full-time summer care and part-time care before and after school during the school year, child support services will average the applicable expenses to determine an annual expense amount for the calculation.

(4) Child support services will round the calculated amount of the child care add-on to the nearest whole dollar.

(5) Any child care add-on recommended by child support services will end on the first date that the next periodic support payment becomes due after the youngest child's thirteenth birthday. Child support services may recommend an earlier end date if the custodial parent provides a date that child care expenses are reasonably expected to end prior to the youngest child's thirteenth birthday.

ITEM 7. Amend subrule 99.4(3) as follows:

99.4(3) *Establishing accrued support debt amount.*

a. No change.

b. Calculating accrued support debt. Child support services will calculate the accrued support debt as follows:

(1) to (4) No change.

(5) Child support services will calculate the total amount of the FIP support debt by multiplying the number of months for which assistance was paid times the determined guidelines amount, excluding any applicable child care add-on amount.

(6) Child support services may calculate the total amount of the foster care support debt by multiplying the number of months for which assistance was paid times the determined guidelines amount, excluding any applicable child care add-on amount, and will adjust this amount for weeks in which no foster care benefits were paid.

c. Establishing the accrued support repayment amount.

(1) In cases other than foster care, child support services will establish the repayment amount as follows:

1. When there is an ongoing obligation, the monthly repayment amount will be 10 percent of the ongoing amount, including any child support, child care add-on and cash medical support ordered, unless the noncustodial parent agrees to a higher amount.

2. When the order does not include ongoing support, the monthly repayment amount will be the same as the amount for ongoing child support that would have been due if such an obligation had been established. However, when all of the children for whom accrued support debt is sought are residing with the noncustodial parent, the monthly repayment amount will be set at 10 percent of this amount.

(2) In foster care cases, child support services will establish the repayment amount in the same manner as subparagraph 99.4(3)*"c"*(1), but may establish weekly amounts and if the order does not include ongoing support, the repayment amount will be set at 10 percent of the amount for ongoing child support that would have been due if such an obligation had been established.

ITEM 8. Amend subrule 101.7(1) as follows:

101.7(1) *Conducting the review.* Child support services ~~or its attorney~~ will review the case for administrative adjustment of a child support obligation unless it is determined that any of the following exist:

a. The location of one or both of the parents is unknown.

b. The variation from the Iowa Supreme Court mandatory child support guidelines is based on any material misrepresentation of fact concerning any financial information submitted to child support services.

c. The criteria of rule 441—101.4(252B,252H) are not met.

d. The end date of the order is less than 12 months in the future or the youngest child is 17½ years of age.

ITEM 9. Amend rule 441—101.8(252B,252H) as follows:

441—101.8(252B,252H) Medical support—review and adjustment. Child support services~~, or its attorney,~~ will review the medical support provisions contained in any permanent child support order that is subject to review under rule 441—101.7(252B,252H) and will include in any adjustment order a provision for medical support as defined in Iowa Code chapter 252E, and as set forth in 441—Chapter 98, or other appropriate provisions pertaining to medical support for all children affected directly by the child support order under review.

ITEM 10. Renumber rule **441—101.21(17A)** as **441—101.22(17A)**.

ITEM 11. Adopt the following **new** rule 441—101.21(252B,252H):

441—101.21(252B,252H) Child care add-on Child support services will review a child care add-on or expense agreement contained in any permanent child support order that is subject to review under rule 441—101.7(252B,252H) or 441—101.13(252H) as follows:

101.21(1) *Order with child care add-on.*

a. If the custodial parent provides the necessary information to determine the amount of child care expenses as described in 441—paragraph 99.4(2)*"c,"* child support services will review the information and apply the child care add-on based on the guidelines, if appropriate. Any resulting child care add-on will replace the existing child care add-on.

b. If the custodial parent does not provide the necessary information to determine the amount of child care expenses as described in 441—paragraph 99.4(2)*"c,"* the resulting modified child support amount will no longer include an added amount for child care expenses.

101.21(2) *Order with child care expense agreement.* Child support services will review an order with an existing child care expense agreement entered in lieu of a child care add-on as follows:

a. If the custodial parent provides the necessary information to determine the amount of child care expenses as described in 441—paragraph 99.4(2)*"c,"* child support services will review the information and apply the child care add-on based on the guidelines, if appropriate. Any resulting child care add-on will replace the existing child care expense agreement.

b. If the custodial parent does not provide the necessary information to determine the amount of child care expenses as described in 441—paragraph 99.4(2)*"c,"* child support services will recommend that any existing child care expense agreement remain unchanged.

101.21(3) *Order without a child care add-on or expense agreement.* If the custodial parent provides the necessary information to determine the amount of child care expenses as described in 441—paragraph 99.4(2)*"c"* and there is no current child care expense agreement or child care add-on, child support services will review the information and apply the appropriate child care add-on based on the guidelines.

ITEM 12. Amend rule **441—102.1(252B)**, definition of "Support for a child," as follows:

"Support for a child" means either a set amount of monetary support (child support and any applicable child care add-on), or medical support as defined in Iowa Code section 252E.1, for the benefit of a child. This term does not include spousal support as defined in this rule.

ITEM 13. Adopt the following **new** paragraph **102.3(3)"c"**:

c. If the basis for suspension applies to at least one but not all of the children and if the support order includes a child care add-on, child support services will assist in suspending the child care add-on if child support is being suspended for all of the children who are then subject to the child care add-on. If child support is not being suspended for all of the children who are then subject to the child care add-on and the support order does not apportion the child care add-on between those children, child support services will not assist in suspending the child care add-on. If the support order does not state whether a specific child care add-on amount is included in the step change amounts, child support services will assist in suspending support as set forth in paragraph 102.3(3)*"b."*

ITEM 14. Adopt the following **new** paragraph **102.8(5)"c"**:

c. If the basis for suspension applies to at least one but not all of the children and if the support order includes a child care add-on, child support services will assist in suspending the child care add-on if child support is being suspended for all of the children who are then subject to the child care add-on. If child support is not being suspended for all of the children who are then subject to the child care add-on and the support order does not apportion the child care add-on between those children, child support services will not assist in suspending the child care add-on. If the support order does not state whether a specific child care add-on amount is included in the step change amounts, child support services will assist in suspending support as set forth in paragraph 102.3(3)*"b."*

ITEM 15. Adopt the following **new** subrule 102.14(3):

102.14(3) Child support services will seek to have a previously suspended child care add-on reinstated when seeking to reinstate child support for one or more children who are subject to the child care add-on.

Regulatory Analysis

Notice of Intended Action to be published: 191—Chapter 50
"Regulation of Securities Offerings and Those Who Engage in the Securities Business"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 502.605
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 502

Public Hearing

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

September 11, 2025	1963 Bell Avenue, Suite 100
10 a.m.	Des Moines, Iowa

Public Comment

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

Angela Burke Boston
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6543
Email: angela.burke.boston@iid.iowa.gov

Purpose and Summary

Chapter 50 regulates securities offerings and those who engage in the securities business and implements Iowa Code chapter 502, the Iowa Uniform Securities Act.

Analysis of Impact

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

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

Broker-dealers, investment advisors, persons in the securities business, and other licensees will bear the costs.

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

Consumers and purchasers of securities and investments will benefit.

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

- **Quantitative description of impact:**

There is no quantitative impact.

- **Qualitative description of impact:**

There is no qualitative impact.

3. **Costs to the State:**

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

There are no known costs.

- **Anticipated effect on State revenues:**

There is no effect on State revenues.

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

The proposed changes streamline and eliminate redundant language.

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

The Division did not find any less costly or less intrusive methods.

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

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

Alternative methods were not considered by the agency.

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

The proposed rulemaking implements North American Securities Administrators Association (NASAA) model laws.

Small Business Impact

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

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

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

There is no effect on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 191—Chapter 50 and adopt the following **new** chapter in lieu thereof:

SECURITIES

CHAPTER 50
REGULATION OF SECURITIES OFFERINGS AND THOSE WHO ENGAGE IN THE SECURITIES BUSINESS

DIVISION I
DEFINITIONS AND ADMINISTRATION

191—50.1(502) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 502 and the following definitions shall apply unless the context otherwise requires:

"Act" means Iowa Code chapter 502, the Iowa Uniform Securities Act (Blue Sky Law).

"Administrator" means the commissioner of insurance or the deputy administrator appointed under Iowa Code section 502.601.

"CRD" means the Central Registration Depository.

"CSRU" means the Iowa child support recovery unit.

"FDIC" means the Federal Deposit Insurance Corporation.

"FINRA" means the Financial Industry Regulatory Authority.

"Form ADV" means Uniform Application for Investment Adviser Registration.

"Form ADV-E" means the Certificate of Accounting of Client Securities and Funds in the Possession or Custody of an Investment Adviser.

"Form ADV-H" means Notice of Hardship Application for Investment Adviser Registration.

"Form ADV-W" means Notice of Withdrawal from Registration as Investment Adviser.

"Form BD" means Uniform Application for Broker-Dealer Registration.

"Form BDW" means Uniform Request for Broker-Dealer Withdrawal.

"Form 1CP" means Agricultural Cooperative Notice of Sales of Notes or Evidences of Indebtedness.

"Form F-7" means Registration Statement Under the Securities Act of 1933, for registration of securities of certain Canadian issuers offered for cash upon the exercise of rights granted to existing security holders.

"Form F-8" means Registration Statement Under the Securities Act of 1933, for registration of securities of certain Canadian issuers to be issued in exchange offers or a business combination.

"Form F-9" means Registration Statement Under the Securities Act of 1933, for registration of certain investment grade debt or investment grade preferred securities of certain Canadian issuers.

"Form F-10" means Registration Statement Under the Securities Act of 1933, for registration of securities of certain Canadian issuers.

"Form NF" means Uniform Investment Company Notice Filing.

"Form S-1" means Registration Statement Under the Securities Act of 1933, for registration of securities for which no other form is authorized or prescribed.

"Form SB-2" means Registration Statement Under the Securities Act of 1933, for registration of securities to be sold to the public by small business issuers.

"Form U-1" means Uniform Application to Register Securities.

"Form U-2" means Uniform Consent to Service of Process.

"Form U-2A" means Uniform Corporate Resolution.

"Form U-4" means Uniform Application for Securities Industry Registration or Transfer.

"Form U-5" means Uniform Termination Notice for Securities Industry Registration.

"Form U-6" means Uniform Disciplinary Action Reporting Form.

"Form U-7" means Small Corporate Offering Registration Form.

"Form USR-1" means Investment Company Report of Sales.

"Gift" means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received.

"IARD" means the Investment Advisory Registration Depository.

"Immediate family" includes parent, mother-in-law, father-in-law, spouse, former spouse, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, child and stepchild. In addition, "immediate family" includes any other person who is supported, directly or indirectly, to a material extent by an agent.

"Investment contract" as used in Iowa Code section 502.102(28) includes:

1. Any investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor.

- "Common enterprise" in this definition means an enterprise in which the fortunes of the investor are tied to the efficacy of the efforts and successes of those seeking the investment or of a third party.
- "Profit" in this definition includes income or a return on the investment, including a fixed rate of return, dividends, other periodic payments, or the increased value of the investment; or

2. Any investment by which an offeree furnishes initial value to an offerer, and a portion of this initial value is subjected to the risks of the enterprise, and the furnishing of the initial value is induced by the offerer's promises or representations that give rise to a reasonable understanding that a valuable

benefit of some kind over and above the initial value will accrue to the offeree as a result of the operation of the enterprise, and the offeree does not exercise practical and actual control over the managerial decisions of the enterprise.

"Loan" means an agreement to advance property, including but not limited to money, in return for the promise that payment will be made for use of the property.

"NASAA" means the North American Securities Administrators Association, Inc.

"NASDAQ" means the NASDAQ Stock Market.

"NCUA" means the National Credit Union Association.

"NSMIA" means the National Securities Markets Improvement Act of 1996, Public Law 104-290.

"NYSE" means the New York Stock Exchange.

"OTC" means over the counter.

"PCAOB" means the Public Company Accounting Oversight Board.

"SAI" means Statement of Additional Information.

"SEC" means the United States Securities and Exchange Commission as established pursuant to 15 U.S.C. Section 78(d).

"SOIF" means Solicitation of Interest Form.

This rule is intended to implement Iowa Code section 502.605(1).

191—50.2(502) Cost of audit or inspection.

50.2(1) The administrator may assess the broker-dealer or investment adviser for reasonable charges of travel, lodging, and other expenses incurred by Iowa insurance division staff or independent persons conducting an audit or inspection and directly attributable to an audit or inspection made pursuant to Iowa Code section 502.411(4). The assessment of costs of meals, lodging, transportation, and other actual and necessary travel expenses, if any, incurred by persons conducting an audit or inspection shall be determined in accordance with one of the following, as agreed by the administrator and the persons conducting an audit or inspection:

a. The department of administrative services (DAS) state accounting enterprise Accounting Policy and Procedures Manual guidelines for employee travel (das.iowa.gov/state-employees/state-accounting/state-accounting-policy-procedures-manual) and the DAS form Travel Section Policy and Procedures (das.iowa.gov/state-employees/state-accounting/travel-relocation) in effect at the time of the audit or inspection.

b. The department of administrative services state accounting enterprise Accounting Policy and Procedures Manual guidelines for travel for in-state board, commission, advisory council, and task force member expenses.

c. The United States General Services Administration Continental United States ("CONUS") per diem travel allowances for lodging, meals and incidental expenses.

d. A reimbursement schedule as agreed by the administrator and the persons conducting the audit or inspection.

50.2(2) If costs are assessed under subrule 50.2(1), the administrator may, upon completion of the examination, or at such regular intervals prior to completion as the administrator determines, prepare an account of the costs incurred in performing and preparing the report of the examination that shall be charged to and paid by the broker-dealer or investment adviser examined.

50.2(3) The administrator shall notify the broker-dealer or investment adviser of the expenses attributable to the audit or inspection as soon as practicable.

50.2(4) Assessments collected pursuant to this rule shall be paid by the broker-dealer or investment adviser as directed by the administrator either to the administrator or to the persons conducting the audit or inspection. The persons conducting the audit or inspection shall be reimbursed only for the actual and necessary costs incurred in conducting the audit or inspection.

This rule is intended to implement Iowa Code section 502.411(4).

191—50.3(502) Interpretative opinions or no-action letters. Interested persons may request the administrator to issue an interpretative opinion pursuant to Iowa Code section 502.605(4). These requests will be answered by means of a no-action letter. Requests for confirmation of the availability of an exemption shall be answered in the same manner. The following procedure is recommended for the submission of such requests:

50.3(1) The request should be in writing and include the factual situation involved, a citation to the applicable part of the rule or statute, and the question sought to be answered. Any disclosure or informational materials that pertain to the issue should also be filed.

50.3(2) The administrator, or any person delegated under Iowa Code section 502.601(1), may respond to the request by determining to take or not to take a no-action position or by declining to reach a determination due to insufficient facts, conflicting case or administrative law or such other reasons as the administrator's discretionary power allows.

50.3(3) All no-action determinations shall be based upon the representations made by the requesting party in the letter and information filed, since any different facts or conditions might require a different conclusion. The no-action letter shall express the administrator's position on enforcement action only and shall not purport to express any legal conclusion on the questions presented. No determination shall take a position on whether or not any disclosure materials satisfactorily comply with the antifraud and civil liability sections of the Act.

50.3(4) A no-action determination issued under this rule may be provided to interested persons for a filing fee of $100.

This rule is intended to implement Iowa Code section 502.605(4).

191—50.4 to **50.9** Reserved.

DIVISION II
REGISTRATION OF BROKER-DEALERS AND AGENTS

191—50.10(502) Broker-dealer registrations, renewals, amendments, succession, and withdrawals.

50.10(1) An applicant for an initial registration to conduct business as a broker-dealer must:

a. File a current Form BD. If the applicant is a member of FINRA, Form BD shall be filed with CRD. If the applicant is not a member of FINRA, Form BD shall be signed and notarized and filed with the administrator; and

b. Pay a $200 filing fee. If the applicant is a member of FINRA, the fee shall be remitted to the CRD. If the applicant is not a member of FINRA, the fee shall be remitted to the administrator.

50.10(2) No application for initial registration will be deemed complete for purposes of Iowa Code section 502.406(3) until the applicant has been approved as a member of FINRA.

50.10(3) An applicant that is a member of FINRA and that seeks renewal of a broker-dealer registration shall comply with the renewal time frames established by FINRA for renewal on the CRD system and shall:

a. File with CRD an updated Form BD;

b. Pay to the CRD a $200 renewal filing fee.

50.10(4) An applicant that is not a member of FINRA and that seeks renewal of a broker-dealer registration shall by November 30 of each year:

a. File with the administrator an updated Form BD, manually signed and notarized;

b. File with the administrator the renewal applicant's most recent audited financial statements if they were not previously submitted to the administrator pursuant to subrule 50.10(1);

c. Pay a $200 renewal filing fee, which shall be remitted to the administrator.

50.10(5) Failure to comply with the requirements of subrule 50.10(3) or 50.10(4) shall be deemed a request for withdrawal of the broker-dealer registration, and the registration will be terminated as of December 31 of the renewal year.

50.10(6) A registered broker-dealer that is a FINRA member shall submit a withdrawal request by filing an accurate and complete Form BDW with CRD. A registered broker-dealer that is not a FINRA member shall submit a withdrawal request by filing an accurate and complete Form BDW with the administrator.

50.10(7) For purposes of Iowa Code section 502.406(2), a correcting amendment to the information or a record contained in either an initial or renewal application shall be considered to be filed "promptly" with the administrator if filed within 30 days of the event necessitating the correcting amendment.

50.10(8) Succession and change in registration.

a. In the case of an organizational change, including a change in the state of incorporation or form of organization, not involving a material change in financial condition or management, a broker-dealer shall file all applicable amendments to Form BD.

b. In the case of an organizational change, including a change in the state of incorporation or form of organization, involving a material change in financial condition or management, a broker-dealer shall file a new application for registration pursuant to subrule 50.10(1). The filing must include the fee pursuant to paragraph 50.10(1)*"c"* and registration fees for all Iowa-registered agents.

c. In the case of a change in name, a broker-dealer shall file all applicable amendments to Form BD.

50.10(9) Upon the administrator's oral or written request, a broker-dealer shall provide to the administrator the broker-dealer's most recent financial reports, audited or unaudited, within two business days of the request. A broker-dealer may utilize express mail delivery or transmission via electronic means to comply with a request pursuant to this subrule. Financial reports not received by the filing deadline are subject to a late fee of $50 per day beyond the filing deadline, not to exceed an aggregate penalty of $500. Imposition of the late fee is not a reportable event. In the event of the broker-dealer's continued noncompliance, the administrator may also pursue sanctions authorized by Iowa Code section 502.412.

50.10(10) Registration exemption for merger and acquisition brokers.

a. Definitions. For purposes of rule 191—50.10(502), in addition to the definitions set forth in rule 191—50.1(502), the following definitions apply:

(1) *"Control"* means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise. There is a presumption of control for any person who meets at least one of the following conditions:

1. Is a director, general partner, member, or manager of a limited liability company, or officer exercising executive responsibility (or similar status or functions).

2. Has the right to vote 20 percent or more of a class of voting securities or the power to sell or direct the sale of 20 percent or more of a class of voting securities.

3. In the case of a partnership or limited liability company, has the right to receive upon dissolution, or has contributed, 20 percent or more of the capital.

(2) *"Eligible privately held company"* means a company that meets both of the following conditions:

1. The company does not have any class of securities:

- Registered, or required to be registered, pursuant to the Securities Exchange Act of 1934 (15 U.S.C. Section 781); or
- For which the company files, or is required to file, periodic information, documents, and reports pursuant to the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(d)).

2. In the fiscal year ending immediately before the fiscal year in which the services of the merger and acquisition broker are initially engaged with respect to the securities transaction, the company meets either or both of the following conditions (determined in accordance with the historical financial accounting records of the company):

- The earnings of the company before interest, taxes, depreciation, and amortization are less than $25 million.

- The gross revenues of the company are less than $250 million.

(3) *"Merger and acquisition broker"* means any broker-dealer and any person that is associated with a broker-dealer:

1. That is engaged in the business of effecting securities transactions solely in connection with the transfer of ownership of an eligible privately held company; and

- That is thus engaged regardless of whether that broker-dealer acts on behalf of a seller or buyer; and
- That is thus engaged through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the eligible privately held company; and

2. That meets both of the following conditions:

- The broker-dealer reasonably believes that, upon consummation of the transaction, any person acquiring securities or assets of the eligible privately held company, acting alone or in concert, will control and, directly or indirectly, will be active in the management of the eligible privately held company or the business conducted with the assets of the eligible privately held company; and
- If any person offered securities in exchange for securities or assets of the eligible privately held company, such person will, prior to becoming legally bound to consummate the transaction, receive or have reasonable access to both of the following:
  - The most recent fiscal year-end financial statements of the issuer of the securities as customarily prepared by its management in the normal course of operations; and
  - If the financial statements of the issuer are audited, reviewed or compiled, all of the following:
    - Any related statement by the independent accountant;
    - A balance sheet dated not more than 120 days before the date of the exchange offer;
    - Information pertaining to the management, business, and results of operations for the period covered by the foregoing financial statements; and
    - Any material loss contingencies of the issuer.

(4) *"Public shell company"* means a company that, at the time of a transaction with an eligible privately held company, meets all three of the following conditions:

1. Has any class of securities registered, or required to be registered, with the SEC pursuant to the Securities Exchange Act of 1934 (15 U.S.C. Section 781), or with respect to which the company files, or is required to file, periodic information, documents, and reports pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)).
2. Has no or nominal operations.
3. Has assets consisting of one of the following:

- No or nominal assets.
- Cash and cash equivalents.
- Any amount of cash and cash equivalents and nominal other assets.

b. Merger and acquisition broker exemption from registration requirements.

(1) Exemption. Except as provided in subparagraphs 50.10(10)*"b"*(2) and *"b"*(3), a merger and acquisition broker is exempt from the broker-dealer registration requirements and procedures of Iowa Code sections 502.401 and 502.406.

(2) Activities not exempt. A merger and acquisition broker is not exempt from the broker-dealer registration requirements of Iowa Code sections 502.401 and 502.406 if the merger and acquisition broker does any of the following:

1. Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction.
2. Engages on behalf of an issuer in a public offering of any class of securities that is registered, or is required to be registered, with the SEC under the Securities Exchange Act of 1934 (15 U.S.C. Section 781) or with respect to which the issuer files, or is required to file, periodic information, documents, and reports under the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(d)).

3. Engages on behalf of any party in a transaction involving a public shell company.

(3) Disqualifications. A merger and acquisition broker is not exempt from registration under this subrule if the merger and acquisition broker is subject to any of the following:

1. Suspension or revocation of registration under the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(b)(4));

2. A statutory disqualification described in the Securities Exchange Act of 1934 (15 U.S.C. Section 78c(a)(39));

3. A disqualification under the rules adopted by the SEC pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. Section 77d note)); or

4. A final order described in the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(b)(4)(H)).

(4) Rule of construction. Nothing in this subrule shall be construed to limit any other authority of the administrator to exempt any person, or any class of persons, from Iowa Code chapter 502 or from any provision of this chapter.

c. Inflation adjustment. On July 1, 2023, and every five years thereafter, each dollar amount in numbered paragraph 50.10(10)*"a"*(2)"2" shall be adjusted by the following calculation, and the dollar amount determined under the calculation shall be rounded to the nearest multiple of $100,000:

(1) Dividing the annual value of the Employment Cost Index for Wages and Salaries, Private Industry Workers (or any successor index), as published by the Bureau of Labor Statistics, for the calendar year preceding the calendar year in which the adjustment is being made by the annual value of such index (or successor index) for the calendar year ending December 31, 2017; and

(2) Multiplying the dollar amount in numbered paragraph 50.10(10)*"a"*(2)"2" by the quotient obtained under subparagraph 50.10(10)*"c"*(1).

This rule is intended to implement Iowa Code section 502.411(2).

191—50.11(502) Principals. Every registered broker-dealer shall have at least two officers or partners registered with FINRA as principals, appropriate to the function(s) to be performed.

This rule is intended to implement Iowa Code section 502.406.

191—50.12(502) Agent and issuer registrations, renewals and amendments.

50.12(1) Agent registration. Every applicant for registration as an agent of a broker-dealer shall:

a. Pass the Uniform Securities Agent State Law Examination (Series 63) or the Uniform Combined State Law Examination (Series 66);

b. Pass the appropriate qualifying examination administered by FINRA. In the event that an applicant for registration as an agent has received a waiver by FINRA of a FINRA examination otherwise required by this paragraph, the FINRA waiver will be accepted in lieu of the examination requirement;

c. File an accurate and complete Form U-4 with CRD; and

d. Pay a $40 filing fee to FINRA if applying for registration as an agent of a FINRA member broker-dealer, or to the administrator if applying for registration as an agent of a non-FINRA member broker-dealer.

50.12(2) Any individual who is out of the business of effecting transactions in securities for less than two years from the date of filing an application and who has previously passed an examination required in subrule 50.12(1) shall not be required to retake the examination to be eligible to be relicensed upon application.

50.12(3) Renewals, amendments, and withdrawal requests.

a. A registered agent of a FINRA member broker-dealer shall submit all renewals, renewal fees, amendments to Form U-4, and withdrawal requests to CRD. A withdrawal request shall be made by filing an accurate and complete Form U-5 with CRD.

b. A registered agent of a non-FINRA member broker-dealer shall submit all renewals, renewal fees, amendments to Form U-4, and withdrawal requests to the administrator. A withdrawal request shall be made by filing an accurate and complete Form U-5 with the administrator.

50.12(4) An issuer seeking to employ persons as agents of the issuer within the meaning of Iowa Code section 502.102(2) must apply in writing to the administrator for such authority. The application shall include:

a. A statement of the issuer's intent to employ agents for the sale of its securities;

b. The name, address, social security number, and proof of satisfaction of subrule 50.12(1) for each agent;

c. A complete description of the subject securities;

d. A complete and accurate Form U-4; and

e. A $40 filing fee.

This rule is intended to implement Iowa Code section 502.406.

191—50.13(502) Agent continuing education requirements. Every registered agent shall comply with all applicable continuing education requirements adopted by FINRA, NYSE, or any other self-regulatory agency. Failure to comply with any such requirements may be a basis for discipline pursuant to Iowa Code section 502.412(4)*"n."*

This rule is intended to implement Iowa Code section 502.411(8).

191—50.14(502) Broker-dealer recordkeeping requirements.

50.14(1) Unless otherwise provided by an SEC order, each broker-dealer registered or required to be registered under the Act shall make, maintain and preserve books and records in compliance with SEC Rules 17a-3 (17 CFR 240.17a-3), 17a-4 (17 CFR 240.17a-4), 15c2-6 (17 CFR 240.15c2-6) and 15c2-11 (17 CFR 240.15c2-11).

50.14(2) To the extent that the SEC amends the above-referenced rules, broker-dealers complying with such rules as amended shall not be subject to enforcement action by the administrator for violating this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

This rule is intended to implement Iowa Code section 502.411(3).

191—50.15(502) Broker-dealer minimum financial requirements and financial reporting requirements.

50.15(1) Each broker-dealer registered or required to be registered under the Act shall comply with SEC Rules 15c3-1 (17 CFR 240.15c3-1), 15c3-2 (17 CFR 240.15c3-2), and 15c3-3 (17 CFR 240.15c3-3).

50.15(2) Each broker-dealer registered or required to be registered under the Act shall comply with SEC Rule 17a-11 (17 CFR 240.17a-11) and shall file with the administrator copies of notices of financial deficiencies, as required under SEC Rule 17a-11 (17 CFR 240.17a-11).

50.15(3) To the extent that the SEC amends the above-referenced rules, broker-dealers complying with such rules as amended shall not be subject to enforcement action by the administrator for violations resulting solely from the broker-dealer's compliance with the amended rules.

This rule is intended to implement Iowa Code section 502.411(2).

191—50.16(502) Dishonest or unethical practices in the securities business.

50.16(1) Dishonest or unethical business practices by any person in the securities business, other than an agent, investment adviser, investment adviser representative, or federal covered investment adviser, as prohibited pursuant to Iowa Code section 502.412(4)*"m"* include but are not limited to the following:

a. Engaging in any unreasonable and unjustifiable delay in delivering securities purchased by any customers or paying, upon request, free credit balances reflecting completed transactions of any customers;

b. Inducing in a customer's account trading that is excessive in size or frequency relative to the financial resources and character of the account;

c. Suitability:

(1) Failing to use reasonable diligence, in regard to the opening and maintenance of every account, to know and retain the essential facts concerning every customer and concerning the authority of each person acting on behalf of such customer;

(2) Recommending a transaction or investment strategy involving a security or securities without a reasonable basis to believe that the transaction or investment strategy is suitable for the customer, based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer's investment profile. A customer's investment profile includes but is not limited to the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the broker-dealer or agent in connection with such recommendation;

d. Executing a transaction on behalf of a customer without authorization;

e. Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price for executing the orders;

f. Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement prior to the initial transaction in the account;

g. Failing to segregate customers' free securities or securities held in safekeeping;

h. Hypothecating a customer's securities without having a lien on them unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as otherwise permitted by SEC rules;

i. Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

j. Failing to furnish on or before the transaction confirmation date a final prospectus, or, if a final prospectus is not available, a preliminary prospectus together with additional documents that include all information that would be set forth in the final prospectus, to a customer purchasing securities in an offering registered pursuant to Iowa Code section 502.303 or 502.304 or that is subject to a notice filing made pursuant to Iowa Code section 502.302. If the offering is not registered, the broker-dealer shall furnish those disclosure documents that are customarily available;

k. Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collecting moneys due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, custody of securities or other services regarding the securities business;

l. Offering to buy from or sell to any person any security at a stated price unless the broker-dealer is prepared to purchase or sell the security at the stated price and under the conditions as stated at the time of the offer to buy or sell the security;

m. Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless the broker-dealer knows or has reasonable grounds to believe that a market for the security exists other than that made, created or controlled by the broker-dealer, or by any person for whom the broker-dealer is acting or with whom the broker-dealer is associated in the distribution, or any person controlled by, controlling or under common control with such broker-dealer;

n. Effecting any transaction in, or inducing the purchase or sale of, any security by any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, including but not limited to:

(1) Effecting any transaction in a security involving no change in the beneficial ownership thereof;

(2) Entertaining an order for the purchase or sale of any security knowing that an order or orders of substantially the same size have been or will be entered by or for the same or different parties at substantially the same time and price for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance regarding the market for the security. Nothing in this subparagraph shall prohibit a broker-dealer from entering bona fide agency cross transactions for the broker-dealer's customers;

(3) Effecting, alone or with one or more persons, a series of transactions in any security that creates actual or apparent active trading in a security or raising or depressing the price of the security for the purpose of inducing the purchase or sale of the security by others;

o. Guaranteeing a customer against loss in any securities account of the customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for the customer;

p. Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind purporting to report any transaction as a purchase or sale of any security unless the broker-dealer believes that the transaction was a bona fide purchase or sale of such security, or purporting to quote the bid price or asked price for any security unless the broker-dealer believes that the quotation represents a bona fide bid for or offer of such security;

q. Using any advertising or sales presentation in a deceptive or misleading fashion including but not limited to a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure or flyer, or display by words, pictures, graphs or other medium designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;

r. Failing to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control of the issuer of any security before entering into any contract with or for a customer for the purchase or sale of the security. The existence of any control or affiliation shall be disclosed to the customer in writing prior to completion of the transaction;

s. Failing to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether the securities were acquired by the broker-dealer as an underwriter, as a selling group member, or from a member participating in the distribution as an underwriter or selling group member;

t. Failing or refusing to furnish a customer, upon reasonable request, information to which the customer is entitled or to respond to a formal written request or complaint from the customer;

u. Failing or refusing to provide information requested in writing by the administrator within 14 days or a later time as prescribed by the administrator;

v. Extending credit to a customer in violation of the Securities Exchange Act of 1934 or the regulations of the Federal Reserve Board;

w. Engaging in acts or practices enumerated in rule 191—50.100(502);

x. Failing in the solicitation of a sale or purchase of an OTC non-NASDAQ security to promptly provide, upon the customer's request, the most current prospectus, the most recent periodic report filed pursuant to Section 13 of the Securities Exchange Act of 1934, or any other available research reports;

y. Marking any order tickets or confirmations as unsolicited when the transaction is solicited;

z. Failing to provide each customer, on no greater than a quarterly basis, a statement of account that, for all OTC non-NASDAQ equity securities in the account for which the firm has been a market maker during the reportable period, contains a value for each security based on the closing market bid on a date certain for any month in which activity has occurred in a customer's account;

aa. Failing to comply with any applicable provision of the FINRA Conduct Rules or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC; and

bb. Engaging in or aiding in "boiler-room" operations or high-pressure tactics in connection with the promotion of speculative offerings or "hot issues" by means of an intensive telephone campaign or

unsolicited calls to persons not known by, nor having an account with, the agent or broker-dealer represented by the agent, where the prospective purchaser is encouraged to make a hasty decision to buy, irrespective of the purchaser's investment needs and objectives.

50.16(2) Dishonest or unethical practices by an agent in the securities business as prohibited pursuant to Iowa Code section 502.412(4)*"m"* include but are not limited to the following:

a. Lending money or securities to or borrowing money or securities from a customer or acting as a custodian for money, securities, or an executed stock power of a customer unless the customer is a member of the agent's immediate family and the act or practice is approved in advance by the agent's supervisory personnel;

b. Effecting securities transactions not recorded on the regular books or records of the broker-dealer the agent represents unless the transactions are authorized in writing by the broker-dealer prior to executing the transaction;

c. Establishing or maintaining an account containing fictitious information for the purpose of executing transactions otherwise prohibited;

d. Sharing, directly or indirectly, in profits or losses in any customer account without the written authorization of the customer and the broker-dealer the agent represents;

e. Dividing or otherwise splitting the agent's commissions, profits, or other compensation from the purchase or sale of securities with any person who is not registered as an agent for the same broker-dealer or for a broker-dealer under direct or indirect common control;

f. Soliciting or accepting a gift, directly or indirectly, from an unrelated customer that in the aggregate exceeds $250 in a calendar year. A gift accepted by an immediate family member from an unrelated customer shall be included in the aggregate limit. An agent shall not solicit or accept from a customer a gift transferred through a relative or third party to the agent's benefit that would have the effect of evading this paragraph;

g. Soliciting or accepting being named as a beneficiary, executor, or trustee in a will or trust of an unrelated customer;

h. Evading or otherwise negating the requirements of paragraph 50.16(2)*"a," "f"* or *"g"* by terminating the customer relationship for the purpose of soliciting or accepting a loan or gift or being named as a beneficiary, executor or trustee in a will or trust that the agent is otherwise not permitted to solicit or accept. An agent is not in violation of this paragraph if the agent has made a bona fide termination of the customer relationship and conducted no securities-related business or other business for a period of three years with the customer;

i. Engaging in conduct specified in paragraphs 50.16(1)*"b"* through *"f," "i," "j," "n"* through *"q," "u,"* and *"w"* through *"aa"*;

j. Engaging in conduct deemed dishonest or unethical in rule 191—50.55(502); and

k. Employing any method or tactic that uses undue pressure, force, fright, or threat, whether explicit or implied, to solicit the purchase or sale of securities, or committing any act that shows that the agent has exerted undue influence over a person.

This rule is intended to implement Iowa Code section 502.412(4)*"m."*

191—50.17(502) Rules of conduct.

50.17(1) Each broker-dealer, after executing and before completing each transaction with its customer, shall give or send the customer a written confirmation. A broker-dealer not registered pursuant to the Securities Exchange Act of 1934 shall provide a written confirmation including, at a minimum:

a. A description of the security purchased or sold, the date of the transaction, the price at which the security was purchased or sold and any commission charged;

b. A statement as to whether the broker-dealer was acting for its own account, as the agent for the customer, as the agent for some other person, or as the agent for both the customer and some other person;

c. When the broker-dealer is acting as an agent for the customer, the name of the person from whom the security was purchased or to whom it was sold or the fact that such information will be furnished upon the customer's request.

50.17(2) A broker-dealer registered pursuant to the Securities Exchange Act of 1934 shall comply with all requirements of the Securities Exchange Act of 1934 and its implementing rules regarding written confirmations.

50.17(3) Each broker-dealer shall establish written supervisory procedures and a system for applying those procedures that may reasonably be expected to prevent and detect any violations of Iowa Code chapter 502, its implementing rules, and any orders issued pursuant to it. Each broker-dealer shall designate and qualify a number of supervisory employees reasonable in relation to the number of its registered agents, offices, and transactions in Iowa.

50.17(4) Each broker-dealer whose principal office is located in Iowa shall have at least one partner, officer or registered agent employed on a full-time basis at its principal office.

This rule is intended to implement Iowa Code sections 502.411(3) and 502.412(4)*"i."*

191—50.18(502) Limited registration of Canadian broker-dealers and agents.

50.18(1) A Canadian broker-dealer may register under this rule if the broker-dealer:

a. Files with the administrator an application in the form required by the jurisdiction in which the broker-dealer has its principal office;

b. Files with the administrator a consent to service of process on Form U-2;

c. Is registered as a broker-dealer and is in good standing in the jurisdiction from which the broker-dealer is effecting transactions into Iowa and files with the administrator satisfactory evidence thereof;

d. Is a member of a self-regulatory organization or stock exchange in Canada; and

e. Pays a $200 filing fee.

50.18(2) An agent representing a Canadian broker-dealer registered under this rule in effecting transactions in securities in Iowa may register under this rule if the agent:

a. Files with the administrator an application in the form required by the jurisdiction in which the broker-dealer has its principal office;

b. Files with the administrator a consent to service of process;

c. Is registered and is in good standing in the jurisdiction from which the agent is effecting transactions into Iowa and files with the administrator satisfactory evidence thereof; and

d. Pays a $40 filing fee.

50.18(3) A Canadian broker-dealer that is resident in Canada and has no office or other physical presence in Iowa may, provided that the broker-dealer is registered under this rule, effect transactions in Iowa:

a. With or for a person from Canada temporarily residing in Iowa with whom the Canadian broker-dealer had a bona fide broker-dealer-client relationship before the person entered the United States;

b. With or for a person from Canada currently residing in Iowa whose transactions are in a self-directed, tax-advantaged retirement plan in Canada of which the person is the holder or contributor; or

c. With or through:

(1) The issuers of the securities involved in the transactions;

(2) Other registered broker-dealers;

(3) Banks, savings institutions, trust companies, insurance companies, or investment companies as the term is defined in the Investment Company Act of 1940;

(4) Pension or profit-sharing trusts; or

(5) Other financial institutions or institutional investors, whether acting on their own behalf or as trustees.

50.18(4) An agent registered pursuant to subrule 50.18(2) representing a Canadian broker-dealer registered pursuant to subrule 50.18(1) may effect all securities transactions that the broker-dealer is authorized by subrule 50.18(3) to effect.

50.18(5) If no denial order is in effect and no proceeding is pending pursuant to Iowa Code section 502.304, a registration filed pursuant to this rule becomes effective on the forty-fifth day after an application is filed, unless otherwise provided by order of the administrator.

50.18(6) A Canadian broker-dealer registered under this rule shall:

a. Maintain provincial or territorial registration and membership in a self-regulatory organization or stock exchange and remain in good standing in each;

b. Provide, upon the administrator's request, all books and records relating to its business in Iowa as a broker-dealer;

c. Promptly inform the administrator of any criminal action taken against the broker-dealer or of any finding or sanction imposed on the broker-dealer as a result of a self-regulatory or other regulatory action involving fraud, theft, deceit, misrepresentation, or like conduct; and

d. Disclose in writing to each of the broker-dealer's clients in Iowa that the broker-dealer and its agents are not subject to the full regulatory requirements of the Act.

50.18(7) An agent of a Canadian broker-dealer registered under this rule shall:

a. Maintain the agent's provincial or territorial registration and remain in good standing; and

b. Promptly inform the administrator of any criminal action taken against the agent or of any finding or sanction imposed on the agent as a result of a self-regulatory or other regulatory action involving fraud, theft, deceit, misrepresentation, or like conduct.

50.18(8) Renewal applications for Canadian broker-dealers and agents under this rule must be filed before December 1 each year and may be made by filing with the administrator the most recent renewal application, if any, filed in the jurisdiction in which the broker-dealer has its principal office or, if no such renewal application is required, the most recent application filed pursuant to paragraph 50.18(1)*"a"* or 50.18(2)*"a."*

50.18(9) Every applicant for registration or renewal registration pursuant to this rule shall pay the applicable fee for broker-dealers and agents as set forth in Iowa Code section 502.410.

50.18(10) A Canadian broker-dealer or agent registered under this rule and in compliance with paragraph 50.18(3)*"c"* is exempt from all the requirements of the Act, except for the antifraud sections and the requirements set out in this rule.

50.18(11) All transactions in securities effected between Canadian broker-dealers or agents registered under this rule and Canadian persons meeting the requirements of paragraph 50.18(3)*"a"* or *"b"* are exempt from Iowa Code sections 502.301 and 502.504.

This rule is intended to implement Iowa Code section 502.401(4).

191—50.19(502) Brokerage services by national and state banks.

50.19(1) A bank may, without registering as a broker-dealer, effect:

a. Transactions pursuant to Iowa Code section 502.102(4)*"c"*; or

b. Transactions permitted by order of the administrator.

50.19(2) A bank that has entered into a contract with an Iowa-registered broker-dealer may provide the following ministerial securities services without registering as a broker-dealer:

a. Provide bank customers and the public with a telephone number of the broker-dealer and provide telephone facilities on bank premises for customers and members of the public to use in contacting the broker-dealer;

b. Distribute literature to bank customers and members of the public about particular services provided by the broker-dealer, subject to the requirements of subrule 50.19(4);

c. Provide broker-dealer account applications to bank customers and members of the public and provide assistance in completing the forms. The disclosures required pursuant to subrule 50.19(4), in the form prescribed by subrule 50.19(5), shall be included on either the account application or an attachment to the application. If the disclosures are provided on an attachment to the application, both

the application and attachment must be signed by the applicant. The bank may mail the completed account applications to a broker-dealer;

d. Assist bank customers wishing to transfer funds into and out of their bank accounts for securities transactions; and

e. Provide mailers to bank customers and members of the public and assist them in transmitting securities and securities documents to the broker-dealer.

50.19(3) A bank that has entered into a contract with an Iowa-registered broker-dealer may attempt to effect and effect securities transactions without registering as a broker-dealer if all of the following requirements are met:

a. Any bank employee who attempts to effect and effects securities transactions is a registered agent of the broker-dealer and:

(1) Has passed an acceptable subject matter examination pursuant to paragraph 50.12(1)*"a"*;

(2) Has passed the FINRA Series 63 or Series 66 examination;

(3) Is registered with FINRA; and

(4) Is registered as an agent of the broker-dealer pursuant to rule 191—50.12(502).

b. If the broker-dealer provides securities services in an area of public access on the bank premises in which banking services are not provided, the bank requires that the broker-dealer clearly distinguish the area in which securities services are provided. If securities services and banking services are provided in the same public area on the bank premises, there shall be a sign clearly identifying the broker-dealer providing the securities services.

c. The bank receives only the following types of compensation from the broker-dealer:

(1) Transaction-related compensation, subject to the restrictions provided by paragraph 50.19(7)*"b"*;

(2) An administrative fee;

(3) Payments for compensation of employees jointly employed by the bank and the broker-dealer; and

(4) Lease payments.

50.19(4) A bank attempting to effect and effecting securities transactions pursuant to a contract with an Iowa-registered broker-dealer may distribute advertisements or promotional materials without registering as a broker-dealer if the advertisements or promotional materials clearly and prominently:

a. Identify the broker-dealer;

b. State in bold typeface that securities transactions and related earnings or profits are not insured by the FDIC;

c. State that the securities offered by the broker-dealer are not guaranteed by, nor are they obligations of, the bank; and

d. State that the bank and the broker-dealer are separate organizations.

50.19(5) The following or a similar statement printed in bold typeface and capital letters shall satisfy the disclosure requirements of subrule 50.19(4): [NAME OF BROKER-DEALER] IS NOT A BANK, AND SECURITIES OFFERED BY [NAME OF BROKER-DEALER] ARE NOT BACKED OR GUARANTEED BY ANY BANK NOR ARE THEY INSURED BY THE FDIC.

50.19(6) The disclosure requirements of subrule 50.19(4) shall not apply to radio or television advertisements not exceeding 30 seconds in length.

50.19(7) A bank shall not engage in the following securities activities:

a. Distribute prospectuses to bank customers or to members of the public regarding securities unless done so:

(1) In the exercise of trust functions permitted to banks;

(2) Pursuant to registration as a broker-dealer; or

(3) In the performance of securities activities as permitted by subrule 50.19(1), 50.19(2), or 50.19(3);

b. Allow registered joint bank and broker-dealer employees to split commissions or other transaction-related remuneration received from customers with unregistered bank employees;

c. Transmit account statements, confirmations, or other broker-dealer communications to bank customers or members of the public unless the communications contain a disclosure statement as required by subrule 50.19(4);

d. Permit bank employees who are not registered securities agents of the broker-dealer to receive or transmit orders to the broker-dealer from customers or the public, except as permitted by subrule 50.19(1); and

e. Permit bank employees who are not registered agents of the broker-dealer to perform securities functions directly involving customer contact, except as provided in subrules 50.19(1) and 50.19(2).

This rule is intended to implement Iowa Code sections 502.102(4)*"c"* and 502.401.

191—50.20(502) Broker-dealers having contracts with national and state banks.

50.20(1) A broker-dealer engaging in securities activities with banks as permitted by subrules 50.19(2) and 50.19(3) shall maintain for three years and make available to the administrator upon request the following records:

a. Copies of all advertisements and promotional literature disseminated by the bank and broker-dealer regarding securities services and products offered by the broker-dealer to bank customers and the public;

b. Copies of each contract executed between the bank and the broker-dealer that propose to sell securities to bank customers or the public;

c. Copies of new account forms to be completed by bank customers or members of the public who open an account with the broker-dealer;

d. A list of every bank employee who is a registered securities agent of the broker-dealer and the employee's social security number and CRD number; and

e. Copies of compliance and procedures manuals regarding the securities activities of the bank.

50.20(2) In addition to any responsibilities assumed pursuant to subrule 50.69(5), a broker-dealer engaging in securities transactions pursuant to a contract with a bank as permitted by subrules 50.19(2) and 50.19(3) shall not allow a person who is not an Iowa-registered securities agent of the broker-dealer to use the broker-dealer name, logo, or trademark on business cards or letterheads.

This rule is intended to implement Iowa Code sections 502.102(4)*"c"* and 502.401.

191—50.21(502) Brokerage services by credit unions, savings banks, and savings and loan institutions.

50.21(1) A credit union, savings bank, or savings and loan institution may, without registering as a broker-dealer, effect:

a. Transactions pursuant to Iowa Code section 502.102(4)*"c"*; and

b. Transactions permitted by order of the administrator.

50.21(2) A credit union, savings bank, or savings and loan institution that has entered into a contract with an Iowa-registered broker-dealer may provide the following ministerial securities services without registering as a broker-dealer:

a. Provide customers and the public with a telephone number of the broker-dealer and provide telephone facilities on its premises for customers and members of the public to use in contacting the broker-dealer;

b. Distribute literature to its customers and members of the public about particular services provided by the broker-dealer, subject to the requirements of subrule 50.21(4);

c. Provide broker-dealer account applications to its customers and members of the public and provide assistance in completing the forms. The disclosures required pursuant to subrule 50.21(4) shall be included on either the account application or an attachment to the application. If the disclosures are provided on an attachment to the application, both the application and attachment must be signed by the applicant. The credit union, savings bank, or savings and loan institution may mail the completed account applications to a broker-dealer;

d. Assist its customers wishing to transfer funds into and out of their accounts for securities transactions; and

e. Provide mailers to its customers and members of the public and assist them in transmitting securities and securities documents to the broker-dealer.

50.21(3) A credit union, savings bank, or savings and loan institution that has entered into a contract with an Iowa-registered broker-dealer may attempt to effect and effect securities transactions without registering as a broker-dealer if all of the following requirements are met:

a. Any credit union, savings bank, or savings and loan institution employee who attempts to effect and effects securities transactions is a registered agent of the broker-dealer and:

(1) Has passed an acceptable subject matter examination pursuant to paragraph 50.12(1)*"a"*;

(2) Has passed the FINRA Series 63 or Series 66 examination;

(3) Is registered with FINRA; and

(4) Is registered as an agent of the broker-dealer pursuant to rule 191—50.12(502).

b. If the broker-dealer provides securities services in an area of public access on the credit union, savings bank, or savings and loan institution premises in which credit union, savings bank, or savings and loan institution services are not provided, the credit union, savings bank, or savings and loan institution requires that the broker-dealer clearly distinguish the area in which securities services are provided. If securities services and credit union, savings bank, or savings and loan institution services are provided in the same public area on the bank premises, there shall be a sign clearly identifying the broker-dealer providing the securities services.

c. The credit union, savings bank, or savings and loan institution receives only the following types of compensation from the broker-dealer:

(1) Transaction-related compensation, subject to the restrictions provided by paragraph 50.19(7)*"b"*;

(2) An administrative fee;

(3) Payments for compensation of employees jointly employed by the credit union, savings bank, or savings and loan institution and the broker-dealer; and

(4) Lease payments.

50.21(4) Credit unions, savings banks, and savings and loan institutions attempting to effect and effecting securities transactions under contracts with Iowa-registered broker-dealers may distribute advertisements or promotional materials without registering as broker-dealers if the advertisements or promotional materials clearly and prominently:

a. Identify the broker-dealer.

b. Disclose in bold print that securities transactions and related earnings or profits are not insured by:

(1) The FDIC, in the case of savings banks and savings and loan institutions, or

(2) The NCUA, in the case of credit unions.

c. Disclose that securities offered by the broker-dealer are not guaranteed by, nor are they obligations of, the credit union, savings bank, or savings and loan institution.

d. Disclose that the credit union, savings bank, or savings and loan institution and the broker-dealer are separate organizations.

50.21(5) The following or a similar statement in bold print and capital letters will satisfy the disclosure requirements of subrule 50.21(4): [NAME OF BROKER-DEALER] IS NOT A [SAVINGS BANK, SAVINGS AND LOAN INSTITUTION, OR CREDIT UNION], AND SECURITIES OFFERED BY [NAME OF BROKER-DEALER] ARE NOT BACKED OR GUARANTEED BY ANY [SAVINGS BANK, SAVINGS AND LOAN INSTITUTION, OR CREDIT UNION] NOR ARE THEY INSURED BY THE [FDIC OR NCUA].

50.21(6) The disclosure requirements of subrule 50.21(4) shall not apply to radio or television advertisements not exceeding 30 seconds in length.

50.21(7) Credit unions, savings banks, and savings and loan institutions shall not:

a. Distribute prospectuses for securities to customers or to members of the public except:

(1) In the exercise of trust functions permitted to them;

(2) Pursuant to registration as a broker-dealer; or

(3) In the performance of securities activities as permitted by subrules 50.21(1) through 50.21(3); or

b. Engage in any of the activities proscribed if performed by an unregistered bank by paragraphs 50.19(7)*"b"* through *"e."*

This rule is intended to implement Iowa Code sections 502.102(4)*"c"* and 502.401.

191—50.22(502) Broker-dealers having contracts with credit unions, savings banks, and savings and loan institutions.

50.22(1) A broker-dealer engaging in securities activities with credit unions, savings banks, or savings and loan institutions as permitted by subrules 50.21(2) and 50.21(3) shall maintain for three years and make available to the administrator upon request the following records:

a. Copies of all advertisements and promotional literature disseminated by the credit union, savings bank, or savings and loan institution and the broker-dealer regarding securities services and products offered by the broker-dealer to credit union, savings bank, or savings and loan institution customers and the public;

b. Copies of each contract executed between the credit union, savings bank, or savings and loan institution and the broker-dealer that proposes to sell securities to credit union, savings bank, or savings and loan institution customers or the public;

c. Copies of new account forms to be completed by credit union, savings bank, or savings and loan institution customers or members of the public who open an account with the broker-dealer;

d. A list of every credit union, savings bank, or savings and loan institution employee who is a registered securities agent of the broker-dealer and the employee's social security number and CRD number; and

e. Copies of compliance and procedures manuals regarding the securities activities of the credit union, savings bank, or savings and loan institution.

50.22(2) In addition to any responsibilities assumed pursuant to subrule 50.69(5), a broker-dealer engaging in securities transactions pursuant to a contract with a credit union, savings bank, or savings and loan institution as permitted by subrules 50.21(2) and 50.21(3) shall not allow a person who is not an Iowa-registered securities agent of the broker-dealer to use the broker-dealer name, logo, or trademark on business cards or letterheads.

This rule is intended to implement Iowa Code sections 502.102(4)*"c"* and 502.401.

191—50.23 to **50.29** Reserved.

DIVISION III
REGISTRATION OF INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES, AND FEDERAL COVERED INVESTMENT ADVISERS

191—50.30(502) Electronic filing with designated entity.

50.30(1) *Designation.* Pursuant to Iowa Code sections 502.406 and 502.608(3)*"a,"* the administrator designates the IARD operated by FINRA to receive and store filings and collect related fees from investment advisers on behalf of the administrator.

50.30(2) *Use of IARD.* Unless otherwise provided, all investment adviser applications, amendments, reports, notices, related filings and fees required to be filed with the administrator pursuant to the rules promulgated under the Act shall be filed electronically with and transmitted to IARD. The following additional conditions relate to such electronic filings:

a. Electronic signature. When a signature or signatures are required by the particular instructions of any filing to be made through IARD, a duly authorized signatory of the applicant, as required, shall affix the duly authorized signatory's electronic signature to the filing by typing the duly

authorized signatory's name in the appropriate fields and submitting the filing to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing.

b. When filed. Solely for purposes of a filing made through IARD, a document is considered filed with the administrator when all fees are received and the filing is accepted by IARD on behalf of the state.

This rule is intended to implement Iowa Code sections 502.102(8), 502.406 and 502.608(3)*"a."*

191—50.31(502) Investment adviser applications and renewals.

50.31(1) *Investment adviser applications—required filings.* The application for initial registration as an investment adviser shall be made by:

a. Filing Form ADV Parts 1 and 2 with IARD; and

b. Remitting the $100 filing fee to IARD pursuant to Iowa Code section 502.410(3).

50.31(2) *Investment adviser applications—discretionary filings.* The administrator may require that an application for initial registration also include the following:

a. Financial statements as set forth in paragraph 50.42(1)*"f"* including but not limited to a copy of the balance sheet for the last fiscal year and, if the balance sheet is prepared as of a date more than 45 days from the date of the filing of the application, an unaudited balance sheet prepared in accordance with subrule 50.40(7);

b. A copy of the surety bond required pursuant to rule 191—50.41(502), if any; and

c. Any other information necessary for determining whether registration is appropriate.

50.31(3) *Investment adviser renewals—required filings.* Annual renewals by investment advisers shall be made by:

a. Filing an annual renewal registration with IARD; and

b. Remitting the $100 filing fee to IARD as required pursuant to Iowa Code section 502.410(3).

50.31(4) *Investment adviser renewals—discretionary filings.* The administrator may require the filing of a copy of the surety bond, if any, required pursuant to rule 191—50.41(502).

50.31(5) *Completion of filing.* An application for initial or renewal registration is considered filed for the purposes of Iowa Code section 502.406 when the required fee and all required submissions have been received by IARD and the administrator.

50.31(6) *Updates and amendments.* The investment adviser is under a continuing obligation to update information provided on Form ADV as follows:

a. An updated Form ADV must be filed with IARD within 90 days of the end of the investment adviser's fiscal year; and

b. Any amendment to Form ADV must be filed with IARD within 30 days of the event causing the required amendment.

50.31(7) *Succession and change in registration.*

a. In the case of an organizational change, including a change in the state of incorporation or form of organization, not involving a material change in financial condition or management, an investment adviser shall file all applicable amendments to Form ADV.

b. In the case of an organizational change, including a change in the state of incorporation or form of organization, involving a material change in financial condition or management, an investment adviser must file a new application for registration pursuant to subrule 50.31(1). The filing must include the fee pursuant to paragraph 50.31(1)*"b"* and registration fees for all Iowa-registered investment adviser representatives.

c. In the case of a change in name, an investment adviser shall file all applicable amendments to Form ADV.

This rule is intended to implement Iowa Code sections 502.102(8) and 502.406.

191—50.32(502) Application for investment adviser representative registration.

50.32(1) *Designation.* Pursuant to Iowa Code sections 502.406 and 502.608(3)*"a,"* the administrator designates the CRD operated by FINRA to receive and store filings and collect related fees from investment adviser representatives on behalf of the administrator.

50.32(2) *Initial application.* The application for initial registration as an investment adviser representative made pursuant to Iowa Code section 502.406(1) shall be made by filing Form U-4 with the CRD. The following shall be submitted to the CRD with the application:

a. Proof of compliance by the investment adviser representative with the examination requirements of rule 191—50.33(502); and

b. If applicable, the $30 fee required pursuant to Iowa Code section 502.410(4).

50.32(3) *Annual renewal.* Annual renewals by investment adviser representatives shall be made by:

a. Filing an annual renewal registration with CRD; and

b. If applicable, remitting the $30 filing fee to CRD as required pursuant to Iowa Code section 502.410(4).

50.32(4) *Completion of filing.* An application for initial or renewal registration is considered filed for the purposes of Iowa Code section 502.406 when the required fee and all required submissions have been received by the CRD.

50.32(5) *Updates, amendments, withdrawals and terminations.* The investment adviser representative is under a continuing obligation to update information provided on Form U-4 as follows:

a. Any amendment to information provided on Form U-4 must be filed with CRD within 30 days of the event causing the required amendment; and

b. A withdrawal request or termination must be filed with CRD within 30 days of the event causing the necessity of a withdrawal request or termination. A withdrawal request shall be made by filing an accurate and complete Form U-5 with CRD.

This rule is intended to implement Iowa Code sections 502.102(8) and 502.406.

191—50.33(502) Examination requirements.

50.33(1) Except as exempted by subrule 50.33(2), a person applying to be registered as an investment adviser representative shall provide the administrator with proof that the person has obtained either:

a. A passing score on the Series 65 examination.

b. Passing scores on the Series 7 examination, the Series 66 examination, and FINRA's Securities Industry Essentials Exam. In the event that an applicant for registration as an investment adviser representative has received a waiver by FINRA of the Series 7 examination otherwise required by this paragraph, the FINRA waiver will be accepted in lieu of the examination requirement.

50.33(2) Unless otherwise ordered by the administrator in connection with a violation of the Act, the following individuals shall be exempt from the examination requirements of subrule 50.33(1):

a. Any individual who is registered as an investment adviser or investment adviser representative in any jurisdiction in the United States on or before January 19, 2000.

b. Any individual who is registered as an investment adviser or investment adviser representative in any jurisdiction in the United States after November 1, 2001, provided that the jurisdiction in which the investment adviser or investment adviser representative is registered requires the passage of the examinations in subrule 50.33(1).

c. Any individual who has not been registered as an investment adviser or investment adviser representative in any jurisdiction for a period of two years shall be required to comply with the examination requirements of this rule.

d. Any individual who currently holds one of the following professional designations:

(1) Certified Financial Planner or CFP designation awarded by the Certified Financial Planner Board of Standards, Inc.;

(2) Chartered Financial Consultant (ChFC) designation awarded by The American College of Financial Services;

(3) Personal Financial Specialist (PFS) designation administered by the American Institute of Certified Public Accountants;

(4) Chartered Financial Analyst (CFA) designation granted by the CFA Institute;

(5) Chartered Investment Counselor (CIC) designation granted by the Investment Advisor Association; or

(6) Any other professional designation recognized by order of the administrator.

This rule is intended to implement Iowa Code section 502.412(5).

191—50.34(502) Notice filing requirements for federal covered investment advisers.

50.34(1) *Notice filing.* The notice filing for a federal covered investment adviser pursuant to Iowa Code section 502.405 shall be filed with IARD on an executed Form ADV. A notice filing of a federal covered investment adviser shall be deemed filed for purposes of this subrule when Form ADV and the fee of $100 required pursuant to Iowa Code section 502.410(5) are received by IARD.

50.34(2) *Form ADV Part 2.* The administrator may:

a. Accept a copy of Part 2 of Form ADV as filed electronically with IARD; or

b. Deem Part 2 of Form ADV filed if a federal covered investment adviser provides, within five days of a request, Part 2 of Form ADV to the administrator. Because the administrator deems Part 2 of Form ADV to be filed, a federal covered investment adviser is not required to submit Part 2 of Form ADV to the administrator unless specifically requested to do so.

50.34(3) *Renewal.* The annual renewal of the notice filing for a federal covered investment adviser pursuant to Iowa Code section 502.405 shall be filed with IARD. The renewal of the notice filing shall be deemed filed for purposes of this subrule when the $100 fee required pursuant to Iowa Code section 502.410(5) is accepted by IARD.

50.34(4) *Updates and amendments.* A federal covered investment adviser must file with IARD any amendments to the federal covered investment adviser's Form ADV.

This rule is intended to implement Iowa Code section 502.405.

191—50.35(502) Withdrawal of investment adviser registration. The application for withdrawal of registration as an investment adviser pursuant to Iowa Code section 502.409 shall be completed on Form ADV-W and filed with IARD.

This rule is intended to implement Iowa Code section 502.409.

191—50.36(502) Investment adviser brochure.

50.36(1) *General requirements.*

a. Unless otherwise provided in this rule, an investment adviser registered or required to be registered pursuant to Section 403 of the Act shall furnish each advisory client and prospective advisory client with:

(1) A brochure that may be a copy of Part 2A of its Form ADV or written documents containing the information required by Part 2A of Form ADV;

(2) A copy of its Part 2B brochure supplement for each individual:

1. Providing investment advice and having direct contact with clients in this state; or

2. Exercising discretion over assets of clients in this state, even if no direct contact is involved;

(3) A copy of its Part 2A Appendix 1 wrap fee brochure if the investment adviser sponsors or participates in a wrap fee account;

(4) A summary of material changes, which may be included in Form ADV Part 2 or given as a separate document; and

(5) Such other information as the administrator may require.

b. The brochure must comply with the language, organizational format and filing requirements specified in the Instructions to Form ADV Part 2.

c. Notwithstanding the SEC's Instructions for Part 2A of Form ADV, fee changes constitute material changes requiring an update to all parts of Form ADV.

50.36(2) *Delivery.*

a. Initial delivery. An investment adviser, except as provided in paragraph 50.36(2)*"c,"* shall deliver the Part 2A brochure and any brochure supplements required by rule 191—50.36(502) to a prospective advisory client:

(1) Not less than 48 hours before an investment adviser enters into any advisory contract with such client or prospective client; or

(2) At the time an advisory client enters into any such contract, if the advisory client has a right to terminate the contract without penalty within five business days after entering into the contract.

b. Annual delivery. An investment adviser, except as provided in paragraph 50.36(2)*"c,"* must:

(1) Deliver within 120 days of the end of its fiscal year a free, updated brochure and related brochure supplements that include or are accompanied by a summary of material changes; or

(2) Deliver a summary of material changes that includes an offer to provide a copy of the updated brochures and supplements and information on how the client may obtain a copy of the brochures and supplements, provided that advisers are not required to deliver a summary of material changes if no material changes have taken place since the last summary and brochure delivery.

c. Exceptions to delivery. Delivery of the brochure and related brochure supplements required by paragraphs 50.36(2)*"a"* and *"b"* need not be made to:

(1) Clients who receive only impersonal advice and who pay less than $500 in fees per year; or

(2) An investment company registered under the Investment Company Act of 1940; or

(3) A business development company as defined in the Investment Company Act of 1940 and whose advisory contract meets the requirements of Section 15c of that Act.

d. Electronic delivery. Delivery of the brochure and related supplements may be made electronically if the investment adviser:

(1) In the case of an initial delivery to a potential client, obtains verification that readable copies of the brochure and supplements were received by the client;

(2) In the case of other than initial deliveries, obtains each client's prior consent to provide the brochure and supplements electronically;

(3) Prepares the electronically delivered brochure and supplements in the format prescribed in subrule 50.36(1) and Instructions to Form ADV Part 2;

(4) Delivers the brochure and supplements in a format that can be retained by the client in either electronic or paper form; or

(5) Establishes procedures to supervise personnel transmitting the brochure and supplements and to prevent violations of this rule.

50.36(3) *Other disclosures.* Nothing in this rule shall relieve any investment adviser from any obligation pursuant to any provision of the Act or the rules thereunder or other federal or state law to disclose any information to its advisory clients or prospective advisory clients not specifically required by this rule.

50.36(4) *Definitions.* For the purpose of this rule:

"Contract for impersonal advisory services" means any contract relating solely to the provision of investment advisory services:

1. By means of written material or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;

2. Through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

3. Any combination of the foregoing services.

"Entering into," in reference to an advisory contract, does not include an extension or renewal without material change of any such contract that is in effect immediately prior to such extension or renewal.

This rule is intended to implement Iowa Code section 502.411(7).

191—50.37(502) Cash solicitation.

50.37(1) Payment of a cash fee, directly or indirectly, by an investment adviser to a solicitor for solicitation activities shall constitute an act, practice, or course of conduct operating as a fraud or deceit upon a person, pursuant to Iowa Code section 502.502(2), if:

a. The solicitor:

(1) Is subject to an order issued by the administrator pursuant to Iowa Code section 502.412(4);

(2) Has been convicted of a felony or within the previous ten years has been convicted of a misdemeanor involving conduct described in Iowa Code section 502.412(4)*"c"*; or

(3) Is found by the administrator to have engaged or has been convicted of engaging in any of the conduct specified in Iowa Code section 502.505, 502.412(4)*"b"* or 502.412(4)*"i"*; has materially aided in violating Iowa Code section 502.412(4)*"d"*; or is subject to an order, judgment, or decree pursuant to Iowa Code section 502.412(4)*"d"* through *"f."*

b. The cash fee is not paid pursuant to a written agreement to which the investment adviser is a party. If the cash fee is paid pursuant to a written agreement, the written agreement must:

(1) Describe the solicitation activities to be engaged in by the solicitor on behalf of the investment adviser and the compensation to be received for the solicitation activities;

(2) Contain an undertaking by the solicitor to perform the solicitor's duties under the agreement in a manner consistent with the instructions of the investment adviser and the provisions of the Act and its implementing rules, as applicable; and

(3) Require that the solicitor, at the time of any solicitation activities for which compensation is paid or is to be paid by the investment adviser, provide the client with a current copy of the investment adviser's written disclosure statement required by subparagraph 50.36(2)*"a"*(2) or SEC Rule 204-3, if applicable, and a separate written disclosure statement as described in subrule 50.37(2). Prior to or upon entering into a written or oral investment advisory contract with a client, the investment adviser shall obtain a signed and dated acknowledgment of receipt by the client of the investment adviser's and solicitor's written disclosure statements. Additionally, the investment adviser shall make a bona fide effort to ascertain whether the solicitor has complied in all aspects with the written agreement, and shall have a reasonable basis for believing that the solicitor has complied.

c. The cash fee is paid to a solicitor:

(1) For solicitation activities regarding anything other than impersonal advisory services; or

(2) Who is a partner, officer, director, or employee of the investment adviser or is a partner, officer, director, or employee of a person who controls, is controlled by, or is under common control with the investment adviser without disclosure of the status of the solicitor as a partner, officer, director, or employee of the investment adviser or other person and of any affiliation between the investment adviser and the solicitor to the client at the time of solicitation or referral.

50.37(2) The separate written disclosure statement required to be furnished pursuant to subparagraph 50.37(1)*"b"*(3) shall contain the following information:

a. The name of the solicitor;

b. The name of the investment adviser;

c. The nature of the relationship, including any affiliation, between the solicitor and the investment adviser;

d. A statement that the solicitor will be compensated for the solicitor's solicitation services by the investment adviser;

e. The terms of such compensation arrangement, including a description of the compensation paid or to be paid to the solicitor; and

f. The amount, if any, the client will be charged for the cost of obtaining the client's account in addition to the advisory fee, and the differential, if any, in advisory fees charged by the investment adviser if the differential is the result of the investment adviser's agreement to compensate the solicitor for soliciting or referring clients.

50.37(3) Nothing in this rule relieves any person of any fiduciary duty or other obligation to which the person may be subject pursuant to contract or law.

50.37(4) For the purpose of this rule:

"Client" includes any prospective client.

"Impersonal advisory services" means investment advisory services provided solely through written materials or oral statements not purporting to meet the objectives or needs of the specific client, statistical information containing no expressions of opinion as to the investment merits of particular securities, or any combination of the foregoing.

"Principal place of business" of an investment adviser means the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

"Solicitor" means any person who, directly or indirectly, solicits any client for or refers any client to an investment adviser.

50.37(5) An investment adviser shall retain a copy of each written agreement, acknowledgment and solicitor disclosure statement required by this rule in accordance with Iowa Code section 502.411(3) and paragraph 50.42(1)*"o."* However, an investment adviser registered in Iowa whose principal place of business is located outside Iowa shall not be subject to the record maintenance requirements of this subrule and the applicable provisions of paragraph 50.42(1)*"o"* if:

a. The investment adviser is registered or licensed as an investment adviser in the state in which the investment adviser maintains the investment adviser's principal place of business;

b. The investment adviser complies with the applicable books and records requirements of the state in which the investment adviser maintains the investment adviser's principal place of business; and

c. The provisions of this rule would require the investment adviser to maintain books or records in addition to those required by the laws of the state in which the investment adviser maintains the investment adviser's principal place of business.

This rule is intended to implement Iowa Code section 502.502(2).

191—50.38(502) Prohibited conduct in providing investment advice.

50.38(1) An investment adviser, an investment adviser representative, or a federal covered investment adviser is a fiduciary and has a duty to act primarily for the benefit of its clients. Rule 191—50.38(502) applies to federal covered investment advisers to the extent that the alleged conduct is fraudulent, deceptive, or as otherwise permitted by the NSMIA. While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser, an investment adviser representative, or a federal covered investment adviser and its clients and the circumstances of each case, an investment adviser, an investment adviser representative, or a federal covered investment adviser shall not engage in prohibited fraudulent, deceptive, or manipulative conduct including but not limited to:

a. Recommending to a client to whom investment advisory services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser, investment adviser representative, or federal covered investment adviser;

b. Exercising any discretionary authority in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten business days after the date of the first transaction placed pursuant to discretionary authority, unless the discretionary authority relates solely to the price at which, or the time when, an order for a definite amount of a specified security shall be executed, or both;

c. Inducing trading in a client's account that is excessive in size or frequency compared to the financial resources, investment objectives, and character of the account;

d. Placing an order to purchase or sell a security for a client account without authority to do so;

e. Placing an order to purchase or sell a security for a client account upon instruction of a third party without first obtaining a written third-party trading authorization from the client;

f. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds;

g. Loaning money or securities to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser;

h. Misrepresenting to any client, or prospective client, the qualifications of the investment adviser, investment adviser representative, or federal covered investment adviser or any employee, or affiliated persons, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omitting to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading;

i. Providing a report or recommendation to any advisory client prepared by someone other than the investment adviser, investment adviser representative, or federal covered investment adviser without disclosing that fact. This prohibition does not apply when the investment adviser, investment adviser representative, or federal covered investment adviser uses published research reports or statistical analyses to render advice or when an investment adviser, investment adviser representative, or federal covered investment adviser orders such a report in the normal course of providing service;

j. Charging a client an unreasonable fee;

k. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest regarding the investment adviser, investment adviser representative, or federal covered investment adviser or any of its employees, or affiliated persons that could reasonably be expected to impair the rendering of unbiased and objective advice including but not limited to:

(1) Compensation arrangements connected with investment advisory services to clients that are in addition to compensation from such clients for such services; and

(2) Charging a client an investment advisory fee for rendering advice when compensation for effecting securities transactions pursuant to such advice will be received by the investment adviser, investment adviser representative, or federal covered investment adviser or its employees or affiliated persons;

l. Knowingly selling any security to or purchasing any security from a client while acting as principal for an advisory account of the investment adviser, investment adviser representative, or federal covered investment adviser, or knowingly effecting any sale or purchase of any security for the account of the client while acting as broker-dealer for a person other than the client, without disclosing to the client in writing before the completion of the transaction the capacity in which the investment adviser, investment adviser representative, or federal covered investment adviser is acting and without obtaining the written consent of the client to the transaction.

(1) The prohibitions of paragraph 50.38(1)*"l"* shall not apply to any transaction with a customer of a broker-dealer if the broker-dealer is not acting as an investment adviser in relation to the transaction.

(2) The prohibitions of paragraph 50.38(1)*"l"* shall not apply to any transaction with a customer of a broker-dealer if the broker-dealer acts solely as an investment adviser:

1. By means of publicly distributed written materials or publicly made oral statements;

2. By means of written materials or oral statements not purporting to meet the objectives or needs of specific individuals or accounts;

3. Through the issuance of statistical information containing no expressions of opinion as to the investment merits of a particular security; or

4. Any combination of the foregoing services.

(3) Publicly distributed written materials or publicly made oral statements shall disclose that, if the purchaser of the advisory communication uses the investment adviser's services in connection with the sale or purchase of a security that is a subject of the communication, the investment adviser may act as principal for its own account or as agent for another person. Compliance by the investment

adviser with the foregoing disclosure requirement shall not relieve the investment adviser of any other disclosure obligations under the Act.

(4) Definitions for purposes of rule 191—50.38(502):

"Publicly distributed written materials" means written materials that are distributed to 35 or more persons who pay for those materials.

"Publicly made oral statements" means oral statements made simultaneously to 35 or more persons who pay for access to those statements.

m. Guaranteeing a client that a specific result will be achieved with advice rendered;

n. Making, in the solicitation of clients, any untrue statement of a material fact, or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which they are made, not misleading;

o. Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless disclosed with the client's consent;

p. Taking any action, directly or indirectly, regarding securities or funds in which any client has any beneficial interest when the investment adviser has custody or possession of such securities or funds and when the action of the investment adviser or investment adviser representative is subject to and in violation of the custody requirements provided by rule 191—50.39(502);

q. Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information in violation of Section 204A of the Investment Advisers Act of 1940;

r. Engaging in any act, practice, or course of business that is fraudulent, deceptive, manipulative, or unethical;

s. Engaging in conduct or any act, indirectly or through or by any other person, which is unlawful for such person to do directly under the provisions of this Act, its implementing rules, or order of the administrator;

t. Failing to disclose or providing incomplete disclosure to a client regarding any securities-related activities, or engaging in deceptive practices;

u. Soliciting or accepting a gift, directly or indirectly, from an unrelated customer that in the aggregate exceeds $250 in a calendar year. A gift accepted by an immediate family member from an unrelated client shall be included in the aggregate limit. An investment adviser shall not solicit or accept from a client a gift transferred through a relative or third party to the investment adviser's benefit that would have the effect of evading this paragraph;

v. Soliciting or accepting being named as a beneficiary, executor, or trustee in a will or trust of an unrelated customer;

w. Evading or otherwise negating the requirements of paragraph 50.38(1)*"f," "g," "u"* or *"v,"* by terminating the customer relationship for the purpose of soliciting or accepting a loan or gift or being named as a beneficiary, executor or trustee in a will or trust that the agent is otherwise not permitted to solicit or accept. An investment adviser or investment adviser representative will not be in violation of this rule if the investment adviser or investment adviser representative has made a bona fide termination of the client relationship and conducted no securities-related business or other business for a period of three years with the client;

x. Engaging in conduct deemed dishonest or unethical in rule 191—50.55(502); and

y. Employing any method or tactic that uses undue pressure, force, fright, or threat, whether explicit or implied, in connection with providing investment advice, or committing any act that shows that an investment adviser or investment adviser representative has exerted undue influence over a client.

50.38(2) An investment adviser, investment adviser representative, or federal covered investment adviser shall not, directly or indirectly, publish, circulate, or distribute any advertisement that does any one of the following:

a. Refers to any testimonial of any kind concerning the investment adviser, investment adviser representative, or federal covered investment adviser or concerning any advice, analysis, report, or

other service rendered by such investment adviser, investment adviser representative, or federal covered investment adviser.

b. Refers to past specific recommendations of the investment adviser, investment adviser representative, or federal covered investment adviser that were or would have been profitable to any person, except that an investment adviser, investment adviser representative, or federal covered investment adviser may furnish or offer to furnish a list of all recommendations made by the investment adviser, investment adviser representative, or federal covered investment adviser within the immediately preceding period of not less than one year if the advertisement or list also includes both of the following:

(1) The name of each security recommended, the date and nature of each recommendation, the market price at that time, the price at which the recommendation was to be acted upon, and the most recently available market price of each such security.

(2) A legend on the first page in prominent print or type that states that the reader should not assume that recommendations made in the future will be profitable or will equal the performance of the securities in the list.

c. Represents that any graph, chart, formula, or other device being offered can in and of itself be used to determine which securities to buy or sell, or when to buy or sell them; or that represents, directly or indirectly, that any graph, chart, formula, or other device being offered will assist any person in making that person's own decisions as to which securities to buy or sell, or when to buy or sell them, without prominently disclosing in such advertisement the limitations thereof and the difficulties with respect to the use of any graph, chart, formula or device.

d. Represents that any report, analysis, or other service will be furnished for free or without charge, unless such report, analysis, or other service actually is or will be furnished entirely free and without any direct or indirect condition or obligation.

e. Represents that the administrator has approved any advertisement.

f. Contains any untrue statement of a material fact, or any statement that is otherwise false or misleading.

50.38(3) With respect to federal covered investment advisers, the provisions of subrule 50.38(2) apply only to the extent permitted by Section 203A of the Investment Advisers Act of 1940.

50.38(4) For the purposes of subrule 50.38(2), the term "advertisement" shall include any notice, circular, letter, or other written communication addressed to more than one person, or any notice or other announcement in any electronic or paper publication, by radio or television, or by any medium, that offers any one of the following:

a. Any analysis, report, or publication concerning securities.

b. Any analysis, report, or publication that is to be used in making any determination as to when to buy or sell any security, or which security to buy or sell.

c. Any graph, chart, formula, or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell.

d. Any other investment advisory service with regard to securities.

50.38(5) The prohibitions of rule 191—50.38(502) shall not apply to an investment adviser effecting an agency cross transaction for an advisory client provided the following conditions are met:

a. The advisory client executes a written consent prospectively authorizing the investment adviser to effect agency cross transactions for such client;

b. Before obtaining such written consent from the client, the investment adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser will act as broker-dealer for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions;

c. At or before the completion of each agency cross transaction, the investment adviser or any other person relying on subrule 50.38(5) sends the client a written confirmation. The written confirmation shall include:

(1) A statement of the nature of the transaction;

(2) The date the transaction took place;

(3) An offer to furnish, upon request, the time when the transaction took place; and

(4) The source and amount of any other remuneration the investment adviser received or will receive in connection with the transaction. In the case of a purchase, if the investment adviser was not participating in a distribution, or, in the case of a sale, if the investment adviser was not participating in a tender offer, the written confirmation may state whether the investment adviser has been receiving or will receive any other remuneration and that the investment adviser will furnish the source and amount of such remuneration to the client upon the client's written request;

d. At least annually, and with or as part of any written statement or summary of the account from the investment adviser, the investment adviser or any other person relying on subrule 50.38(5) sends each client a written disclosure statement identifying:

(1) The total number of agency cross transactions for the client during the period since the date of the last such statement or summary; and

(2) The total amount of all commissions or other remuneration the investment adviser received or will receive in connection with agency cross transactions for the client during the period;

e. Each written disclosure and confirmation required by subrule 50.38(5) must include a conspicuous statement indicating that the client may revoke the written consent required under paragraph 50.38(5)*"a"* at any time by providing written notice to the investment adviser;

f. No agency cross transaction may be effected in which the same investment adviser recommended the transaction to both any seller and any purchaser;

g. "Agency cross transaction for an advisory client," for purposes of subrule 50.38(5), means a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, including an investment adviser representative, acts as a broker-dealer for both the advisory client and for another client on the other side of the transaction. When acting in such capacity, such person acting as an investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, including an investment adviser representative, is required to be registered as a broker-dealer in this state unless excluded from the definition of investment adviser;

h. Nothing in subrule 50.38(5) shall be construed to relieve an investment adviser or investment adviser representative from acting in the best interests of the client, including fulfilling the duty with respect to the best price and execution for the particular transaction for the client, nor shall subrule 50.38(5) relieve any investment adviser or investment adviser representative of any other disclosure obligations imposed by the Act.

This rule is intended to implement Iowa Code section 502.502(2).

191—50.39(502) Custody of client funds or securities by investment advisers.

50.39(1) *Safekeeping required.* It is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice, or course of business for an investment adviser, registered or required to be registered, to have custody of client funds or securities unless the following conditions are met:

a. Notice to administrator. The investment adviser notifies the administrator promptly in writing that the investment adviser has or may have custody. Such notification is required to be given on Form ADV.

b. Qualified custodian. A qualified custodian maintains those funds and securities:

(1) In a separate account for each client under that client's name; or

(2) In accounts that contain only the investment adviser's clients' funds and securities, under the investment adviser's name as agent or trustee for the clients, or, in the case of a pooled investment vehicle that the investment adviser manages, in the name of the pooled investment vehicle.

c. Notice to clients. If an investment adviser opens an account with a qualified custodian on its client's behalf, under the client's name, under the name of the investment adviser as agent, or under the name of a pooled investment vehicle, the investment adviser must notify the client in writing of

the qualified custodian's name and address and the manner in which the funds or securities are maintained, promptly when the account is opened and following any changes to this information. If the investment adviser sends account statements to a client to whom the investment adviser is required to provide this notice, the investment adviser must include in the notification provided to that client and in any subsequent account statement the investment adviser sends that client a statement urging the client to compare the account statements from the custodian with those from the investment adviser.

d. Account statements. The investment adviser has a reasonable basis, after due inquiry, for believing that the qualified custodian sends an account statement, at least quarterly, to each client for which the qualified custodian maintains funds or securities, identifying the amount of funds and of each security in the account at the end of the period and setting forth all transactions in the account during that period.

e. Special rule for limited partnerships and limited liability companies. If the investment adviser or a related person is a general partner of a limited partnership (or managing member of a limited liability company, or holds a comparable position for another type of pooled investment vehicle):

(1) The account statements required under paragraph 50.39(1)*"d"* must be sent to each limited partner (or member or other beneficial owner); and

(2) The investment adviser must:

1. Enter into a written agreement with an independent party who is obliged to act in the best interest of the limited partners, members, or other beneficial owners to review all fees, expenses and capital withdrawals from the pooled accounts; and

2. Send all invoices or receipts to the independent party, detailing the amount of the fee, expenses or capital withdrawal and the method of calculation such that the independent party can:

- Determine that the payment is in accordance with the pooled investment vehicle standards (generally the partnership agreement or membership agreement); and
- Forward, to the qualified custodian, approval for payment of the invoice with a copy to the investment adviser.

f. Independent verification. The client funds and securities of which the investment adviser has custody are verified by actual examination at least once during each calendar year, by an independent certified public accountant (CPA), pursuant to a written agreement between the investment adviser and the independent CPA, at a time that is chosen by the independent CPA without prior notice or announcement to the investment adviser and that is irregular from year to year. The written agreement must provide for the first examination to occur within six months of execution of the written agreement, except that, if the investment adviser maintains client funds or securities pursuant to rule 191—50.38(502) as a qualified custodian, the agreement must provide for the first examination to occur no later than six months after the investment adviser obtains the internal control report. The written agreement must require the independent CPA to:

(1) File a certificate on Form ADV-E with the administrator within 120 days of the time chosen by the independent CPA in paragraph 50.39(1)*"f,"* stating that the independent CPA has examined the funds and securities and describing the nature and extent of the examination;

(2) Notify the administrator within one business day of the finding of any material discrepancies during the course of the examination, by means of a facsimile transmission or electronic mail, followed by first-class mail, directed to the attention of the administrator; and

(3) File within four business days of the resignation or dismissal from, or other termination of, the engagement, or removing itself or being removed from consideration for being reappointed, Form ADV-E accompanied by a statement that includes:

1. The date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent CPA; and

2. An explanation of any problems relating to examination scope or procedure that contributed to such resignation, dismissal, removal, or other termination.

g. Investment advisers acting as qualified custodians. If the investment adviser maintains, or if the investment adviser has custody because a related person maintains, client funds or securities pursuant to rule 191—50.39(502) as a qualified custodian in connection with advisory services the investment adviser provides to clients:

(1) The independent CPA who the investment adviser retains to perform the independent verification required by paragraph 50.39(1)*"f"* must be registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules; and

(2) The investment adviser must obtain, or receive from its related person, within six months of execution of the written agreement and thereafter no less frequently than once each calendar year a written internal control report prepared by an independent CPA.

1. The internal control report must include an opinion of an independent CPA as to whether controls have been placed in operation as of a specific date, and are suitably designed and are operating effectively to meet control objectives relating to custodial services, including the safeguarding of funds and securities held by either the investment adviser or a related person on behalf of the investment adviser's clients, during the year;

2. The independent CPA must verify that the funds and securities are reconciled to a custodian other than the investment adviser or the investment adviser's related person; and

3. The independent CPA must be registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules.

h. Independent representatives. A client may designate an independent representative to receive, on the client's behalf, notices and account statements as required under paragraphs 50.39(1)*"c"* and *"d."*

50.39(2) *Exceptions.*

a. Shares of mutual funds. With respect to shares of an open-end company as defined in Section 5(a)(1) of the Investment Company Act of 1940 ("mutual fund"), the investment adviser may use the mutual fund transfer agent in lieu of a qualified custodian for purposes of complying with subrule 50.39(1).

b. Certain privately offered securities.

(1) The investment adviser is not required to comply with paragraph 50.39(1)*"b"* with respect to securities that are:

1. Acquired from the issuer in a transaction or chain of transactions not involving any public offering;

2. Uncertificated and ownership thereof is recorded only on the books of the issuer or its transfer agent in the name of the client; and

3. Transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(2) Notwithstanding subparagraph 50.39(2)*"b"*(1), the provisions of paragraph 50.39(2)*"b"* are available with respect to securities held for the account of a limited partnership (or limited liability company, or other type of pooled investment vehicle) only if the limited partnership is audited, and the audited financial statements are distributed, as described in paragraph 50.39(2)*"d,"* and the investment adviser notifies the administrator in writing that the investment adviser intends to provide audited financial statements, as described in this subparagraph. Such notification is required to be provided on Form ADV.

c. Fee deduction. Notwithstanding paragraph 50.39(1)*"f,"* an investment adviser is not required to obtain an independent verification of client funds and securities maintained by a qualified custodian if all of the following conditions are met:

(1) The investment adviser has custody of the funds and securities solely as a consequence of its authority to make withdrawals from client accounts to pay its advisory fee;

(2) The investment adviser has written authorization from the client to deduct advisory fees from the account held with the qualified custodian;

(3) Each time a fee is directly deducted from a client account, the investment adviser concurrently:

1. Sends the independent party designated pursuant to subparagraph 50.39(1)*"e"*(2) an invoice or statement of the amount of the fee to be deducted from the client's account; and

2. Sends the client an invoice or statement itemizing the fee. Itemization includes the formula used to calculate the fee, the amount of assets under management on which the fee is based, and the time period covered by the fee; and

(4) The investment adviser notifies the administrator in writing that the investment adviser intends to use the safeguards provided in paragraph 50.39(2)*"c."* Such notification is required to be given on Form ADV.

d. Limited partnerships subject to annual audit. An investment adviser is not required to comply with paragraphs 50.39(1)*"c"* and *"d"* and shall be deemed to have complied with paragraph 50.39(1)*"f"* with respect to the account of a limited partnership (or limited liability company, or another type of pooled investment vehicle) if each of the following conditions is met:

(1) The adviser sends to all limited partners (or members or other beneficial owners), at least quarterly, a statement showing:

1. The total amount of all additions to and withdrawals from the fund as a whole as well as the opening and closing value of the fund at the end of the quarter based on the custodian's records;

2. A listing of all long and short positions on the closing date of the statement in accordance with the Financial Accounting Standards Board, Rule ASC 946-210-50; and

3. The total amount of additions to and withdrawals from the fund by the investor as well as the total value of the investor's interest in the fund at the end of the quarter;

(2) At least annually the fund is subject to an audit and distributes the fund's audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) and the administrator within 120 days of the end of the fund's fiscal year;

(3) The audit is performed by an independent CPA who is registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules;

(4) Upon liquidation, the adviser distributes the fund's final audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) and the administrator promptly after the completion of such audit;

(5) The written agreement with the independent CPA must require the independent CPA, upon resignation or dismissal from, or other termination of, the engagement, or upon removing itself or being removed from consideration for being reappointed, to notify the administrator within four business days accompanied by a statement that includes:

1. The date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent CPA; and

2. An explanation of any problems relating to audit scope or procedure that contributed to such resignation, dismissal, removal, or other termination;

(6) The investment adviser must also notify the administrator in writing that the investment adviser intends to employ the use of the statement delivery and audit safeguards described in paragraph 50.39(2)*"d."* Such notification is required to be given on Form ADV.

e. Registered investment companies. The investment adviser is not required to comply with rule 191—50.39(502) with respect to the account of an investment company registered under the Investment Company Act of 1940.

50.39(3) *Delivery to related persons.* Sending an account statement under paragraph 50.39(1)*"e"* or distributing audited financial statements under paragraph 50.39(2)*"d"* shall not satisfy the requirements of rule 191—50.39(502) if such account statements or financial statements are sent

solely to limited partners (or members or other beneficial owners) that themselves are limited partnerships (or limited liability companies, or another type of pooled investment vehicle) and are related persons of the investment adviser.

50.39(4) *Definitions.* For the purposes of this rule:

a. *"Control"* means the power, directly or indirectly, to direct the management or policies of a person whether through ownership of securities, by contract, or otherwise. "Control" includes the following:

(1) Each of the investment adviser's officers, partners, or directors exercising executive responsibility (or persons having similar status or functions) is presumed to control the investment adviser;

(2) A person is presumed to control a corporation if the person:

1. Directly or indirectly has the right to vote 25 percent or more of a class of the corporation's voting securities; or

2. Has the power to sell or direct the sale of 25 percent or more of a class of the corporation's voting securities;

(3) A person is presumed to control a partnership if the person has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the partnership;

(4) A person is presumed to control a limited liability company if the person:

1. Directly or indirectly has the right to vote 25 percent or more of a class of the interests of the limited liability company;

2. Has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the limited liability company; or

3. Is an elected manager of the limited liability company; or

(5) A person is presumed to control a trust if the person is a trustee or managing agent of the trust.

b. *"Custody"* means holding, directly or indirectly, client funds or securities, having any authority to obtain possession of client funds or securities, or having the ability to appropriate client funds or securities. The investment adviser has custody if a related person holds, directly or indirectly, client funds or securities, or has any authority to obtain possession of them, in connection with advisory services the investment adviser provides to clients.

(1) "Custody" includes:

1. Possession of client funds or securities unless received inadvertently and returned to the sender within three business days of receiving them and the investment adviser maintains the records required under paragraph 50.42(1)*"v"*;

2. Any arrangement including but not limited to a general power of attorney pursuant to which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction; and

3. Any capacity including but not limited to general partner of a limited partnership, managing member of a limited liability company, a comparable position for another type of pooled investment vehicle, or trustee of a trust that gives the investment adviser or a person supervised by the investment adviser legal ownership of or access to client funds or securities.

(2) Receipt of checks drawn by clients and made payable to third parties will not meet the definition of custody if forwarded to the third party within three business days of receipt and the investment adviser maintains the records required under paragraph 50.42(1)*"v."*

c. *"Independent certified public accountant"* means a certified public accountant that meets the standards of independence described in SEC Rule 2-01(b) and (c) of Regulation S-X (17 CFR 210.2-01(b) and (c)).

d. *"Independent representative"* means a person who:

(1) Acts as agent for an advisory client including, in the case of a pooled investment vehicle, limited partners of a limited partnership, members of a limited liability company, or other beneficial

owners of another type of pooled investment vehicle, and who is by law or contract required to act in the best interest of the advisory client or the limited partners or members, or other beneficial owners;

(2) Does not control, is not controlled by, and is not under common control with the investment adviser; and

(3) Does not have and has not had within the past two years a material business relationship with the investment adviser.

e. *"Qualified custodian"* means the following independent institutions or entities that are not affiliated with the investment adviser by any direct or indirect common control and have not had a material business relationship with the investment adviser in the previous two years:

(1) A bank or savings association that has deposits insured by the FDIC under the Federal Deposit Insurance Act;

(2) A broker-dealer registered in Iowa and with the SEC holding client assets in customer accounts;

(3) A registered futures commission merchant registered pursuant to Section 4(f)(a) of the Commodity Exchange Act that is holding client funds and security futures or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon in customer accounts; and

(4) A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.

f. *"Related person"* means any person, directly or indirectly, controlling or controlled by the investment adviser, and any person that is under common control with the investment adviser.

This rule is intended to implement Iowa Code section 502.411(5).

191—50.40(502) Minimum financial requirements for investment advisers.

50.40(1) An investment adviser registered or required to be registered under the Act that has custody of client funds or securities shall maintain at all times a minimum net worth of $35,000 except:

a. An investment adviser that has custody solely due to direct fee deduction and that is also in compliance with the applicable safekeeping requirements of paragraph 50.39(2)*"c"* and the recordkeeping requirements of rule 191—50.42(502) is not required to comply with the net worth requirements of this rule; and

b. An investment adviser having custody solely due to advising pooled investment vehicles and that is in compliance with the applicable safekeeping requirements of paragraph 50.39(1)*"e"* or 50.39(2)*"d"* and the recordkeeping requirements of rule 191—50.42(502) is not required to comply with the net worth requirements of this rule.

50.40(2) An investment adviser registered or required to be registered pursuant to the Act that has discretionary authority over client funds or securities but does not have custody of client funds or securities shall maintain a minimum net worth of $10,000 at all times.

50.40(3) An investment adviser registered or required to be registered pursuant to the Act shall maintain a positive net worth at all times.

50.40(4) Unless otherwise exempted, an investment adviser registered or required to be registered pursuant to the Act shall notify the administrator if the investment adviser's net worth is less than the minimum required. Notice must be filed in a report to the administrator no later than the close of business on the next business day following the decrease in net worth. Additionally, an investment adviser shall file by the close of business on the next business day a report with the administrator of the investment adviser's financial condition including, at a minimum, the following:

a. A trial balance of all ledger accounts;

b. A list of all client funds or securities that are not segregated;

c. A computation of the aggregate amount of client ledger debit balances; and

d. The total number of client accounts managed by the investment adviser.

50.40(5) The administrator may require the submission of a current appraisal for the purpose of establishing the worth of any asset.

50.40(6) An investment adviser that has its principal place of business in a state other than this state is not required to maintain the minimum capital required by this rule provided that the investment adviser is registered as an investment adviser in the state in which the investment adviser has its principal place of business and is in compliance with that state's laws regarding minimum capital requirements.

50.40(7) For purposes of this rule:

a. "Net worth" means an excess of assets over liabilities calculated in accordance with generally accepted accounting principles. The calculation of assets shall not include the following: prepaid expenses (except those prepaid expenses classified as assets under generally accepted accounting principles); deferred charges, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense, and all other assets of intangible nature; in the case of an individual, home(s), home furnishings, automobile(s), or any other personal items not readily marketable; in the case of a corporation, advances or loans to stockholders or officers; and in the case of a partnership, advances or loans to partners.

b. "Custody" means the same as defined in paragraph 50.39(4)*"b."*

c. An investment adviser shall not be deemed to be exercising discretion when the investment adviser places trade orders with a broker-dealer pursuant to a third-party trading agreement if:

(1) The investment adviser has executed a separate investment adviser contract exclusively with the investment adviser's client that acknowledges that a third-party trading agreement will be executed to allow the investment adviser to effect securities transactions for the client in the client's broker-dealer account;

(2) The investment adviser contract specifically states that the client does not grant discretionary authority to the investment adviser and the investment adviser in fact does not exercise discretion with respect to the account; and

(3) A third-party trading agreement is executed between the client and a broker-dealer that specifically limits the investment adviser's authority in the client's broker-dealer account to the placement of trade orders and deduction of investment adviser fees.

This rule is intended to implement Iowa Code section 502.411(1).

191—50.41(502) Bonding requirements for investment advisers.

50.41(1) Every investment adviser registered or required to be registered under the Act:

a. Having custody of or discretionary authority over client funds or securities shall be bonded in an amount determined by the administrator based upon the number of clients and the total assets under management of the investment adviser; and

b. Having custody of or discretionary authority over client funds or securities when the investment adviser does not meet the minimum net worth standard provisions of subrules 50.40(1) and 50.40(2) must be bonded in the amount of the net worth deficiency rounded up to the nearest $5,000.

50.41(2) A bond required by this rule shall be issued by a company qualified to do business in this state in the form determined by the administrator and shall be subject to the claims of clients of the investment adviser regardless of the client's state of residence.

50.41(3) An investment adviser that has a principal place of business in a state other than Iowa is exempt from this rule provided that the investment adviser is registered as an investment adviser in the state in which the investment adviser has its principal place of business and is in compliance with that state's laws regarding bonding requirements.

50.41(4) For purposes of this rule, "custody" means the same as defined in paragraph 50.39(4)*"b."*

This rule is intended to implement Iowa Code section 502.411(5).

191—50.42(502) Recordkeeping requirements for investment advisers.

50.42(1) An investment adviser registered or required to be registered pursuant to the Act shall make and keep true, accurate and current the following books, ledgers and records:

a. A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of any ledger entries.

b. General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income, and expense accounts.

c. A memorandum of each order given by the investment adviser for the purchase or sale of any security, of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. The memorandum shall describe the terms and conditions of the order, instruction, modification or cancellation; identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed the order; indicate whether discretionary power was exercised; and indicate the account for which entered, the date of entry, and, where applicable, the bank or broker-dealer by or through whom executed.

d. All checkbooks, bank statements, canceled checks and cash reconciliations of the investment adviser.

e. All invoices, bills, or statements, or copies of those documents, relating to the investment adviser's business as an investment adviser regardless of whether the expense or debt is paid or unpaid.

f. All trial balances, financial statements, and internal audit working papers relating to the investment adviser's business as an investment adviser. For the purposes of this paragraph, "financial statements" means a balance sheet prepared in accordance with generally accepted accounting principles, an income statement, a cash flow statement, and a net worth computation, if applicable, as required by subrule 50.40(7).

g. Originals of all written communications received by and copies of all written communications sent by the investment adviser relating to:

(1) Any recommendation made or proposed to be made and any advice given or proposed to be given;

(2) Any receipt, disbursement, or delivery of funds or securities; or

(3) The placing or execution of any order to purchase or sell any security, except:

1. The investment adviser shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser; and

2. The investment adviser is not required to keep a record of the names and addresses of persons to whom a notice, circular, or other advertisement offering any report, analysis, publication or other investment advisory service is sent if sent to more than ten persons; however, if the notice, circular, or other advertisement is distributed to persons named on any list, the investment adviser must retain with the copy of the notice, circular, or advertisement a memorandum describing the list and its source.

h. A list or other record of all accounts identifying the accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client.

i. Copies of all powers of attorney and other documents granting discretionary authority by any client to the investment adviser.

j. Copies of each agreement entered into by the investment adviser with any client, and all other written agreements otherwise relating to the investment adviser's business as an investment adviser.

k. A file containing copies of each notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons not affiliated with the investment adviser and, if the notice, circular, advertisement, newspaper article, investment letter,

bulletin, or other communication including one in electronic media format recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum indicating the investment adviser's reasons for the recommendation.

l. Transactions involving beneficial ownership.

(1) A record of every transaction in a security in which the investment adviser or any advisory representative of the investment adviser has or by reason of any transaction acquires a direct or indirect beneficial ownership, except the following:

1. Transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

2. Transactions in securities that are direct obligations of the United States.

(2) The required record shall state, at a minimum, the title and amount of the security involved, the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition), the price at which the transaction was effected, and the name of the bank or broker-dealer with or through which the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction must be recorded no later than ten days after the end of the calendar quarter in which the transaction was effected. An investment adviser shall not be in violation of this paragraph because of a failure to record securities transactions of an advisory representative if the investment adviser establishes that the investment adviser instituted adequate procedures and used reasonable diligence to promptly obtain reports of all transactions required by this paragraph to be recorded.

m. Notwithstanding the provisions of paragraph 50.42(1)*"l,"* when the investment adviser is primarily engaged in a business or businesses other than advising investment advisory clients, a record must be maintained of every transaction in a security in which the investment adviser or any advisory representative of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except:

(1) Transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; or

(2) Transactions in securities that are direct obligations of the United States.

The record shall state the title and amount of the security involved, the date and nature of the transaction (i.e., purchase, sale, or other acquisition or disposition), the price at which it was effected, and the name of the broker-dealer or bank with or through which the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than ten days after the end of the calendar quarter in which the transaction was effected. An investment adviser shall not be deemed to have violated the provisions of this subparagraph because of a failure to record securities transactions of an advisory representative if the investment adviser establishes that the investment adviser instituted adequate procedures and used reasonable diligence to promptly obtain reports of all transactions required to be recorded.

n. A copy of each written statement and each amendment or revision, given or sent to any client or prospective client of the investment adviser in accordance with rule 191—50.36(502), and a record of the dates on which each written statement, amendment and revision was given or offered to be given to any client or any prospective client who subsequently becomes a client.

o. For each client that was obtained by the investment adviser by means of a solicitor to whom a cash fee was paid by the investment adviser:

(1) A copy of any written agreement relating to the payment of a cash fee to which the investment adviser is a party;

(2) A signed and dated acknowledgment of receipt from the client evidencing the client's receipt of the investment adviser's disclosure statement and a written disclosure statement of the solicitor; and

(3) A copy of the solicitor's written disclosure statement.

The written agreement, acknowledgment and solicitor disclosure statement will be deemed to be in compliance if such documents comply with Rule 275.206(4)-3 of the Investment Advisers Act of 1940.

p. All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the calculation of the performance or rate of return of all managed accounts or securities recommendations provided in any notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication, including electronic media, that is directly or indirectly circulated or distributed by the investment adviser to two or more persons (other than persons connected with the investment adviser). However, with respect to the performance of managed accounts only, the retention of all account statements reflecting all debits, credits, and other transactions in a client's account for the period of the statement, and the retention of all worksheets necessary to demonstrate the calculation of the performance or rate of return of the managed account shall satisfy the requirements of this paragraph.

q. A file containing copies of all written communications received or sent regarding any litigation or customer or client complaints involving the investment adviser or any investment adviser representative or employee.

r. The basis, in writing, for any recommendation or investment advice provided to an investment advisory client.

s. Copies of all written procedures regarding the supervision of the employees and investment adviser representatives that are reasonably designed to achieve compliance with securities laws and regulations.

t. A file containing a copy of each document (other than any notices of general dissemination) that was filed with or received from any state or federal agency or self-regulatory organization pertaining to the investment adviser or its investment adviser representatives, as defined by subrule 50.42(11), including but not limited to all applications, amendments, renewal filings, and correspondence.

u. Original copies signed by the lawful signatory of the investment adviser and the investment adviser representative of each initial Form U-4 and each U-4 Amendment to Disclosure Reporting Pages (DRPs).

v. For each transaction in which the investment adviser inadvertently held or obtained the client's securities or funds and returned them to the client within three business days of receipt or forwarded a check drawn by a client and made payable to a third party within three business days of receipt, a ledger or list of all funds or securities held or obtained with the following information:

(1) Issuer;
(2) Type of security and series;
(3) Date of issue;
(4) For debt instruments, the denomination, interest rate and maturity date;
(5) Certificate number, including alphabetical prefix or suffix;
(6) Name in which registered;
(7) Date submitted to the investment adviser;
(8) Date sent to client or sender;
(9) Form of delivery to client or sender, or copy of the form of delivery to client or sender; and
(10) Mail confirmation number, if applicable, or confirmation by client or sender of the return of the security or fund.

w. If an investment adviser obtains possession of securities that are acquired from the issuer in a transaction or chain of transactions not involving a public offering that comply with the exception from custody in paragraph 50.39(2)*"b,"* the adviser shall keep:

(1) A record showing the issuer's or current transfer agent's name, address, telephone number, and other applicable contact information pertaining to the party responsible for recording the client's interests in the securities; and

(2) A copy of any legend, shareholder agreement, or other agreement providing that the securities are transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

x. A copy of a written business continuity and succession plan as required by rule 191—50.47(502).

50.42(2) In addition to the retention requirements of subrule 50.42(1), an investment adviser having custody of client funds or securities, as defined by paragraph 50.39(4)*"b,"* shall retain the following records:

a. Copies of all documents executed by each client, including but not limited to a limited power of attorney, pursuant to which the investment adviser is authorized or permitted to withdraw a client's funds or securities maintained with a custodian upon the adviser's instruction to the custodian;

b. A journal or other record for all accounts reflecting all purchases, sales, receipts, and deliveries of securities, including but not limited to certificate numbers, and all other debits and credits to the accounts;

c. A separate ledger account for each client showing all purchases, sales, receipts and deliveries of securities, the date and price of each purchase or sale, and all debits and credits;

d. Copies of confirmations of all transactions effected by or for the account of any client;

e. A record for each security in which any client has a position showing, at a minimum, the name of each client having an interest in the security, the amount of interest of each client in the security, and the location of each security;

f. A copy of each client's quarterly account statements as generated and delivered by the qualified custodian. Additionally, if the investment adviser generates a statement that is delivered to the client, the investment adviser shall retain copies of that statement along with information indicating the dates on which the statement was provided to the client;

g. If applicable, a copy of the special examination report, financial statements, and letter verifying the completion of and describing the nature and extent of an examination by an independent certified public accountant and documentation describing the nature and extent of the examination and a record regarding any findings of any material discrepancies found during the examination; and

h. If applicable, evidence of the client's designation of an independent representative.

50.42(3) An investment adviser deemed to have custody of client securities or funds because the investment adviser advises a pooled investment vehicle shall, in addition to any other applicable record retention requirements, keep the following records:

a. True, accurate, and current account statements;

b. If utilizing the exception provided by paragraph 50.39(2)*"c,"* the date(s) of the audit, a copy of the audited financial statements, and evidence of the mailing of the audited financial statements to all limited partners, members, or other beneficial owners within 120 days of the end of the fiscal year;

c. If subject to paragraph 50.39(1)*"e,"* a copy of the written agreement with the independent party reviewing all fees and expenses and describing the responsibilities of the independent third party, and copies of all invoices and receipts showing approval by the independent third party for payment through the qualified custodian.

50.42(4) Each investment adviser subject to subrule 50.42(1) that renders investment supervisory or management services to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment adviser, retain the following records:

a. For each client, detailed information regarding the securities purchased and sold including but not limited to the date of the purchase or sale, the total dollar amount of the purchase or sale, and the price at which the security was purchased or sold.

b. For each security in which any client has a current position, the name of each client and current amount or interest of the client.

50.42(5) Records required to be retained pursuant to rule 191—50.42(502) shall be kept as follows:

a. Except as provided in paragraphs 50.42(1)*"k"* and *"p,"* all records required to be made under subrules 50.42(1) through 50.42(3) and paragraph 50.42(4)*"a"* shall be maintained and preserved in a readily accessible location for a period of not less than five years from the end of the fiscal year during which the last entry was made on record, with no less than the first two years being kept in the principal office of the investment adviser.

b. Partnership articles and any amendments, articles of incorporation, charters, minute books, and stock certificate books of the investment adviser and of any predecessor shall be maintained in the principal office of the investment adviser and preserved until at least three years after termination of the enterprise.

c. Books and records required to be retained pursuant to paragraphs 50.42(1)*"k"* and 50.42(1)*"p"* shall be maintained and preserved in a readily accessible location for a period of not less than five years from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media, with no less than the first two years being kept in the principal office of the investment adviser.

d. Books and records required to be retained pursuant to paragraphs 50.42(1)*"q"* through *"v"* shall be maintained and preserved in a readily accessible location for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, with no less than the first two years being kept in the principal office of the investment adviser, or the time period during which the investment adviser is registered or required to be registered in this state, whichever is less.

e. Notwithstanding other record preservation requirements of rule 191—50.42(502), an investment adviser that has rendered or renders investment advisory services shall maintain at all times the following records at the investment adviser's business location from which the customer or client is being provided or has been provided investment advisory services during the applicable retention period:

(1) All records required to be preserved pursuant to paragraphs 50.42(1)*"c," "g"* through *"j," "n," "o,"* and *"q"* through *"s"* and subrules 50.42(2) through 50.42(4); and

(2) All records required pursuant to paragraphs 50.42(1)*"k"* through *"p"* identifying the name of the investment adviser representative providing investment advice from that business location, or identifying the physical address, mailing address, electronic mailing address, or telephone number of the business location. The records will be maintained for the period described in paragraph 50.42(5)*"a."*

50.42(6) An investment adviser subject to subrule 50.42(1) that ceases to conduct or discontinues business as an investment adviser shall arrange for and be responsible for the retention of the records required to be retained pursuant to this rule for the applicable retention period. The investment adviser shall notify the administrator in writing prior to ceasing to conduct or discontinuing business as an investment adviser of the exact address where the books and records will be maintained during the retention period.

50.42(7) An investment adviser required to retain records pursuant to this rule may maintain the records in such manner that the identity of any client to whom the investment adviser renders investment supervisory services is indicated by numerical code, alphabetical code, or similar designation.

50.42(8) Record maintenance.

a. Pursuant to subrule 50.42(4), the records required to be maintained and preserved may be immediately produced or reproduced, and maintained and preserved for the required time, by an investment adviser in:

(1) Paper or hard-copy form, as those records are kept in their original form; or

(2) Micrographic media, including microfilm, microfiche, or any similar medium; or

(3) Electronic storage media, including any digital storage medium or system, that meet the terms of this subrule.

b. The investment adviser must:

(1) Arrange and index the records in a way that permits easy location, access, and retrieval of any particular record;

(2) Provide promptly any of the following that the administrator may request:

1. A legible, true, and complete copy of the record in the medium and format in which it is stored;

2. A legible, true, and complete printout of the record; and

3. Means to access, view, and print the records; and

(3) Separately store, for the time required for preservation of the original record, a duplicate copy of the record in any medium allowed by this subrule.

c. In the case of records created or maintained in electronic storage media, the investment adviser must establish and maintain procedures:

(1) To maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction;

(2) To limit access to the records to properly authorized personnel and the administrator; and

(3) To reasonably ensure that any reproduction of a nonelectronic original record in electronic storage media is complete, true, and legible when retrieved.

50.42(9) Compliance with any substantially similar recordkeeping requirements of SEC Rules 17a-3 and 17a-4 (17 CFR 240.17a-3 and 17 CFR 240.17a-4) shall be deemed to be in compliance with this rule.

50.42(10) Every investment adviser that is registered or required to be registered in this state and that has its principal place of business in a state other than this state shall be exempt from the requirements of this rule, provided the investment adviser is properly registered in that state and is in compliance with that state's recordkeeping requirements.

50.42(11) For purposes of this rule:

"Advisory representative" means any partner, officer or director of the investment adviser; any employee who participates in any way in the determination of which recommendations shall be made; any employee who, in connection with the employee's duties, obtains any information concerning which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of the recommendations:

1. Any person in a relationship of control with the investment adviser;

2. Any person affiliated with a controlling person; and

3. Any person affiliated with an affiliated person.

"Control" means the power to exercise a controlling influence over the management or policies of a company, unless that power results solely from an official position with the company. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25 percent of the voting securities of a company shall be presumed to control the company.

An investment adviser shall not be deemed to be exercising a discretionary power as to the price at which or the time when a transaction is effected or is to be effected if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a definite amount of the particular security.

"Investment adviser primarily engaged in a business or businesses other than advising investment advisory clients" means an investment adviser that for each of the most recent three fiscal years or for the period of time since organization, whichever is less, derives on an unconsolidated basis more than 50 percent of total sales and revenues and income (or loss) before income taxes and extraordinary items from business activities other than advising investment advisory clients.

"Investment supervisory services" means continuous advice regarding investment of funds provided to each client on the basis of the individual needs of the client.

"Solicitor" means any person or entity that for compensation acts as an agent of an investment adviser in referring potential clients.

This rule is intended to implement Iowa Code section 502.411(3).

191—50.43(502) Financial reporting requirements for investment advisers.

50.43(1) Every registered investment adviser that has custody of client funds or securities or requires payment of advisory fees six months or more in advance and in excess of $500 per client shall file with the administrator an audited balance sheet as of the end of the investment adviser's fiscal year. Each balance sheet filed pursuant to this rule must be:

a. Examined in accordance with generally accepted auditing standards and prepared in conformity with generally accepted accounting principles;

b. Audited by an independent certified public accountant; and

c. Accompanied by an opinion of the accountant as to the report of financial position, and by a note stating the principles used to prepare the opinion, the basis of included securities, and any other explanations required for clarity.

50.43(2) Every registered investment adviser that has discretionary authority over, but not custody of, client funds or securities shall file with the administrator a balance sheet, which need not be audited, but which must be prepared in accordance with generally accepted accounting principles or such other basis of accounting acceptable to the administrator and represented by the investment adviser or the person who prepared the statement as true and accurate, as of the end of the investment adviser's fiscal year.

50.43(3) The financial statements required by this rule shall be filed with the administrator within 90 days following the end of the investment adviser's fiscal year.

50.43(4) Every investment adviser that has its principal place of business in a state other than this state shall file only such reports as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser is licensed in such state and is in compliance with such state's financial reporting requirements.

This rule is intended to implement Iowa Code section 502.411(2).

191—50.44(502) Solely incidental services by certain professionals.

50.44(1) *General approach.*

a. Certain professionals may rely on an exclusion from the definition of "investment adviser" contained in Iowa Code section 502.102(15)*"b"* for lawyers, accountants, engineers or teachers whose performance of investment advice is solely incidental to the practice of the person's profession. Whether the exclusion from the definition of "investment adviser" is available to a lawyer, accountant, engineer or teacher providing investment advisory services within the meaning of Iowa Code section 502.102(15)*"b"* depends upon the relevant facts and circumstances.

b. In general, the administrator will determine whether the investment advisory services provided and the fees charged are solely incidental to the total services provided to the individual client by comparing whether the aggregate of such fees and services is solely incidental to the aggregate of services provided to all clients. In addition, the administrator will take other relevant factors into consideration in determining the applicability of the exclusion including but not limited to whether the firm establishes a separate subsidiary, division, or other business entity to perform advisory services or maintains an investment adviser registration with the U.S. Securities and Exchange Commission under the Investment Advisers Act of 1940. In this context, the administrator would refer to U.S. Securities and Exchange Commission Release IA-1092 relating to the analogous exclusion in the Investment Advisers Act of 1940, which states that ". . . the exclusion . . . is not available . . . to a lawyer or accountant who holds himself out to the public as providing financial planning, pension consulting, or other financial advisory services. In such a case it would appear that the performance of investment advisory services by the person would not be solely incidental to his practice as a lawyer or accountant."

50.44(2) *General versus specific advice.* A lawyer, accountant, engineer or teacher, whether or not holding oneself out to the public as providing financial planning or other financial advisory

services, who does not render advice with respect to investing in specific securities, types of securities, or categories of securities need not register as an investment adviser. Registration is not required when the securities advice provided to clients in this state is limited to a general recommendation that the client should be more aggressive or more conservative in securities investments, a general recommendation as to the percentage of the client's assets that should be in securities, or a general recommendation that the client pursue an income-producing or growth-oriented investment strategy, provided the recommendation does not identify specific securities, types of securities, or categories of securities. For the purpose of this subrule, the phrase "types of securities" means classes of securities in which the issuer is not specifically identified, such as common stock, preferred stock, options, warrants, bonds, and mutual funds, and the phrase "categories of securities" means general areas of securities investments where neither the issuer nor the types of securities are identified such as cyclical securities, automotive industry securities, international securities, and NYSE securities. Asset allocation recommendations, however, generally do include advice on types of securities.

EXAMPLE: An accountant provides clients accounting and financial planning services. No advice with respect to specific securities, types of securities, or categories of securities is provided. The accountant need not register as an investment adviser.

50.44(3) *Professional does not hold self out as a financial planner.* When the securities advice is provided by a lawyer, accountant, engineer, or teacher who does not hold oneself out to the public as providing financial planning or other financial advisory services, the availability of the exclusion from the definition of "investment adviser" contained in Iowa Code section 502.102(15)*"b"* for securities advice rendered solely incidental to the profession will depend on those factors set forth in paragraph 50.44(1)*"b."*

EXAMPLE A: An accountant who does not hold oneself out to the public as providing financial planning or other financial advisory services provides the client both accounting and financial planning services. The services involve advice with respect to specific securities, types of securities, or categories of securities. Whether the accountant is excluded from the definition of investment adviser depends on those factors set forth in paragraph 50.44(1)*"b,"* including a comparison of the extent of the securities advisory services provided to any client as contrasted with the accounting services provided to that client. The comparison is measured by the compensation paid for each service.

EXAMPLE B: An accountant provides a client financial planning services only. The financial planning services involve advice with respect to specific securities, types of securities, or categories of securities. The accountant is not excluded from the definition of investment adviser and therefore must register as an investment adviser.

50.44(4) *Professional holds self out as a financial planner.*

a. If the investment advice provided by a lawyer, accountant, engineer, or teacher who holds oneself out to the public as providing financial planning or other financial advisory services is part of the financial plan being provided to a financial planning client, the professional cannot rely on the exclusion from the definition of "investment adviser" contained in Iowa Code section 502.102(15)*"b"* for investment advice rendered incidentally to the practice of the profession.

EXAMPLE: An accountant who holds oneself out to the public as providing financial planning or other financial advisory services provides the client both accounting and financial planning services. The financial planning services involve advice with respect to specific securities, types of securities, or categories of securities. The accountant is not excluded from the definition of investment adviser no matter how insignificantly the securities advice compares to the other financial planning advice or accounting services rendered.

b. When a lawyer, accountant, engineer, or teacher holding oneself out to the public as providing financial planning or other financial advisory services does not provide advice on specific securities, types of securities, or categories of securities as part of financial planning services but provides such advice in connection with the practice of the profession, in most instances the exclusion

from the definition of investment adviser would be unavailable because the professional is holding oneself out as a financial planner or financial adviser. If, however, securities advice is not part of financial planning services and is both limited and isolated, the exclusion may still be available.

EXAMPLE: An accountant who holds oneself out to the public as providing financial planning or other financial advisory services provides clients both accounting and financial planning services. No securities advice is rendered as part of the financial planning services. Clients, on a few occasions, request the accountant's advice on investing in certain limited partnerships. The fees charged to such a client for the advice total only a small percentage of the fees charged to that client for accounting services provided. The accountant is excluded from the definition of investment adviser. The example presented is intentionally narrow in order to illustrate that once the accountant holds oneself out as a financial planner or financial adviser, even if the only securities advice provided for compensation is not part of the financial planning or advisory activities, only limited and isolated securities advice may be provided without registration as an investment adviser.

This rule is intended to implement Iowa Code section 502.102(15)*"b."*

191—50.45(502) Registration exemption for investment advisers to private funds.

50.45(1) *Definitions.* For purposes of this rule, the following definitions shall apply:

"3(c)(1) fund" means a qualifying private fund that is eligible for the exclusion from the definition of an investment company under the Investment Company Act of 1940 (15 U.S.C. Section 80a-3(c)(1)).

"Private fund adviser" means an investment adviser who provides advice solely to one or more qualifying private funds.

"Qualifying private fund" means a private fund that meets the definition of a qualifying private fund in SEC Rule 203(m)-1 (17 CFR 275.203(m)-1).

"Value of primary residence" means the fair market value of a person's primary residence, less the amount of debt secured by the property up to its fair market value.

"Venture capital fund" means a private fund that meets the definition of a venture capital fund in SEC Rule 203(l)-1 (17 CFR 275.203(l)-1).

50.45(2) *Exemption for private fund advisers.* Subject to the additional requirements of subrule 50.45(3), a private fund adviser shall be exempt from the registration requirements of Iowa Code section 502.403 if the private fund adviser satisfies each of the following conditions:

a. Neither the private fund adviser nor any of its advisory affiliates are subject to a disqualification as described in SEC Rule 262 of Regulation A (17 CFR 230.262).

b. The private fund adviser files with the state each report and amendment thereto that an exempt reporting adviser is required to file with the SEC pursuant to SEC Rule 204-4 (17 CFR 275.204-4).

c. The private fund adviser pays any applicable fees.

50.45(3) *Additional requirements for private fund advisers to certain 3(c)(1) funds.* In order to qualify for the exemption described in subrule 50.45(2), a private fund adviser who advises at least one 3(c)(1) fund that is not a venture capital fund shall, in addition to satisfying each of the conditions specified in paragraph 50.45(3)*"b,"* comply with the following requirements:

a. The private fund adviser shall advise only those 3(c)(1) funds (other than venture capital funds) whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who, after deducting the value of the primary residence from the person's net worth, would each meet the definition of a qualified client in SEC Rule 205-3 (17 CFR 275.205-3) at the time the securities are purchased from the issuer.

b. At the time of purchase, the private fund adviser shall disclose the following in writing to each beneficial owner of a 3(c)(1) fund that is not a venture capital fund:

(1) All services, if any, to be provided to individual beneficial owners;

(2) All duties, if any, the private fund adviser owes to the beneficial owners; and

(3) Any other material information affecting the rights or responsibilities of the beneficial owners.

c. The private fund adviser shall obtain on an annual basis audited financial statements of each 3(c)(1) fund that is not a venture capital fund and shall deliver a copy of such audited financial statements to each beneficial owner of the fund.

50.45(4) *Federal covered investment advisers.* If a private fund adviser is registered with the SEC, the adviser shall not be eligible for this exemption and shall comply with the state notice filing requirements applicable to federal covered investment advisers.

50.45(5) *Investment adviser representatives.* A person is exempt from the registration requirements if the person is employed by or associated with an investment adviser that is exempt from registration in this state pursuant to rule 191—50.45(502) and does not otherwise act as an investment adviser representative.

50.45(6) *Electronic filing.* The report filings described in paragraph 50.45(2)*"b"* shall be made electronically through the IARD. A report shall be deemed filed when the report and the fee required are filed and accepted by the IARD on the state's behalf.

50.45(7) *Transition.* An investment adviser that becomes ineligible for the exemption provided by rule 191—50.45(502) must comply with all applicable laws and rules requiring registration or notice filing within 90 days from the date the investment adviser's eligibility for this exemption ceases.

50.45(8) *Grandfathering for investment advisers to 3(c)(1) funds with nonqualified clients.* An investment adviser to a 3(c)(1) fund (other than a venture capital fund) that has one or more beneficial owners who are not qualified clients as described in paragraph 50.45(3)*"a"* is eligible for the exemption contained in subrule 50.45(2) if the following conditions are satisfied:

a. The subject fund existed prior to November 6, 2013;

b. As of November 6, 2013, the subject fund ceases to accept beneficial owners who are not qualified clients, as described in paragraph 50.45(3)*"a"*;

c. The investment adviser discloses in writing the information described in paragraph 50.45(3)*"b"* to all beneficial owners of the fund; and

d. As of November 6, 2013, the investment adviser delivers audited financial statements as required by paragraph 50.43(3)*"c."*

This rule is intended to implement Iowa Code section 502.403.

191—50.46(502) Contents of investment advisory contract. The provisions of this rule shall apply to federal covered investment advisers to the extent that the conduct alleged is fraudulent, deceptive, or as otherwise permitted by the National Securities Markets Improvement Act of 1996.

50.46(1) It is unlawful for any investment adviser, investment adviser representative, or federal covered investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:

a. The services to be provided, the term of the contract, the investment advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of termination or nonperformance of the contract, and any grant of discretionary power to the investment adviser, investment adviser representative, or federal covered investment adviser;

b. That no direct or indirect assignment or transfer of the contract may be made by the investment adviser, investment adviser representative, or federal covered investment adviser without the consent of the client or other party to the contract;

c. That the investment adviser, investment adviser representative, or federal covered investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

d. That the investment adviser, investment adviser representative, or federal covered investment adviser, if a partnership, shall notify the client or other party to the investment contract of any change in the membership of the partnership within a reasonable time after the change.

50.46(2) It is unlawful for any investment adviser, investment adviser representative, or federal covered investment adviser to:

a. Include in an advisory contract any condition, stipulation, or provisions binding any person to waive compliance with any provision of this Act or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of Section 215 of the Investment Advisers Act of 1940; or

b. Enter into, extend or renew any advisory contract contrary to the provisions of Section 205 of the Investment Advisers Act of 1940. This provision shall apply to all advisers and investment adviser representatives registered or required to be registered under this Act, notwithstanding whether such adviser or representative would be exempt from federal registration pursuant to Section 203(b) of the Investment Advisers Act of 1940.

50.46(3) Notwithstanding paragraph 50.46(1)*"c,"* an investment adviser may enter into, extend or renew an investment advisory contract that provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds, or any portion of the funds, of the client if the conditions in paragraphs 50.46(3)*"a"* through *"d"* are met.

a. The client entering into the contract must be:

(1) A natural person or a company that, immediately after entering into the contract, has at least $750,000 under the management of the investment adviser; or

(2) A person that the investment adviser and its investment adviser representatives reasonably believe, immediately before entering into the contract, is a natural person or a company whose net worth, at the time the contract is entered into, exceeds $1,500,000. The net worth of a natural person may include assets held jointly with that person's spouse.

b. The compensation paid to the investment adviser with respect to the performance of any securities over a given period must be based on a formula with the following characteristics:

(1) In the case of securities for which market quotations are readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940 (definition of "current net asset value" for use in computing periodically the current price of redeemable security), the formula must include the realized capital losses and unrealized capital depreciation of the securities over the period;

(2) In the case of securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, the formula must include:

1. The realized capital losses of securities over the period; and

2. If the unrealized capital appreciation of the securities over the period is included, the unrealized capital depreciation of the securities over the period; and

(3) The formula must provide that any compensation paid to the investment adviser under paragraph 50.46(3)*"b"* is based on the gains less the losses (computed in accordance with subparagraphs 50.46(3)*"b"*(1) and *"b"*(2)) in the client's account for a period of not less than one year.

c. Before entering into the advisory contract and in addition to the requirements of Form ADV, the investment adviser must disclose in writing to the client or the client's independent agent all material information concerning the proposed advisory arrangement, including the following:

(1) That the fee arrangement may create an incentive for the investment adviser to make investments that are riskier or more speculative than would be the case in the absence of a performance fee;

(2) Where relevant, that the investment adviser may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account;

(3) The periods that will be used to measure investment performance throughout the contract and their significance in the computation of the fee;

(4) The nature of any index that will be used as a comparative measure of investment performance, the significance of the index, and the reason the investment adviser believes that the index is appropriate; and

(5) When the investment adviser's compensation is based in part on the unrealized appreciation of securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)

(1) under the Investment Company Act of 1940, how the securities will be valued and the extent to which the valuation will be independently determined.

d. The investment adviser (and any investment adviser representative) that enters into the contract must reasonably believe, immediately before entering into the contract, that the contract represents an arm's length arrangement between the parties and that the client (or in the case of a client that is a company as defined in paragraph 50.46(6)*"d,"* the person representing the company), alone or together with the client's independent agent, understands the proposed method of compensation and its risks. The representative of a company may be a partner, director, officer or an employee of the company or of the trustee, where the company is a trust, or any other person designated by the company or trustee, but must satisfy the definition of client's independent agent set forth in paragraph 50.46(6)*"c."*

50.46(4) Any person entering into or performing an investment advisory contract under rule 191—50.46(502) is not relieved of any obligations under rule 191—50.38(502) or any other applicable provision of the Act or any rule or order thereunder.

50.46(5) Nothing in rule 191—50.46(502) shall relieve a client's independent agent from any obligation to the client under applicable law.

50.46(6) The following definitions apply for purposes of rule 191—50.46(502):

a. "Affiliate" shall have the same definition as in Section 2(a)(3) of the Investment Company Act of 1940.

b. "Assignment," as used in paragraph 50.46(1)*"b,"* includes but is not limited to any transaction or event that results in any change to the individuals or entities with the power, directly or indirectly, to direct the management or policies of, or to vote more than 50 percent of any class of voting securities of, the investment adviser or federal covered investment adviser as compared to the individuals or entities that had such power as of the date when the contract was first entered into, extended or renewed.

c. "Client's independent agent" means any person who agrees to act as an investment advisory client's agent in connection with the contract. "Client's independent agent" does not include:

(1) The investment adviser relying on rule 191—50.46(502);

(2) An affiliated person of the investment adviser or an affiliated person of an affiliated person of the investment adviser including an investment adviser representative;

(3) An interested person of the investment adviser;

(4) A person who receives, directly or indirectly, any compensation in connection with the contract from the investment adviser, an affiliated person of the investment adviser, an affiliated person of an affiliated person of the investment adviser or an interested person of the investment adviser; or

(5) A person with any material relationship between the person (or an affiliated person of that person) and the investment adviser (or an affiliated person of the investment adviser) that exists, or has existed at any time during the past two years.

d. "Company" means a corporation, partnership, association, joint stock company, trust, or any organized group of persons, whether incorporated or not; or any receiver, trustee in a case under Title 11 of the United States Code, or similar official or any liquidating agent for any of the foregoing, in the liquidating agent's capacity as such. "Company" shall not include:

(1) A company required to be registered under the Investment Company Act of 1940 but that is not so registered;

(2) A private investment company is an entity that would be defined as an investment company under Section 3(a) of the Investment Company Act of 1940 but for the exception from that definition provided by Section 3(c)(1) of that Act;

(3) An investment company registered under the Investment Company Act of 1940; or

(4) A business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, unless each of the equity owners of any such company, other than the

investment adviser entering into the contract, is a natural person or a company within the meaning of "company."

e. *"Interested person"* means:

(1) Any member of the immediate family of any natural person who is an affiliated person of the investment adviser;

(2) Any person who knowingly has any direct or indirect beneficial interest in, or who is designated as trustee, executor, or guardian of any legal interest in, any security issued by the investment adviser or by a controlling person of the investment adviser if that beneficial or legal interest exceeds:

1. One-tenth of one percent of any class of outstanding securities of the investment adviser or a controlling person of the investment adviser; or

2. Five percent of the total assets of the person seeking to act as the client's independent agent; or

(3) Any person or partner or employee of any person who has acted as legal counsel for the investment adviser within the past two years.

This rule is intended to implement Iowa Code chapter 502.

191—50.47(502) Business continuity and succession planning for investment advisers.

50.47(1) Every investment adviser registered in Iowa shall make and maintain records, pursuant to Iowa Code section 502.411(3)*"a,"* of the establishment, implementation and maintenance of a written business continuity and succession plan. The business continuity and succession plan shall be created and implemented in a manner consistent with the NASAA Guidance on Business Continuity and Succession Planning for State-Registered Investment Advisers, which is available on the NASAA website, nasaa.org. In developing the procedures for the business continuity and succession plan, the investment adviser shall consider, among other things, the size of the firm, the types of services provided and the number of locations of the investment adviser. The business continuity and succession plan shall provide for, at a minimum, all of the following:

a. The protection, backup, and recovery of books and records;

b. Alternate means of communications with customers, key personnel, employees, vendors, service providers (including third-party custodians of securities) and regulators, that will allow the communication of certain events, including but not limited to providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities;

c. Office relocation in the event of temporary or permanent loss of a principal place of business;

d. Assignment of duties to qualified responsible persons in the event of the death or unavailability of key personnel; and

e. Other means of minimizing service disruptions and client harm that could result from a sudden significant business interruption.

50.47(2) Every investment adviser registered in Iowa shall annually review the investment adviser's written business continuity and succession plan and, if it has been changed since it was submitted, or if it was not previously submitted, shall file it for examination by the administrator, pursuant to Iowa Code section 502.411(4). The administrator shall review an investment adviser's written business continuity and succession plan to determine whether it is consistent with the NASAA Guidance on Business Continuity and Succession Planning for State-Registered Investment Advisers and whether it takes into account the considerations listed in subrule 50.47(1). The administrator may request the investment adviser to modify the filed business continuity and succession plan according to the administrator's suggestions. After the initial filing, the investment adviser's filing of any change shall identify any substantive amendment to the business continuity and succession plan with the registration renewal following the amendment. The administrator may request from the investment adviser at any time information regarding the business continuity and succession plan made since the last filing of the plan.

50.47(3) An investment adviser registered in Iowa shall be deemed in compliance with this rule if the investment adviser can demonstrate compliance with SEC rules or other law related to the investment adviser's adoption and implementation of a written business continuity and succession plan.

This rule is intended to implement Iowa Code chapter 502.

191—50.48 and **50.49** Reserved.

DIVISION IV
RULES COVERING ALL REGISTERED PERSONS

191—50.50(502) Internet advertising by broker-dealers, investment advisers, broker-dealer agents, investment adviser representatives, and federal covered investment advisers.

50.50(1) Broker-dealers, investment advisers, broker-dealer agents, investment adviser representatives, and federal covered investment advisers who use the Internet, the World Wide Web, or similar proprietary or common carrier electronic systems (collectively described as the "Internet") to disseminate information regarding products and services through communications directed generally to anyone having access to the Internet and transmitted through posting on bulletin boards, displays on home pages or similar methods (hereinafter "Internet communications") will not be considered to be transacting business in Iowa pursuant to Iowa Code section 502.401, 502.402, 502.403, 502.404, or 502.405 based solely on that communication, if:

a. The Internet communication contains a legend clearly stating that:

(1) The broker-dealer, investment adviser, broker-dealer agent, investment adviser representative, or federal covered investment adviser may only transact business in a state if first registered pursuant to or excluded or exempt from the state broker-dealer, investment adviser, broker-dealer agent, or investment adviser representative registration requirements, or federal covered investment adviser notice requirement; and

(2) The broker-dealer, investment adviser, broker-dealer agent, investment adviser representative, or federal covered investment adviser will not effect or attempt to effect transactions in securities or render personalized investment advice for compensation absent compliance with applicable state broker-dealer, investment adviser, broker-dealer agent, or investment adviser representative registration requirements, or federal covered investment adviser notice requirement or applicable exemption or exclusion;

b. The Internet communication contains a mechanism, including but not limited to technical firewalls or other policies and procedures, to ensure that, prior to effecting or attempting to effect transactions with customers in Iowa or prior to direct communication with prospective customers or clients in Iowa, the broker-dealer, investment adviser, broker-dealer agent, or investment adviser representative is first registered in Iowa or, in the case of a federal covered investment adviser, has made a notice filing, or qualifies for an exemption or exclusion from registration requirements;

c. The Internet communication is limited to general information regarding products and services, and the broker-dealer, investment adviser, broker-dealer agent, investment adviser representative, or federal covered investment adviser does not effect or attempt to effect transactions in securities in Iowa or provide personalized investment advice for compensation; and

d. In the case of a broker-dealer agent or investment adviser representative:

(1) The agent's broker-dealer, investment adviser, or federal covered investment adviser affiliation is prominently disclosed within the Internet communication;

(2) The broker-dealer, investment adviser, or federal covered investment adviser with whom the agent or representative is affiliated reviews and approves the content of any Internet communication by the broker-dealer agent or investment adviser representative;

(3) The broker-dealer, investment adviser, or federal covered investment adviser with whom the agent or representative is associated first authorizes the dissemination of information on the particular products and services through the Internet communication; and

(4) The broker-dealer agent or investment adviser representative acts within the scope of the authority granted by the broker-dealer, investment adviser, or federal covered investment adviser in the dissemination of information through the Internet communication.

50.50(2) Nothing in this rule shall excuse broker-dealer, investment adviser, broker-dealer agent, investment adviser representative, and federal covered investment adviser compliance with applicable securities registration, notice filing, antifraud or related provisions.

50.50(3) Nothing in this rule shall be construed to affect the activities of any broker-dealer, investment adviser, broker-dealer agent, investment adviser representative, or federal covered investment adviser engaged in business in Iowa that is not subject to the jurisdiction of the administrator as a result of NSMIA.

This rule is intended to implement Iowa Code sections 502.401 through 502.405.

191—50.51(502) Consent to service.

50.51(1) Every consent appointing the administrator or successor to be an attorney to receive service of any lawful process as required by Iowa Code section 502.611 shall be properly notarized and shall contain, at a minimum, the following information:

a. Name of the applicant;

b. Address of the applicant;

c. A statement that the consent is irrevocable;

d. A statement that the consent is valid as to any noncriminal suit, action or proceeding against the applicant or the successor, executor or administrator of the applicant that arises out of the Act; and

e. A statement that the applicant stipulates and agrees that service upon the administrator shall have the same validity as if served personally upon the applicant.

50.51(2) A form of consent to service of process provided by the administrator, a Form U-2, or a consent to service of process contained in any other form authorized or required to be filed by these rules shall satisfy subrule 50.51(1).

50.51(3) A broker-dealer, investment adviser, agent, investment adviser representative, federal covered investment adviser, or issuer may incorporate by reference any consent to service of process required to be filed pursuant to Iowa Code sections 502.302(1)*"a,"* 502.302(3), 502.303(2), 502.304(2), 502.406(1) and 502.611, or the administrative rules implementing these sections.

This rule is intended to implement Iowa Code section 502.611.

191—50.52(252J,272D) Denial, suspension or revocation of agent or investment adviser representative registration for failure to pay child support or state debt.

50.52(1) Upon receipt of a certificate of noncompliance from the CSRU for default on debts owed to or collected by the CSRU, or upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue (CCU), the administrator shall issue a notice to a securities agent or investment adviser representative applicant or registrant that any pending application for registration will be denied or any current registration will be suspended or revoked 30 days after the date of the notice. The notice shall be served by restricted certified mail, return receipt requested, or by personal service as provided by the Iowa Rules of Civil Procedure, unless the applicant or registrant accepts service personally or through authorized counsel.

50.52(2) The administrator shall provide the applicant or registrant with a copy of the certificate of noncompliance and shall provide a notice advising the applicant that:

a. The administrator intends to deny an application or to suspend or revoke a registration due to receipt of a certificate of noncompliance from the CSRU or CCU;

b. The applicant or registrant must contact the CSRU or CCU to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance;

c. Unless the CSRU or CCU furnishes a withdrawal of a certificate of noncompliance to the administrator within 30 days of issuance of the notice, the application shall be denied or the registration shall be suspended or revoked;

d. The applicant or registrant does not have a right to a hearing before the administrator, but may, pursuant to Iowa Code section 252J.9 or 272D.9, request a court hearing within 30 days of provision of notice by the administrator; and

e. The filing of an application for hearing with the district court will stay the proceedings of the administrator.

50.52(3) The filing of an application for hearing with the district court under Iowa Code section 252J.9 or 272D.9 automatically stays action of the administrator until the administrator is notified of the resolution of the application.

50.52(4) If the administrator does not receive a withdrawal of the certificate of noncompliance from the CSRU or CCU or a notice that an application for district court hearing has been filed, the administrator shall deny, suspend or revoke the application or registration 30 days after the notice prescribed in subrule 50.52(2) is issued.

50.52(5) Upon receiving a withdrawal of the certificate of noncompliance from the CSRU or CCU, the administrator shall immediately halt action to deny an application or suspend or revoke a registration. The applicant or registrant shall be notified that action has been halted. If the application has already been denied or if a registration has already been suspended or revoked, the applicant or former registrant shall reapply for registration. The application shall be granted if the individual is otherwise in compliance with applicable laws, rules, regulations and orders.

50.52(6) All application fees must be paid by the applicant before a registration will be issued after the administrator has denied, suspended, or revoked a registration pursuant to Iowa Code chapter 252J or 272D.

50.52(7) Notwithstanding any statutory confidentiality provision, the administrator may share information with the CSRU or CCU for the sole purpose of identifying applicants or registrants subject to enforcement pursuant to Iowa Code chapter 252J or 272D.

This rule is intended to implement Iowa Code chapters 252J and 272D.

191—50.53(502) Use of senior-specific certifications and professional designations.

50.53(1) The use of a senior-specific certification or designation by any person in connection with the offer, sale, or purchase of securities or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicate or imply that the user has special certification or training in advising or servicing senior citizens or retirees in such a way as to mislead any person shall be a dishonest and unethical practice in the securities, commodities, investment, franchise, banking, finance, or insurance business within the meaning of Iowa Code section 502.412(4)*"m."* The prohibited use of such certifications or professional designation includes but is not limited to the following:

a. Use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

b. Use of a nonexistent or self-conferred certification or professional designation;

c. Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

d. Use of a certification or professional designation that was obtained from a designating or certifying organization that:

(1) Is primarily engaged in the business of instruction in sales or marketing;

(2) Does not have reasonable standards or procedures for ensuring the competency of its designees or certificants;

(3) Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

(4) Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

50.53(2) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of 50.53(1)*"d"* when the organization has been accredited by:

a. The American National Standards Institute;

b. The National Commission for Certifying Agencies; or

c. An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued therefrom does not primarily apply to sales or marketing.

50.53(3) In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, the administrator shall consider the following factors:

a. Use of one or more words such as "senior," "retirement," "elder," or similar words combined with one or more words such as "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or similar words in the name of the certification or professional designation; and

b. The manner in which those words are combined.

50.53(4) For purposes of this rule, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

a. Indicates seniority or standing within the organization; or

b. Specifies an individual's area of specialization within the organization.

For purposes of this subrule, financial services regulatory agency includes but is not limited to an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

50.53(5) Nothing in this rule shall limit the administrator's authority to enforce existing provisions of law.

This rule is intended to implement Iowa Code section 502.605(1).

191—50.54 to **50.59** Reserved.

DIVISION V
REGISTRATION OF SECURITIES

191—50.60(502) Notice filings for investment company securities offerings.

50.60(1) Except as provided in subrule 50.60(5), no investment company that is registered under the Investment Company Act of 1940 or that has a currently filed registration statement under the Securities Act of 1933 is required to file with the administrator, either prior to the initial offer or after the initial offer in Iowa of a security that is a covered security under Section 18(b)(2) of the Securities Act of 1933, a copy of any document that is part of a federal registration statement filed with the SEC or is part of an amendment to such federal registration statement.

50.60(2) Prior to the initial offer of a federal covered security in Iowa, an investment company that is registered under the Investment Company Act of 1940 or that has filed a registration statement under the Securities Act of 1933 shall file with the administrator:

a. A notice of filing on Form NF;

b. A filing fee; and

c. A consent to service of process.

50.60(3) A notice of filing may be renewed prior to expiration by filing the following with the administrator:

a. A notice of filing on Form NF; and

b. Payment of the applicable fee under Iowa Code section 502.302(1)*"a."*

50.60(4) Amendments to notice filings are made on Form NF and are effective upon receipt by the administrator. Withdrawal or termination of a notice filing is made by filing Form NF or providing the administrator with notice of the withdrawal or termination in a similar format. An amendment, withdrawal, or termination is effective upon receipt by the administrator of the required notice and all fees required by Iowa Code section 502.302(1)*"a."*

This subrule is intended to implement Iowa Code section 502.302.

50.60(5) An investment company that is registered under the Investment Company Act of 1940 or that has filed a registration statement under the Securities Act of 1933 shall file, upon written request of the administrator and within the time period set forth in the request, a copy of any document identified in the request that is part of the federal registration statement filed with the SEC or part of an amendment to such federal registration statement.

50.60(6) An investment company that makes a notice filing under subrule 50.60(2) and that pays an initial $400 filing fee under Iowa Code section 502.302(1)*"a"* shall pay a $400 renewal fee prior to the notice filing's annual renewal date. Notice filings that are not renewed by the annual renewal date shall expire.

This subrule is intended to implement Iowa Code section 502.302.

50.60(7) Effective January 1, 2019, when notice filings of the records and fees are required by this rule for the offer or sale of unit investment trusts (as defined in the Investment Company Act of 1940 (15 U.S.C. Section 80a-4(2)), the filings shall be submitted electronically through NASAA's electronic filing depository system at nasaaefd.org.

This rule is intended to implement Iowa Code section 502.302(1).

191—50.61(502) Registration of small corporate offerings.

50.61(1) Form U-7 may be obtained from the NASAA website at nasaa.org. Form U-7 has been developed under the Small Business Investment Incentive Act of 1980, which prescribes state and federal cooperation in furthering the policies of the Act: diminishing the burden of raising investment capital and minimizing interference with the business of capital formation.

50.61(2) To be eligible to use Form U-7, the issuer shall comply with each of the following requirements:

a. The issuer shall:

(1) Be a corporation or limited liability company organized under the laws of the United States or Canada, or any state, province, or territory or possession thereof, or the District of Columbia and have its principal place of business in one of the foregoing;

(2) Not be subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934;

(3) Not be an investment company registered or required to be registered under the Investment Company Act of 1940;

(4) Not be engaged in or propose to be engaged in petroleum exploration and production, mining, or other extractive industries;

(5) Not be a development stage company that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies or other entity or person; and

(6) Not be disqualified under subrule 50.61(3).

b. The offering price for common stock or common ownership interests (hereinafter, collectively referred to as "common stock"), the exercise price for options, warrants, or rights to common stock, or the conversion price for securities convertible into common stock must be greater than or equal to U.S. $1 per share or unit of interest. The issuer must agree with the administrator that

the issuer will not split its common stock, or declare a stock dividend for two years after the effective date of the registration if such action has the effect of lowering the price below U.S. $1.

c. Commissions, fees or other remuneration for soliciting any prospective purchaser in connection with the offering in the state are only paid to persons who, if required to be registered or licensed, the issuer believes, and has reason to believe, are appropriately registered or licensed in the state.

d. Financial statements shall be prepared in accordance with either U.S. or Canadian generally accepted accounting principles. If appropriate, a reconciliation note should be provided. If the company has not conducted significant operations, statements of receipts and disbursements shall be included in lieu of statements of income. Interim financial statements may be unaudited. All other financial statements shall be audited by independent certified public accountants, provided, however, that if each of the following four conditions are met, such financial statements in lieu of being audited may be reviewed by independent certified public accountants in accordance with the Accounting and Review Service Standards promulgated by the American Institute of Certified Public Accountants or the Canadian equivalent:

(1) The company shall not have previously sold securities through an offering involving the general solicitation of prospective investors by means of advertising, mass mailings, public meetings, "cold call" telephone solicitation, or any other method directed toward the public;

(2) The company has not been previously required under federal, state, provincial or territorial securities laws to provide audited financial statements in connection with any sale of its securities;

(3) The aggregate amount of all previous sales of securities by the company (exclusive of debt financing with banks and similar commercial lenders) shall not exceed U.S. $1 million; and

(4) If the offering is a Rule 504 offering, the amount of the present offering does not exceed U.S. $1 million.

e. The offering shall be made in compliance with Rule 504 of Regulation D, Regulation A, or Section 3(a)(11) of the Securities Act of 1933.

f. The issuer shall comply with the General Instructions to SCOR in Part I of the NASAA SCOR Issuer's Manual.

50.61(3) Disqualifications.

a. Unless the administrator determines that it is not necessary under the circumstances that the disqualification under this subrule be applied, application for registration referred to in subrule 50.61(2) shall be denied if the issuer, any of its officers, directors, stockholders who own 10 percent or greater of the issuer, promoters, or selling agents, or any officer, director or partner of any selling agent:

(1) Has filed a registration statement that is subject to a currently effective stop order entered pursuant to any state or provincial securities laws within five years prior to the filing of the registration statement;

(2) Has been convicted, within five years prior to the filing of the registration statement, of any felony or misdemeanor in connection with the offer, purchase, or sale of securities, or of any felony involving fraud or deceit including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud;

(3) Is currently subject to any state or provincial administrative enforcement order or judgment entered by that state's or province's securities administrator within five years prior to the filing of the registration statement;

(4) Is subject to any state or provincial administrative enforcement order or judgment in which fraud or deceit including but not limited to making untrue statements of material facts and omitting to state material facts, was found, and the order or judgment was entered within five years prior to the filing of the current application for registration;

(5) Is subject to any state or provincial administrative enforcement order or judgment that prohibits, denies, or revokes the use of any exemption from registration in connection with the offer, purchase or sale of securities;

(6) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction that temporarily, preliminarily, or permanently restrains or enjoins such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security, or involving the making of any false filing with the state, entered within five years prior to the filing of the registration statement; or

(7) Has violated the law of a foreign jurisdiction governing or regulating any aspect of the business of securities or banking or, within the past five years, has been the subject of an action of a securities regulator of a foreign jurisdiction denying, revoking or suspending the right to engage in the business of securities as a broker-dealer, agent or investment adviser or is the subject of an action of any securities exchange or self-regulatory organization operating under the authority of the securities regulator of a foreign jurisdiction suspending or expelling such person from membership in such exchange or self-regulatory organization.

b. The prohibitions of subparagraphs 50.61(3)*"a"*(1) through *"a"*(3) and *"a"*(5) shall not apply if the person subject to the disqualification is duly registered or licensed to conduct securities-related business in the state or province in which the administrative order or judgment was entered against such person, or if the broker-dealer employing such person is registered or licensed in the state and the Form BD filed in the state discloses the order, conviction, judgment or decree relating to such person.

c. No person disqualified shall act in any capacity other than the capacity for which the person is registered or licensed.

d. Disqualification is automatically waived if the jurisdiction that created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that registration be denied.

This rule is intended to implement Iowa Code section 502.304.

191—50.62(502) Streamlined registration for certain equity securities.

50.62(1) An equity security meeting the conditions of this rule may be registered pursuant to Iowa Code section 502.303 if all of the following conditions are satisfied, unless waived by the administrator, and except as provided by subrule 50.62(2):

a. The issuer must be a corporation organized under the laws of one of the states or possessions of the United States;

b. The offering price for common stock, the exercise price if the securities are options, warrants, or rights for common stock, or the conversion price if the securities are convertible into common stock must be equal to or greater than $5 per share;

c. The issuer of the security has (or will have upon completion of the offering) total assets exceeding $10 million;

d. The security will be offered under a firm underwriting;

e. The security is the subject of a registration statement filed on Form S-1 or Form SB-2 with the SEC; and

f. The registration statement filed with the administrator contains audited financial statements for each of the two most recently concluded fiscal years of its operations, and the audit for the most recent fiscal year does not include an auditor's report expressing substantial doubt about the issuer's ability to continue as a going concern.

50.62(2) Registration pursuant to this rule is not available if:

a. The issuer is a blind pool or other offering for which the specific business or properties cannot now be described; or

b. The issuer, a principal officer or a principal shareholder thereof, or a broker-dealer offering or selling the securities:

(1) Is subject to statutory disqualification, as defined by subparagraphs (A), (B), (C), or (D) of Section 3(a)(39) of the Securities Exchange Act of 1934;

(2) Has been convicted of any felony under federal or state law regarding the offer, purchase, or sale of any security, or any felony under federal or state law involving fraud or deceit in the ten years prior to the date of the offering;

(3) Is currently named in and subject to any order, judgment, or decree of any court of competent jurisdiction acting under federal or state law temporarily or permanently restraining or enjoining the person from engaging in or continuing any conduct or practice in connection with the offer, purchase, or sale of a security;

(4) Has filed a registration statement that is currently the subject of a stop order entered pursuant to any state's securities law within five years prior to the offering;

(5) Is currently subject to any state administrative enforcement order or judgment entered by that state's securities administrator within five years prior to the offering, or is currently subject to any state's administrative enforcement order or judgment in which fraud or deceit was found within five years prior to the offering; or

(6) Is currently subject to any state's administrative order or judgment prohibiting, denying, or revoking the use of any exemption from registration regarding the offer, sale, or purchase of any security, or involving the making of a false filing with the state within five years of the offering.

50.62(3) The unavailability of streamlined registration pursuant to this rule as a result of the disqualification of a party pursuant to paragraph 50.62(2)*"b"* may be waived by the administrator if the order, conviction, judgment or decree relating to the party's disqualification was disclosed in writing to the administrator and the administrator determines, based upon good cause shown, that the public interest no longer requires the party to be disqualified.

50.62(4) The administrator shall review a filing made pursuant to this rule within ten business days of receipt. Registration shall be effective upon review, or earlier if the administrator permits a shorter time frame, or comments explaining noncompliance will be promptly sent to the applicant.

50.62(5) The administrator shall not deny the effectiveness of a registration made pursuant to this rule based on subrule 50.66(13) or 50.66(15), or based upon the financial condition of the issuer under Iowa Code section 502.306(1)*"h."*

50.62(6) The following securities shall be the subject of a lockup with the managing underwriter for no less than 180 days, or a longer period if requested by the managing underwriter of the offering:

a. A security issued to a promoter within three years immediately preceding the offering or to be issued to a promoter for consideration substantially less than the offering price; or

b. A security issued to a promoter for a consideration other than cash, unless the registrant demonstrates that the value of the noncash consideration received in exchange for the security is substantially equal to the offering price for the security. A copy of the lockup agreement shall be filed with the administrator.

50.62(7) For purposes of this rule, a "promoter" is:

a. A person who, acting alone or in concert with one or more other persons, founds or organizes the business or enterprise of the issuer;

b. An officer or director owning securities of the issuer, or a person who owns, beneficially or of record, 10 percent or more of a class of securities of the issuer if the officer, director, or person acquires any of those securities in a non-arm's-length transaction within the three years prior to the filing of the registration statement pursuant to this rule; or

c. A member of the immediate family of a person described in paragraph 50.62(7)*"a"* or *"b"* if the family member receives securities of the issuer from that person in a non-arm's-length transaction within the three years prior to the filing of the registration statement pursuant to this rule.

This rule is intended to implement Iowa Code section 502.303.

191—50.63(502) Registration of multijurisdictional offerings.

50.63(1) Pursuant to Iowa Code section 502.303(2), offerings filed on SEC Form F-7, Form F-8, Form F-9 or Form F-10 shall become effective the later of three days after filing, or the effective date with the SEC.

50.63(2) Pursuant to Iowa Code section 502.605(3), financial statements and financial information for offerings filed under subrule 50.63(1) shall comply with instructions provided with SEC Form F-7, Form F-8, Form F-9 or Form F-10.

50.63(3) In a Rights Offering, SEC Form F-7 will be accepted in lieu of any state form required to claim an exemption for any transaction pursuant to an offer to existing securities holders.

50.63(4) After the SEC has declared effective an issuer's Form F-8, Form F-9 or Form F-10 registration statement, a nonissuer transaction in any class of the issuer's securities is exempt from registration, whether or not the transaction is effected through a broker-dealer.

This rule is intended to implement Iowa Code sections 502.303(2) and 502.605(3).

191—50.64(502) Form of financial statements.

50.64(1) Except as otherwise provided by this rule, the balance sheet, statement of cash flows, and statement of income required by Iowa Code section 502.304(2)*"q"* shall be certified by an independent certified public accountant who shall also issue an opinion on the financial statements. The audit and opinion requirements may be waived by the administrator upon written application and for good cause shown.

50.64(2) The balance sheet, statement of cash flows, and statement of income provided for compliance with the four-month requirement of Iowa Code section 502.304(2)*"q"* need not be certified in accordance with subrule 50.64(1) if such certification was submitted for the last fiscal year prior to the application and the date of the financial statements subject to certification is not more than 12 months prior to the registration date.

This rule is intended to implement Iowa Code section 502.304.

191—50.65(502) Reports contingent to registration by qualification. In the administrator's discretion, a registration by qualification statement filed pursuant to Iowa Code section 502.304 may not become effective until one or both of the following are filed:

1. When the value, after its purchase, of certain property does or will constitute a material portion of the assets of the issuer or any other person whose financial condition is significant to the registration, the report of any appraiser or engineer; and
2. When the ownership of any such property is material to the registration, a signed opinion of legal counsel regarding ownership of any property.

This rule is intended to implement Iowa Code section 502.304(2A).

191—50.66(502) NASAA guidelines and statements of policy.

50.66(1) *Overview of national models.* In cooperation with the securities administrators of other states and with a view to effectuating a policy to achieve maximum uniformity of regulations regarding the registration of securities, registration and business practices of securities industry and investment advisory registrants, and enforcement of antifraud laws, and in the interest of streamlining the rules contained in Chapter 50, the administrator incorporates by reference the following guidelines and statements of policy promulgated by NASAA. This rule does not include any later amendments or editions of the incorporated matter.

The NASAA website allows access to statements of policy, comment letters, model rules, NASAA proposals published for comment, and state rule proposals and may be found at nasaa.org, under "regulatory & legal activity."

50.66(2) *Registration of oil and gas programs.* All oil and gas programs filing for registration by coordination or qualification shall substantially comply, as determined by the administrator, with the NASAA Guidelines for Registration of Oil and Gas Programs, found at nasaa.org under "statements of policy."

50.66(3) *Uniform disclosure guidelines—legend.* All registrations of securities filing for registration by coordination or qualification shall substantially comply, as determined by the

administrator, with the NASAA Guidelines for Cover Legends found at nasaa.org under "statements of policy."

50.66(4) *Omnibus guidelines.* All registrations of limited or general partnerships, joint ventures, unincorporated associations, or similar organizations, other than a corporation formed and operated for the primary purpose of investment in and the operation of or gain from and interest in the assets to be acquired by such entity for which statements of policy have not been adopted by the NASAA membership, filing for registration by coordination or qualification shall substantially comply, as determined by the administrator, with the NASAA Omnibus Guidelines found at nasaa.org under "statements of policy."

50.66(5) *Registration of commodity pool programs.* All registrations of securities filing for registration by coordination or qualification shall substantially comply, as determined by the administrator, with the NASAA Guidelines for Registration of Commodity Pool Programs found at nasaa.org under "statements of policy."

50.66(6) *Registration of equipment programs.* All registrations of securities filing for registration by coordination or qualification shall substantially comply, as determined by the administrator, with the NASAA Guidelines for Equipment Programs found at nasaa.org under "statements of policy."

50.66(7) *Registration of real estate programs.* All registrations of securities filing for registration by coordination or qualification shall substantially comply, as determined by the administrator, with the NASAA Guidelines for Real Estate Programs found at nasaa.org under "statements of policy."

50.66(8) *Registration of mortgage programs.* All registrations of securities filing for registration by coordination or qualification shall substantially comply, as determined by the administrator, with the NASAA Guidelines for Mortgage Programs found at nasaa.org under "statements of policy."

50.66(9) *Real estate investment trusts.* The registration of a real estate investment trust may be disallowed if it does not substantially comply, as determined by the administrator, with the NASAA Statement of Policy Regarding Real Estate Investment Trusts found at nasaa.org under "statements of policy."

50.66(10) *Corporate securities definitions.* For securities registration purposes, the administrator adopts the various definitions set out in the NASAA Statement of Policy Regarding Corporate Securities Definitions found at nasaa.org under "statements of policy."

50.66(11) *Impoundment of proceeds.* When an impoundment of proceeds is necessary, it shall substantially comply, as determined by the administrator, with the NASAA Statement of Policy Regarding the Impoundment of Proceeds found at nasaa.org under "statements of policy."

50.66(12) *Loans and other material affiliated transactions.* When there have been or will be loans or other material affiliated transactions, the transactions shall substantially comply, as determined by the administrator, with the NASAA Statement of Policy Regarding Loans and Other Material Affiliated Transactions found at nasaa.org under "statements of policy."

50.66(13) *Options and warrants.* The issuance of options and warrants may be allowed by the administrator if the issuance is in substantial compliance, as determined by the administrator, with the NASAA Statement of Policy Regarding Options and Warrants found at nasaa.org under "statements of policy."

50.66(14) *Preferred stock.* A public offering of preferred stock may be allowed by the administrator if the administrator determines that the offering substantially complies with the NASAA Statement of Policy Regarding Preferred Stock found at nasaa.org under "statements of policy."

50.66(15) *Promotional shares.* The registration of a security may include promotional shares if it substantially complies, as determined by the administrator, with the NASAA Statement of Policy Regarding Promotional Shares found at nasaa.org under "statements of policy."

50.66(16) *Risk disclosure.* All registrations of securities filing for registration by coordination or qualification shall substantially comply, as determined by the administrator, with the NASAA Guidelines for Risk Disclosure found at nasaa.org under "statements of policy."

50.66(17) *Unsound financial condition.* An issuer may be deemed to be in an unsound financial condition if it substantially meets, as determined by the administrator, the conditions provided within

the NASAA Statement of Policy Regarding Unsound Financial Condition found at nasaa.org under "statements of policy."

50.66(18) *Use of proceeds.* The registration of a security may be disallowed if the administrator determines that the registration does not substantially comply with the NASAA Statement of Policy Regarding Specificity in Use of Proceeds found at nasaa.org under "statements of policy."

50.66(19) *Registration of asset-backed securities.* All registrations of securities filing for registration by coordination or qualification shall substantially comply, as determined by the administrator, with the NASAA Guidelines for Registration of Asset-Backed Securities found at nasaa.org under "statements of policy."

50.66(20) *Promoters' equity investment.* The registration of a security may be disallowed by the administrator if the administrator determines that the registration does not substantially comply with the NASAA Statement of Policy Regarding Promoters' Equity Investment found at nasaa.org under "statements of policy."

50.66(21) *Unequal voting rights.* The registration of a security may be disallowed by the administrator if the administrator determines that the registration does not substantially comply with the NASAA Statement of Policy Regarding Unequal Voting Rights found at nasaa.org under "statements of policy."

50.66(22) *Use of electronic offering documents and electronic signatures.*

a. Definitions. For purposes of this subrule, the following definitions apply.

"Offering documents" means documents that include but are not limited to the registration statement, prospectus, applicable agreements, charter, bylaws, opinion of counsel and other opinions, specimen, indenture, consent to service of process and associated resolution, sales materials, subscription agreement, and applicable exhibits.

"Sales materials" means materials that include only those materials to be used in connection with the solicitation of purchasers of the securities approved as sales literature or other related materials by the SEC, FINRA, and the states, as applicable.

"Security breach" means the unauthorized accessing, acquisition, or disclosure of any data that compromises the security or confidentiality of confidential personal information maintained by the person or business; provided, however, that for this purpose a "security breach" shall relate only to a system, technology, or process that is used in connection with or is introduced into a securities offering in order to implement the use of electronic offering documents or electronic signatures.

b. Use of electronic offering documents and subscription agreements.

(1) An issuer of securities or agent acting on behalf of the issuer may deliver offering documents over the Internet or by other electronic means, or in machine-readable format, provided all of the following requirements are met:

1. Each offering document:

- Is prepared, updated, and delivered in a manner consistent and in compliance with state and federal securities laws;
- Satisfies the formatting requirements applicable to printed documents, such as font size and typeface, and is identical in content to the printed version (other than electronic instructions or procedures as may be displayed and nonsubstantive updates to daily net asset value that can be updated more efficiently in the electronic version);
- Is delivered as a single, integrated document or file; when delivering multiple offering documents, the documents must be delivered together as a single package or list;
- Where the offering documents include a hyperlink to external documents or content, provides notice to investors or prospective investors that the document or content being accessed by the hyperlink is provided by an external source; and
- Is delivered in an electronic format that intrinsically enables the recipient to store, retrieve, and print the documents;

2. The issuer or agent acting on behalf of the issuer:

- Obtains informed consent from the investor or prospective investor to receive offering documents electronically;
- Ensures that the investor or prospective investor receives timely, adequate, and direct notice when an electronic offering document has been delivered;
- Employs safeguards to ensure that delivery of offering documents occurred at or before the time required by law in relation to the time of sale; and
- Maintains evidence of delivery by keeping records of its electronic delivery of offering documents and makes those records available on demand by the securities administrator.

(2) Subscription agreements may be provided electronically by an issuer or agent acting on behalf of the issuer for the prospective investor to review and complete, provided the subscription process is administered in a manner that is similar to the administration of subscription agreements in paper form, as follows:

1. Before completion of any subscription agreement, the issuer or agent acting on behalf of the issuer shall review with the prospective investor all appropriate documentation related to the prospective investment including documents and instructions on how to complete the subscription agreement;
2. Mechanisms shall be established to ensure a prospective investor reviews all required disclosures and scrolls through the document in its entirety prior to initialing or signing; and
3. Unless otherwise allowed by the securities administrator, a single subscription agreement shall be used to subscribe a prospective investor in no more than one offering.

(3) Security breach.

1. In the event of discovery of a security breach at any time in any jurisdiction, the issuer or its agents, as appropriate, shall take prompt action to do all of the following:
   - Identify and locate the breach.
   - Secure the affected information.
   - Suspend the use of the particular device or technology that has been compromised until information security has been restored.
   - Provide notice of the security breach to any investor whose confidential personal information has been improperly accessed in connection with the security breach and to the securities administrator of each state in which an affected investor resides.
2. Compliance with subparagraph 50.66(22)*"b"*(3) after the discovery of a security breach or any other breach of personal information shall not substitute or in any way affect other requirements or obligations, including notification, imposed on an issuer or its agents pursuant to applicable laws, regulations, or standards.

(4) Delivery requires that the offering documents be conveyed to and received by the investor or prospective investor, or that the storage media in which the offering documents are stored be physically delivered to the investor or prospective investor in accordance with numbered paragraph 50.66(22)*"b"*(1)"1."

(5) Each electronic document shall be preceded by or presented concurrently with the following notice: **"Clarity of text in this document may be affected by the size of the screen on which it is displayed."**

(6) Informed consent to receive offering documents electronically pursuant to the first bulleted paragraph of numbered paragraph 50.66(22)*"b"*(1)"2" may be obtained in connection with each new offering or globally, either by the issuer or by an agent acting on behalf of the issuer. The investor may revoke this consent at any time by informing the party to whom the consent was given, or, if such party is no longer available, the issuer. Generally, a consent is considered to be informed when an investor is apprised that the document to be provided will be available through a specific electronic medium or source, and that there may be costs associated with delivery. In addition, for a consent to be informed an investor must be apprised of the time and scope parameters of the consent.

(7) Investment opportunities shall not be conditioned on participation in the electronic offering documents and subscription agreements initiative.

(8) Investors or prospective investors who decline to participate in an electronic offering documents and subscription agreements initiative shall not be subjected to higher costs—other than the actual direct cost of printing, mailing, processing, and storing offering documents and subscription agreements—as a result of their lack of participation in the initiative, and no discount shall be given for participating in an electronic offering documents and subscription agreements initiative.

(9) Entities participating in an electronic initiative shall maintain, and shall require participating underwriters, dealer-managers, placement agents, broker-dealers, or other selling agents to maintain, written policies and procedures covering the use of electronic offering documents and subscription agreements.

(10) Entities and their contractors and agents having custody and possession of electronic offering documents, including electronic subscription agreements, shall store them in a nonrewriteable and nonerasable format.

(11) Subrule 50.66(22) does not change or waive any other requirement of law concerning registration or presale disclosure of securities offerings.

c. Use of electronic signatures.

(1) An issuer of securities or agent acting on behalf of the issuer may provide for the use of electronic signatures if all of the following are true:

1. The process by which electronic signatures are obtained shall:

- Be implemented in compliance with the Electronic Signatures in Global and National Commerce Act and the Uniform Electronic Transactions Act, and, where applicable, shall include required federal disclosures;
- Include an appropriate level of security and assurances of accuracy;
- Employ an authentication process to establish signer credentials;
- Employ security features that protect signed records from alteration; and
- Provide that either the issuer or agent acting on behalf of the issuer retain, in compliance with applicable laws and regulations, electronically signed documents;

2. An investor or prospective investor shall expressly opt in to the electronic signature initiative, and participation may be terminated at any time; and

3. Investment opportunities shall not be conditioned on participation in the electronic signature initiative.

(2) Entities that participate in an electronic signature initiative shall maintain, and shall require underwriters, dealer-managers, placement agents, broker-dealers, and other selling agents to maintain, written policies and procedures covering the use of electronic signatures.

(3) Documentation of an investor's election to participate in an electronic signature initiative by following the requirements of numbered paragraph 50.66(22)*"b"*(1)"2" may be obtained in connection with each new offering, or by an agent acting on behalf of the issuer. The investor may revoke this consent at any time by informing the party to whom the consent was given, or, if such party is no longer available, the issuer.

This rule is intended to implement Iowa Code sections 502.305(6) and 502.306(1).

191—50.67(502) Amendments to registration by qualification. A registration statement registered by qualification pursuant to Iowa Code section 502.304 is presumed to be reasonably current for purposes of Iowa Code section 502.305(9) if:

1. The issuer notifies the administrator in writing of any change in a material fact contained in the registration statement no later than 7 days after the issuer learns of the change; and

2. The issuer notifies the administrator in writing of the results of an annual audit or semiannual report no later than 14 days after receiving such audit results or semiannual report unless the results constitute a change in material fact subject to the provisions of paragraph "1."

This rule is intended to implement Iowa Code section 502.305(9).

191—50.68(502) Delivery of prospectus. As a condition to registration by qualification pursuant to Iowa Code section 502.304, a prospectus containing the information required by Iowa Code section 502.304(2) shall be delivered to each person to which an offer is made, before or concurrently with the earliest of the following events:

1. The first offer made in a record to each person otherwise than by means of a public advertisement, by or for the account of the issuer or any other person on whose behalf the offering is made, or by any underwriter or broker-dealer offering part of an unsold allotment or subscription taken as a participant in the distribution;
2. The confirmation of any sale made by or for the account of the person;
3. The payment pursuant to any such sale; or
4. The delivery of the security pursuant to any such sale.

This rule is intended to implement Iowa Code section 502.304(5).

191—50.69(502) Advertisements.

50.69(1) The following advertising regarding the offer, sale or purchase of any security in Iowa is exempt from the filing requirements of Iowa Code section 502.504:

a. A prospectus published or circulated regarding an offering of a security registered pursuant to Iowa Code section 502.303 or 502.304 that is not yet effective, or an offering of a security for which a notice or application for exemption, including the prospectus, has been filed pursuant to Iowa Code section 502.201 or 502.202;

b. Advertising that provides information regarding only from whom a prospectus may be obtained, a description of the security offered for sale, the price of the security, or the names of broker-dealers having an interest in its sale;

c. Advertising published by a registered broker-dealer or investment adviser concerning the qualifications or business of the registrant, the general advisability of investing in securities or market quotations or other factual information relating to particular securities or issuers, provided the advertising contains no recommendation concerning the purchase or sale of a particular security;

d. Unless specifically requested by the administrator, advertising filed with FINRA or that satisfies the requirements of Securities Act of 1933 Rules 230.135a, 230.156, or 230.482; and

e. Any other advertising the administrator may specify by order.

50.69(2) All advertising required to be filed with the administrator by a registrant shall be filed prior to the date of use. All advertising required to be filed by a person other than a registrant shall be filed at least ten days prior to the date of use, or a shorter period if provided by the administrator. The advertising shall not be used in Iowa until the registrant receives approval from the administrator.

50.69(3) Sales literature of an investment company registered pursuant to the Investment Company Act of 1940 which is materially misleading within the meaning of rules or a statement of policy of the SEC constitutes false or misleading advertising as prohibited by Iowa Code section 502.504(2A).

50.69(4) False or misleading advertisements prohibited by Iowa Code section 502.504(2A) include but are not limited to the following:

a. Comparison charts or graphs showing a distorted, unfair, or unrealistic relationship between the issuer's past performance, progress, or success and that of another company, business, industry, or investment media;

b. Layout or format omitting information necessary to make the entire advertisement a fair and truthful representation;

c. Statements or representations without accreditation predicting future profit, success, appreciation, or performance, or otherwise addressing the merit or potential of the securities;

d. Generalizations, generalized conclusions, opinions, representations, and general statements based upon a particular set of facts and circumstances unless those facts and circumstances are stated and modified or explained by additional facts or circumstances as are necessary to make the entire advertisement a full, fair, and truthful representation;

e. Sales kits or film clips, displays or exposures, which alone or by sequence and progressive compilation present a misleading impression of guaranteed or exaggerated potential, profit, safety, or return;

f. Distribution of any nonfactual or inaccurate data or material by words, pictures, charts, or graphs, or otherwise based upon conjectural, unfounded, extravagant, or flamboyant claims, assertions, or predictions, or upon excessive optimism; and

g. Any package or bonus deal, prize, gimmick, or similar inducement regarding the offer or sale of a security that is combined with or dependent upon the sale of some other product, contract, or service unless the combination has been fully disclosed and specifically described and identified in the advertisement.

50.69(5) Any business card or other advertisement containing the name of an agent shall:

a. Clearly designate the agent as a securities agent or registered representative of the broker-dealer, as applicable, and indicate clearly that the broker-dealer is a broker-dealer;

b. Contain no advertising other than agent name, office address, broker-dealer name, and broker-dealer logo or trademark on the business cards;

c. Provide the office address and telephone number of the location where the agent conducts securities business; and

d. Clearly state the business of that entity and the relationship of the agent to that entity if the name, logo or trademark of any business entity other than that of the broker-dealer appears on the business card or in an advertisement.

50.69(6) A firm employing a sales agent who is offering securities on its behalf is responsible for ensuring that the name of the broker-dealer is displayed on the agent's business cards as prominently as the individual's name.

50.69(7) For the purpose of this rule, "advertisement" means any written or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, or other electronic communications media, published regarding the offer, sale, or purchase of a security.

This rule is intended to implement Iowa Code section 502.504.

191—50.70(502) Fee for securities registration filings under Iowa Code section 502.305. Except as provided in Iowa Code sections 502.302(3) and 502.304A(3)*"g,"* a person who files a registration statement or a notice filing pursuant to Iowa Code chapter 502 shall pay the following fees:

50.70(1) For the initial filing, $400 for one year; and

50.70(2) On each anniversary date of the initial filing, an annual renewal fee of $400.

This rule is intended to implement Iowa Code section 502.305.

191—50.71 to **50.79** Reserved.

DIVISION VI
EXEMPTIONS

191—50.80(502) Notice filings for Rule 506 offerings. An issuer offering a security that is a covered security pursuant to Section 18(b)(4)(F) of the Securities Act of 1933 shall submit no later than 15 days after the first sale of such federal covered security in Iowa an electronic filing and fees through nasaaefd.org, under "filers and issuers."

This rule is intended to implement Iowa Code section 502.302(3).

191—50.81(502) Notice filings for agricultural cooperative associations.

50.81(1) An agricultural cooperative association issuing notes or other evidence of indebtedness shall notify the administrator in writing 30 days before the security is initially sold. Notification shall include:

a. The name of the issuer, the date of organization of the issuer, and the name of a contact person.

b. A description of the class of persons to whom the offer of securities will be made. If the offering is being made to certain persons or within a specified area, a description of such offerees or area shall be included.

c. A description of the type of security to be offered that includes information regarding interest and interest payment schedules, default, redemption, reinvestment, and other facts regarding the rights of holders that the issuer deems material to the offering.

d. Financial statements of the agricultural cooperative association including a balance sheet as of the end of its most recent fiscal year, prepared under generally accepted accounting principles and accompanied by an independent auditor's report and any other audited financial statements of the association that are available. However, if the filing by the agricultural cooperative association is made within 90 days of the end of its most recent fiscal year and current audited financial statements are not yet available, the filing may consist of an audited balance sheet and other available audited financial statements for the previous fiscal year, prepared under generally accepted accounting principles and accompanied by an independent auditor's report. The agricultural cooperative association shall file an audited balance sheet and any other available audited financial statements for the most recent fiscal year end as soon as they become available, but in no event later than 90 days after the end of its fiscal year.

50.81(2) If, after the anniversary date of its initial notice filing, an agricultural cooperative association continues to issue notes or other evidence of indebtedness under its initial notice filing in order to maintain the exemption, the agricultural cooperative association shall on an annual basis file with the administrator an audited balance sheet and any other audited financial statements within 30 days of the anniversary of its initial notice filing. An agricultural cooperative association making its initial filing based upon a previous year's audited financial statements because of the unavailability of current audited financial statements shall consider its anniversary date to be the date on which the cooperative filed the audited financial statements for the most recent fiscal year. An agricultural cooperative association not issuing notes or other evidence of indebtedness after an anniversary date of its initial filing is not required to make any further filing of financial information as a condition of qualifying for the exemption from registration.

This rule is intended to implement Iowa Code section 502.201(8B)*"b."*

191—50.82(502) Unsolicited order exemption.

50.82(1) Any unregistered broker-dealer effecting a transaction under an unsolicited order or offer to buy and claiming an exemption from registration based solely upon Iowa Code section 502.202(6) shall obtain acknowledgment from the customer on or before the settlement date of the transaction that the transaction is unsolicited.

50.82(2) The acknowledgment shall take one of the following forms:

a. A confirmation statement, as required pursuant to subrule 50.82(1), displaying in bold print on the face of the statement the words "Unsolicited Order, Notify Immediately if Otherwise"; or

b. A signed statement from the customer acknowledging that the order was unsolicited and containing the name of the customer, the name of the securities involved, the number of securities involved in the transaction, the purchase price of the securities, the transaction date, and the total dollar amount, including commissions paid, of the transaction.

50.82(3) The customer will be presumed to have acknowledged that the transaction was unsolicited if the customer does not indicate otherwise on or before the settlement date.

50.82(4) A broker-dealer shall notify the administrator in writing that it is executing unsolicited orders in a security when both of the following conditions are met:

a. More than six unsolicited orders or offers to buy such security are received during any three consecutive business days; and

b. The broker-dealer is relying solely upon the exemption provided by Iowa Code section 502.202(6).

This rule is intended to implement Iowa Code section 502.202(6).

191—50.83(502) Solicitation of interest exemption.

50.83(1) An offer, but not a sale, of a security made by or on behalf of an issuer for the sole purpose of soliciting an indication of interest in receiving a prospectus (or its equivalent) for such security is exempt from registration pursuant to Iowa Code section 502.301 if:

a. The issuer is or will be a business entity organized under the laws of one of the states or possessions of the United States or one of the provinces or territories of Canada, is engaged in or proposes to engage in a business other than petroleum exploration or production or mining or other extractive industries, and is not a blind pool offering or other offering for which the specific business or properties cannot now be described.

b. The offerer intends to register the security in Iowa and conduct its offering pursuant to either Regulation A or Rule 504 of Regulation D, as promulgated by the SEC.

c. The offerer files with the administrator a SOIF along with any other materials to be used to conduct solicitations of interest including but not limited to the script of any broadcast to be made and a copy of any notice to be published no less than ten business days prior to the initial solicitation of interest.

d. The issuer files with the administrator all amendments to any materials filed pursuant to paragraph 50.83(1)*"c"* or additional materials it proposes to use in conducting solicitations of interest, except for materials provided to a particular investor solely pursuant to a request by that investor, no less than five business days prior to use.

e. The offerer does not use any SOIF, script, advertisement, or other material that the administrator has ordered or notified the offerer may not be used for the purpose of solicitations of interest.

f. Except for scripted broadcasts and except to the extent necessary to obtain information needed to provide a SOIF, the offerer does not orally communicate with any prospective investor about the contemplated offering unless the investor is provided with the most current SOIF at or before the time of the communication or within five days after the communication.

g. The offerer does not solicit or accept money or a commitment to purchase securities during the solicitation of interest period.

h. The offerer does not make a sale until at least seven days after delivery to the purchaser of a final prospectus or delivery of a preliminary prospectus as provided by Iowa Code section 502.202(17).

50.83(2) Unless the offerer does not know, and in the exercise of reasonable care could not know, the exemption under this rule is not available for securities of an offerer, if any of the issuer's officers, directors, promoters, or 10 percent shareholders:

a. Have filed a registration statement that is the subject of a current effective registration stop order entered under any federal or state securities law within five years prior to filing the SOIF.

b. Have been convicted within five years prior to filing the SOIF of any felony or misdemeanor regarding the offer, purchase or sale of any security or any felony involving fraud or deceit including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud.

c. Are currently subject to any federal or state administrative enforcement order or judgment entered by any state securities administrator or the SEC within five years prior to filing the SOIF in which fraud or deceit, including but not limited to the making of untrue statements of material facts and omitting to state material facts, was found.

d. Are subject to any federal or state administrative order or judgment prohibiting, denying, or revoking the use of any exemption from registration regarding the offer, purchase or sale of securities.

e. Are currently subject to any order, judgment, or decree of any court of competent jurisdiction entered within five years prior to filing the SOIF temporarily, preliminarily, or permanently restraining or enjoining the person or entity from engaging in or continuing any conduct or practice regarding the purchase or sale of any security or the making of any false filing with any state.

The disqualifications listed in this subrule shall not apply if the person or entity subject to the disqualification is licensed or registered to conduct securities-related business in the state in which the administrative order or judgment was entered against the person or entity, or if the broker-dealer employing the person or entity is licensed or registered in Iowa and the Form BD filed with the administrator discloses the order, conviction, judgment, or decree. No person disqualified under this subrule may act in a capacity other than that for which the person is licensed or registered. Any disqualification caused by this subrule is automatically waived if the agency creating the disqualification determines for good cause shown that the exemption should not be denied.

50.83(3) The failure to comply with a term, condition or requirement of this rule shall not result in the loss of the exemption from the requirements of Iowa Code section 502.301 for an offer to a particular individual or entity if the offerer establishes all of the following:

a. The failure to comply did not pertain to a term, condition or requirement directly intended to protect that particular individual or entity; and

b. The failure to comply was insignificant regarding the offering as a whole; and

c. A good-faith and reasonable attempt was made to comply with all applicable terms, conditions and requirements of this rule.

Where an exemption is established only through reliance upon subrule 50.83(2), the failure to comply is still actionable as a violation of the Act by the administrator under Iowa Code section 502.603 or 502.604.

50.83(4) The offerer shall comply with the following requirements:

a. Any published notice or script for broadcast and any printed material delivered apart from the SOIF, unless a SOIF containing the disclosures described below was previously delivered to the person, shall contain, at a minimum, the identity of the chief executive officer of the issuer, a brief and general description of the issuer's business and products, and the following disclosure printed in capital letters and boldface type at least as large as that used in the body of the printed materials:

(1) NO MONEY OR OTHER CONSIDERATION IS BEING SOLICITED AND NONE WILL BE ACCEPTED.

(2) NO SALES OF SECURITIES WILL BE MADE OR A COMMITMENT TO PURCHASE ACCEPTED UNTIL THE DELIVERY OF AN OFFERING CIRCULAR THAT INCLUDES COMPLETE INFORMATION ABOUT THE ISSUER AND THE OFFERING.

(3) AN INDICATION OF INTEREST MADE BY A PROSPECTIVE INVESTOR INVOLVES NO OBLIGATION OR COMMITMENT OF ANY KIND.

(4) THIS OFFER IS BEING MADE PURSUANT TO AN EXEMPTION UNDER FEDERAL AND STATE SECURITIES LAWS. NO SALE MAY BE MADE UNTIL THE OFFERING STATEMENT IS QUALIFIED BY THE U.S. SECURITIES AND EXCHANGE COMMISSION AND IS REGISTERED IN IOWA.

b. All communications with prospective investors made in reliance upon this rule shall cease after a registration statement is filed with the administrator, and no sale may be made until at least 20 calendar days after the last communication made in reliance upon this rule.

c. A preliminary prospectus may be used with an offering for which indications of interest have been solicited under this rule only if the offering is conducted by a registered broker-dealer.

Failure to comply with the requirements of this subrule shall not result in losing the exemption from the requirements of Iowa Code section 502.301, but is a violation of the Act, is actionable by the administrator under Iowa Code section 502.603 or 502.604, and constitutes grounds for denying or revoking the exemption for specific transactions.

50.83(5) Upon written application by the offerer and for good cause shown, the administrator may waive any condition of the solicitation of interest exemption. Neither compliance nor attempted compliance with this rule, nor the absence of any objection or order by the administrator regarding an offer of securities made under this rule, constitutes a waiver of any condition of the rule or a confirmation by the administrator of the availability of the rule.

50.83(6) Offers made in reliance upon this rule shall not be integrated with subsequent offers or sales of securities registered in Iowa. Issuers on whose behalf indications of interest are solicited under this rule may not make offers or sales in reliance upon Iowa Code section 502.202(14) until at least 12 months after the last communication with a prospective investor made pursuant to this rule.

50.83(7) Nothing in this rule limits the application of Iowa Code section 502.401, 502.402, 502.501 or 502.509 to offers made in reliance upon this rule.

50.83(8) The administrator may review the materials filed under this rule. Materials filed, if reviewed, will be judged under antifraud principles. Any discussion in the offering documents of the potential rewards of the investment must be balanced by a discussion of the possible risks.

50.83(9) Any offer effected in violation of this rule may constitute an unlawful offer of an unregistered security for which civil liability attaches under Iowa Code section 502.501 et seq. Any misrepresentation or omission may also give rise to civil liability under the Act. A subsequent registration of the security does not cure the previous unlawful offer. Only a rescission offer made in compliance with the Act can effect a cure.

This rule is intended to implement Iowa Code section 502.202(17).

191—50.84(502) Internet offers exemption. Offers of securities made by, or on behalf of, issuers on or through the Internet are exempt from registration pursuant to Iowa Code sections 502.301 and 502.504 if:

1. The Internet offer states, directly or indirectly, that the securities are not being offered to state residents; and
2. The Internet offer is not specifically directed to any person in Iowa by, or on behalf of, the issuer of the securities; and
3. No sales of the issuer's securities are made in Iowa as a result of the Internet offering until such time as the securities being offered have been registered under Iowa Code sections 502.301 and 502.504, and a final prospectus or Form U-7 is delivered to Iowa investors prior to such sales, or the issuer qualifies for the exemption provided in Iowa Code section 502.202(13).

This rule is intended to implement Iowa Code section 502.203.

191—50.85(502) Denial, suspension, revocation, condition, or limitation of limited offering transaction exemption. The administrator shall view the following as reasons for entering an order under Iowa Code section 502.204 to deny or revoke an exemption provided under Iowa Code section 502.202(14):

1. A public advertisement is used to promote the sale of securities for which such exemption is claimed; or
2. The offering is part of a registered offering under the Securities Act of 1933.

This rule is intended to implement Iowa Code section 502.204.

191—50.86(502) Nonprofit securities exemption.

50.86(1) Church extension funds or similar organizations making continuous offerings shall be exempt pursuant to Iowa Code section 502.201(7)*"b"* provided the issuer:

a. Applies for the exemption;

b. Files an offering circular and otherwise substantially complies with the NASAA Statement of Policy Regarding Church Extension Funds found at nasaa.org under "statements of policy";

c. Files all sales and advertising literature;

d. Files a consent to service of process;

e. Unless disallowed by the administrator within 15 days after the applicant has filed the items required by paragraphs 50.86(1)*"a"* through *"d,"* is authorized beginning 15 days after the filing is received to sell pursuant to the exemption;

f. After authorization, may sell securities for a period of 12 months; and

g. Upon the expiration of the 12-month period in paragraph 50.6(1)*"f,"* files a renewal application that complies with the requirements of this subrule.

50.86(2) Church bonds and other one-time offerings for a single specific project shall be exempt pursuant to Iowa Code section 502.201(7)*"a"* provided the issuer:

a. Files a notice specifying the material terms of the offering that comply with the NASAA Statement of Policy Regarding Church Bonds found at nasaa.org under "statements of policy"; and

b. Files a consent to service of process.

This rule is intended to implement Iowa Code section 502.201(7).

191—50.87(502) Transactions with specified investors. The administrator grants the exemption for transactions with specified investors to the following persons:

50.87(1) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer.

50.87(2) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of the purchase exceeds $1 million, excluding the value of the primary residence of the natural person.

50.87(3) Any natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year.

50.87(4) Any venture or seed capital company. For purposes of this subrule, a venture or seed capital company is a corporation, partnership or association that has been in existence for five years or whose net assets exceed $250,000 and whose primary business is investing in developmental stage companies or "eligible small business companies" as that term is defined in the regulations of the Small Business Administration.

This rule is intended to implement Iowa Code section 502.202(13).

191—50.88(502) Designated securities manuals. Nationally recognized securities manuals for purposes of Iowa Code section 502.202(2)*"d"* include Mergent's Manuals, S & P Capital IQ Standard Corporation Descriptions, Fitch Investment Services, and Best's Insurance Reports, Life-Health.

This rule is intended to implement Iowa Code section 502.202(2)*"d."*

191—50.89(502) Intrastate crowdfunding exemption.

50.89(1) *Definitions.* For purposes of this rule, in addition to the definitions set forth in rule 191—50.1(502), the definitions in Iowa Code section 502.202(24)*"a"* and the following definitions apply:

"Administrator's website" means the Internet site of the Iowa insurance division, iid.iowa.gov.

"Escrow agent" means a bank, trust company, savings bank, national banking association, building and loan association, mortgage banker, credit union, insurance company, or any other independent escrow agent acceptable to the administrator.

"Issuer" means a person that is authorized to do business in Iowa and has been approved by the administrator as a crowdfunding issuer pursuant to subrule 50.89(5).

"Management" means an issuer's directors, executive officers, or the individuals who perform such functions for the issuer.

"Portal website" means the Internet site through which a registered Iowa crowdfunding portal conducts offers and sales of exempt securities under Iowa Code section 502.202(24).

"Principal place of business" means the state or territory from which the officers, partners, or managers of a corporation, partnership, limited liability company, trust or other form of business primarily direct, control and coordinate the activities of the business. "Principal place of business" is not related to "place of business" as defined in Iowa Code section 502.102(21).

50.89(2) *Exemption from registration.*

a. Under the authority delegated to the administrator to promulgate rules in Iowa Code sections 502.203 and 502.605(1), a transaction is exempt from the registration provisions of the Act if all of the conditions in subparagraphs 50.89(1)*"a"*(1) through *"a"*(4) are met:

(1) The issuer of the securities is at the time of any offers and sales a person that is a resident and doing business within the state of Iowa. The issuer shall be deemed to be a resident of the state of Iowa if it has its principal place of business in Iowa. The issuer shall be deemed to be doing business within Iowa if the issuer satisfies at least one of the following requirements:

1. The issuer derived at least 80 percent of its consolidated gross revenues from the operation of a business or of real property located in or from the rendering of services within the state of Iowa.

2. The issuer had, at the end of its most recent semiannual fiscal year prior to an initial offer of securities in any offering or subsequent offering pursuant to this rule, at least 80 percent of its assets and those of its subsidiaries on a consolidated basis located in the state of Iowa.

3. The issuer intends to use and uses at least 80 percent of the net proceeds to the issuer from sales made pursuant to this rule in connection with the operation of a business within, the operation of real property within, the purchase of real property located in, or the rendering of services within the state of Iowa.

4. A majority of the issuer's employees are based in the state of Iowa.

(2) Sales of securities pursuant to this rule are made only to residents of the state of Iowa or to persons who the issuer reasonably believes, at the time of the sale, are residents of the state of Iowa. An individual shall be deemed to be a resident of the state of Iowa if such individual has, at the time of sale, the individual's principal residence in the state of Iowa. A trust that is not deemed by Iowa law to be a separate legal entity is deemed to be a resident of the state of Iowa only if all of the trust's trustees are residents of the state of Iowa. For purposes of determining the residence of a purchaser:

1. A corporation, partnership, limited liability company, trust or other form of business organization shall be deemed a resident of the state of Iowa if, at the time of sale to it, it has its principal place of business within the state of Iowa.

2. A corporation, partnership, trust or other form of business organization that is organized for the specific purpose of acquiring securities offered pursuant to this rule shall not be a resident of Iowa unless all of the beneficial owners of such organization are residents of Iowa.

(3) The issuer is not, before or as a result of the offering, any of the following:

1. An investment company registered or required to be registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

2. A hedge fund, commodity pool, or similar investment vehicle.

3. A development stage company that either has no specific business plan or purpose or has indicated that the company's business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

4. A company with a class of securities registered under the federal Securities Exchange Act of 1934.

(4) The offering is sold in compliance with the requirements of SEC Rule 147A (17 CFR 230.147A).

b. All offers and sales of securities made in reliance upon this rule shall be made through an intermediary's Internet site.

50.89(3) *Integration.*

a. Offers and sales made in reliance on this rule may be integrated with other offers and sales when the following factors apply:

(1) The sales are part of a single plan of financing;

(2) The sales involve the issuance of the same class of securities;

(3) The sales have been made at or about the same time;

(4) The same type of consideration is received; and

(5) The sales are made for the same general purpose.

b. Offers and sales made in reliance on this rule shall not be integrated with offers and sales made more than six months before the start of the offering or more than six months after completion of an offering, so long as during those six-month periods there are no offers or sales of securities by or for the issuer that are of the same class or of a similar class as those offered or sold under these rules, other than those offers or sales of securities under an employee benefit plan.

50.89(4) *Bad actor disqualification.*

a. The exemption of subrule 50.89(2) shall not be available if the issuer; any predecessor of the issuer; any affiliated issuer; any director, executive officer, other officer participating in the offering, general partner or managing member of the issuer; any beneficial owner of 20 percent or more of the issuer's outstanding voting equity securities, calculated on the basis of voting power; any promoter connected with the issuer in any capacity at the time of such offer or sale; any investment manager of an issuer that is a pooled investment fund; any person that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with such offer or sale of securities; any general partner or managing member of any such investment manager or solicitor; or any director, executive officer, or other officer participating in the offering of any such investment manager or solicitor or general partner or managing member of such investment manager or solicitor:

(1) Has been convicted, within ten years before such offer or sale (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor that is any of the following:

1. In connection with the purchase or sale of any security.

2. Involving any making of any false filing with the SEC or a state securities commission or agency or state official performing like functions.

3. Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of securities;

(2) Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within five years before such offer or sale that, at the time of such offer or sale, restrains or enjoins such person from engaging or continuing to engage in any conduct or practice that is any of the following:

1. In connection with the purchase or sale of any security.

2. Involving the making of any false filing with the SEC or a state securities commission or agency or state official performing like functions.

3. Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchaser of securities;

(3) Is subject to a final order of a state securities commission or agency or state official performing like functions; a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission or agency or state official performing like functions; an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that:

1. At the time of such offer or sale, bars the person from:

- Association with an entity regulated by such commission, authority, agency, or officer;
- Engaging in the business of securities, insurance or banking; or
- Engaging in savings association or credit union activities; or

2. Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct, including making untrue statements of material facts or omitting to state material facts, entered within ten years before such offer or sale;

(4) Is subject to an order of the SEC entered pursuant to the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(b) or 78o-4(c)) or the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3(e) or (f)) that, at the time of such offer or sale:

1. Suspends or revokes such person's registration as a broker, dealer, municipal securities dealer or investment adviser;

2. Places limitations on the activities, functions or operations of such person; or

3. Bars such person from being associated with any entity or from participating in the offering of any penny stock;

(5) Is subject to any order of the SEC entered within five years before such offer or sale that, at the time of such offer or sale, orders the person to cease and desist from committing or causing a violation or future violations of:

1. Any scienter-based, antifraud provision of the federal securities laws, including without limitation the Securities Act of 1933 (15 U.S.C. Section 77q(a)(1)); the Securities Exchange Act of 1934 (15 U.S.C. Section 78j(b) and 17 CFR 240.10b-5); the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(c)(1)); the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-6(1)); or any other rule or regulation thereunder; or

2. Section 5 of the Securities Act of 1933 (15 U.S.C. 77e);

(6) Is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

(7) Has filed (as a registrant or issuer), or was or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the SEC that, within five years before such offer or sale, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is, at the time of such offer or sale, the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued;

(8) Is subject to a United States Postal Service false representation order entered within five years before such offer or sale, or is, at the time of such offer or sale, subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations;

(9) Has filed a registration statement that is subject to a final stop order entered under any state's securities law within five years before such offer or sale; or

(10) Is currently subject to any final state administrative enforcement order or judgment entered by a state's securities administrator within five years prior to such offer or sale.

b. Paragraph 50.89(4)*"a"* shall not apply under either of the following circumstances:

(1) Upon a showing of good cause and without prejudice to any other action by the administrator, if the administrator determines that it is not necessary under the circumstances that the exemption be denied; or

(2) If the issuer establishes that it did not know and, in the exercise of reasonable care, could not have known that a disqualification existed under this subrule. An issuer will not be able to establish that it has exercised reasonable care unless it has made, in light of the circumstances, factual inquiry into whether any disqualifications exist. The nature and scope of the factual inquiry will vary based on the facts and circumstances concerning, among other things, the issuer and the other offering participants.

c. Events relating to any affiliated issuer that occurred before the affiliation arose will be not considered disqualifying if the affiliated entity is not:

(1) In control of the issuer; or

(2) Under common control with the issuer by a third party that was in control of the affiliated entity at the time of such events.

50.89(5) *Filing requirements for issuers.*

a. An issuer may declare an offering exempt for a maximum of 12 months and rely on this intrastate sales exemption if the issuer submits at the administrator's website, and receives approval from the administrator, at least 30 days prior to the offer of any security in reliance upon Iowa Code section 502.202(24), all of the following:

(1) A properly completed Iowa Crowdfunding Notice Filing Form (available at the administrator's website).

(2) The issuer's articles of incorporation or other charter documents pursuant to which the issuer is organized.

(3) The issuer's bylaws or operating agreement and all amendments thereto.

(4) A copy of any resolutions setting forth terms and provisions of the securities being issued.

(5) The issuer's financial statements as of the end of the issuer's most recent fiscal year, prepared in accordance with generally accepted accounting principles. If the date of the most recent fiscal year end is more than 90 days prior to the date of the filing, the issuer must also submit an unaudited balance sheet and unaudited statement of income or operations, both prepared in accordance with generally accepted accounting principles for the issuer's most recent fiscal year.

(6) A copy of any agreements between the issuer and any intermediary.

(7) A copy of any subscription agreement for the purchase of securities in the offering.

(8) A copy of the escrow agreement between the issuer and an escrow agent for the deposit of offering proceeds.

(9) A specimen or copy of the security to be offered, including required legends, if the issuer will issue physical certificates.

(10) A copy of all advertising and other materials directed to or to be furnished to investors in the offering.

(11) A copy of all disclosure documents directed to or to be furnished to investors in the offering.

(12) Any other information reasonably requested by the administrator.

(13) A filing fee of $100.

b. If an issuer will make offers and sales of an offering after the exempt offering period declared by the issuer on the Iowa Crowdfunding Notice Filing Form, the issuer must renew the offering exemption by submitting at the administrator's website, and receiving approval of the administrator, at least 30 days prior to the expiration of the original exempt offering period, all of the following:

(1) A report of sales as of the most recent practical date that includes the following information:

1. The time period in which the offering was open.
2. The number of shares or units sold in the offering.
3. The number of investors that purchased shares or units in the offering.
4. The dollar amount sold in the offering.

(2) A copy of the issuer's updated Iowa Crowdfunding Notice Filing Form.

(3) The issuer's financial statements as of the end of the issuer's most recent fiscal year, prepared in accordance with generally accepted accounting principles. If the end date of the most recent fiscal year is more than 90 days prior to the date of renewal, the issuer also shall submit an unaudited balance sheet and an unaudited statement of income or operations, both prepared in accordance with generally accepted accounting principles for the issuer's most recent fiscal quarter.

(4) A renewal filing fee of $100.

c. Upon completion of an offering made in reliance upon this rule, an issuer shall file at the administrator's website, and receive the administrator's approval of, a final sales report that includes all of the following information:

(1) The time period in which the offering was open.

(2) The number of shares or units sold in the offering.

(3) The number of investors that purchased shares or units in the offering.

(4) The total dollar amount sold in the offering.

50.89(6) *Minimum offering amount.* The issuer shall establish a minimum offering amount that is sufficient, together with other sources of financing, to implement the business plan of the issuer, as disclosed in the submitted offering information.

50.89(7) *Escrow agreement.* The issuer must enter into an escrow agreement with an independent escrow agent to hold funds in an escrow account, and the escrow agreement shall include all of the following terms:

a. All offering proceeds shall be maintained in an account controlled by the escrow agent.

b. All offering proceeds will be released to the issuer only when the aggregate capital raised from all purchasers that have signed commitments to invest is equal to or greater than the minimum offering amount disclosed in the offering materials submitted to the administrator with the issuer's filing of paragraph 50.89(5)*"a."*

c. If the proceeds do not meet the minimum offering amount disclosed in the offering materials within one year of the earlier of the commencement of the offering or the first posting of the offering on the Internet, the issuer shall return all funds to investors.

d. None of the following shall have any claim to the escrowed proceeds:

(1) A creditor of an escrow agent.

(2) An affiliate of an escrow agent.

(3) A creditor of the issuer.

(4) An affiliate of the issuer.

(5) A creditor of an intermediary engaged by the issuer.

(6) An affiliate of an intermediary engaged by the issuer.

e. The escrow agent agrees to maintain its independence from the issuer, any intermediary or Iowa crowdfunding portal assisting with the offering, and the officers, directors, managing members, and affiliates of the issuer or any Iowa crowdfunding portal assisting with the offering.

f. The administrator may inspect the records of the impound account maintained by the escrow agent at any reasonable time at the location of the records and copy any record.

g. The escrow agreement must be signed by an officer of the issuer and an authorized representative of the escrow agent.

h. The escrow agent may not be affiliated with the issuer, any Iowa crowdfunding portal assisting with the offering, or any officers, director, managing member, or affiliate of the issuer or any intermediary assisting with the offering.

i. If the minimum offering amount is not received by the end of the offering period, the proceeds shall be returned to the purchasers within 30 days.

j. All purchasers shall have the right to withdraw their investments, without deduction of any kind, until such time as offering proceeds totaling at least the minimum offering amount are received.

50.89(8) *Disclosure requirements for issuers.*

a. Nothing in this exemption is intended to or should be in any way construed as relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the requirements of rule 191—50.89(502) and the antifraud provisions of Iowa Code chapter 502. The issuer is required to provide full and fair disclosure to investors of all material facts relating to the issuer and the securities being offered. If eligible, the issuer may use Form U-7, which may be obtained from the NASAA website at nasaa.org.

b. Among other risk disclosures, the issuer must provide the substance of all of the following disclosures to all prospective purchasers and investors:

(1) There is no ready market for the sale of the securities acquired in this offering. It may be difficult or impossible for an investor to sell or otherwise dispose of this investment. An investor may be required to hold and bear the financial risks of this investment indefinitely.

(2) No federal or state securities commission or regulatory authority has confirmed the accuracy or determined the adequacy of the disclosures provided.

(3) In making an investment decision, investors must rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved.

(4) The securities have not been registered under federal or state securities laws and, therefore, cannot be resold unless the securities are registered or qualify for an exemption from registration under federal and state law.

50.89(9) *Books and records.* An issuer that has filed under this rule must keep and maintain written or electronic records relating to offers and sales of securities made in reliance upon this rule for at least six years following termination of the offering. These records are subject to such reasonable audits or inspections by the administrator or a representative of the administrator as the

administrator considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The administrator may copy, and remove for audit or inspection copies of, all records the administrator reasonably considers necessary or appropriate to conduct the audit or inspection.

50.89(10) *Iowa crowdfunding portal registration.*

a. To register as an Iowa crowdfunding portal, a person shall submit to the administrator at the administrator's website all of the following:

(1) A completed Iowa Crowdfunding Portal Registration Form, available on the administrator's website, including all required schedules and supplemental information.

(2) A completed Form U-4, available on the administrator's website, for each agent as defined in Iowa Code section 502.102(2).

(3) Any other information requested by the administrator to determine the financial responsibility, business reputation, or qualifications of the Iowa crowdfunding portal.

(4) The registration fee of $100.

b. The person must receive approval of the submission and registration by the administrator before the person may operate as an Iowa crowdfunding portal.

c. Registration expires at the close of the calendar year in which a registration was issued, but the registration may be renewed for the succeeding year by submission to the administrator at the administrator's website of both a $100 registration fee and a written request for renewal, including any material changes to the information submitted in the prior registration submission.

50.89(11) *Duties of an Iowa crowdfunding intermediary.*

a. Maintenance of intermediary website. An Iowa crowdfunding intermediary shall create and maintain the intermediary website and make information and services available on or through the intermediary website in compliance with this rule.

b. Background and regulatory checks. Prior to offering securities to residents of Iowa, the intermediary shall conduct a reasonable investigation of the background and history of each issuer whose securities are offered on the intermediary website and of each issuer's control persons. "Control persons" for the purpose of this subrule means the issuer's officers; directors; or other persons having the power, directly or indirectly, to direct the management or policies of the issuer, whether by contract or otherwise; and persons holding more than 20 percent of the outstanding equity of the issuer. The intermediary shall deny an issuer access to the intermediary website if there is a reasonable basis to believe that one or more of the following are true:

(1) The issuer or any of its control persons is subject to disqualification under subrule 50.89(3).

(2) The issuer has engaged in, the issuer is engaging in, or the offering involves any act, practice, or course of business that will, directly or indirectly, operate as a fraud or deceit upon any person.

(3) The intermediary cannot adequately or effectively assess the risk of fraud by the issuer or by the issuer's potential offering.

c. Purchaser screening. Before a security is sold through the intermediary, the intermediary shall ensure that the purchaser does all of the following:

(1) Reviews the information provided in the offering documents.

(2) Provides to the intermediary an affirmative representation from the purchaser acknowledging receipt of the disclosure statement provided to the purchaser by the issuer pursuant to subrule 50.89(8).

(3) Provides to the intermediary an affirmative representation that the purchaser is an Iowa resident.

d. Information about the issuer and the offering. The intermediary shall make available on the intermediary website information about the issuer and the offering. The information shall include all of the following:

(1) A copy of the disclosure statement required by subrule 50.89(8).

(2) A summary of the offering, including all of the following:

1. A description of the entity; its form of business, principal office, history, and business plan; and its intended use of offering proceeds, including compensation paid to any owner, executive officer, director, or manager.

2. The identity of the executive officers, directors, and managers, including their titles and their prior experience and the identity of all persons owning more than 20 percent of the ownership interests of any class of securities of the company.

3. A description of the securities being offered and any outstanding securities of the company, the amount of the offering, and the percentage of ownership of the company represented by the offered securities.

e. Intermediary website forum. The intermediary shall maintain a forum on the intermediary website. The forum shall be available to all potential purchasers as well as to the administrator. The intermediary website shall contain a disclaimer that reflects that access to securities offered on the intermediary website is limited to Iowa residents and that sales of the securities appearing on the intermediary website are limited to persons that are Iowa residents. Potential purchasers may ask questions and receive answers concerning the terms and conditions of the offering and may obtain additional information that the crowdfunding issuer possesses or can acquire without unreasonable effort or expense necessary to verify the accuracy of or to clarify the information provided on the intermediary website. The intermediary may adopt reasonable rules and procedures for the website forum, including registration and authentication requirements.

f. Enforcement of limits. The intermediary shall take reasonable measures to ensure that no purchaser exceeds the limits set forth in Iowa Code section 502.202(24)*"c"* and *"d."*

g. Administrator access. The intermediary shall provide the administrator purchaser-level access at all times to the intermediary website, pursuant to Iowa Code section 502.202(24)*"g"*(8).

50.89(12) *Prohibited conduct for intermediaries.* An intermediary and individuals of the intermediary's management shall not:

a. Have ownership or other financial interest greater than 20 percent in the crowdfunding issuer.

b. Hold, manage, possess, or otherwise handle purchaser funds. Proceeds are to be held in escrow until the minimum impound amount has been met.

c. Compensate employees, agents or other persons not registered with the administrator for soliciting offers or sales of securities displayed or referenced on the intermediary website.

50.89(13) *Commissions, fees or other remuneration.* Commissions, fees or other remuneration for soliciting any prospective purchaser in connection with the offering shall only be paid to intermediaries or any other persons who are appropriately registered or licensed with the administrator.

50.89(14) *Advertising and communications.*

a. Advertising. The crowdfunding issuer shall not advertise the specific details of the offering, except for notices that direct potential purchasers to the intermediary website. Notwithstanding the foregoing, the issuer may distribute a notice that the issuer is conducting an offering of securities, the name of the intermediary through which the offering is being conducted, and a link directing the potential investor to the intermediary. The notice shall contain a disclaimer that the sale of the security is limited to persons who are Iowa residents.

b. Communications. All communications between the issuer and potential purchasers taking place pursuant to Iowa Code section 502.202(24) shall occur through the intermediary website of the intermediary. During the time the securities are being offered on the intermediary website, the intermediary shall, pursuant to paragraphs 50.89(11)*"d"* and *"e,"* provide channels through which potential purchasers can communicate with one another and with the issuer about the securities being offered. These communications shall be visible to all those with access to the intermediary website.

(1) An issuer shall respond within ten days to requests for information made by potential purchasers or by the administrator through the intermediary website.

(2) If such additional information is material and not previously included on the intermediary website, the crowdfunding issuer and the Iowa crowdfunding portal shall immediately amend the information contained on the intermediary website.

50.89(15) *Offering price.* The offering price of the securities offered and sold pursuant to this exemption shall be the same for all purchasers and shall not be increased during the offering period. The offering price may be lowered, but only if all previous purchasers in the particular offering are notified of the change and allowed to rescind their previous investment and participate at the lower offering price.

50.89(16) *Resale of securities.* On the document that is to serve as evidence of ownership, the issuer shall place a prominent notice that states that the securities have not been registered and that sets forth limitations on resale contained in SEC Rule 147A(e) (17 CFR 230.147A(e)), including that, for a period of six months from the date of last sale by the issuer of the securities in the offering, resale by any person shall be made only to Iowa residents.

This rule is intended to implement Iowa Code section 502.202.

191—50.90(502) Notice filing requirement for federal crowdfunding offerings. This rule applies to offerings made under 17 CFR Section 227, federal Regulation Crowdfunding, General Rules and Regulations, and Sections 4(a)(6) and 18(b)(4)(C) of the Securities Act of 1933 (referred to collectively as "federal Regulation Crowdfunding").

50.90(1) *Initial filing.*

a. An issuer that offers and sells securities in this state in an offering that is exempt under federal Regulation Crowdfunding and that either (1) has its principal place of business in this state or (2) sells 50 percent or greater of the aggregate amount of the offering to residents of this state shall file with the administrator the following related to that exempt offering:

(1) A completed Uniform Notice of Federal Crowdfunding Offering form (Form U-CF, accessible through nasaa.org/industry-resources/uniform-forms) or copies of all documents the issuer filed with the Securities and Exchange Commission related to that exempt offering;

(2) If the issuer is not filing on the Uniform Notice of Federal Crowdfunding Offering form, a completed consent to service of process form (Form U2, accessible through nasaa.org/industry-resources/uniform-forms); and

(3) A filing fee of $100.

b. If the issuer has its principal place of business in this state, the filing required under paragraph 50.90(1)*"a"* shall be filed with the administrator when the issuer makes its Initial Form C filing with the SEC under the federal Regulation Crowdfunding concerning the offering with the SEC. If the issuer does not have its principal place of business in this state but residents of this state have purchased 50 percent or greater of the aggregate amount of the offering, the filing required under paragraph 50.90(1)*"a"* shall be filed when the issuer becomes aware that such purchases have met this threshold and in no event later than 30 days from the date of completion of the offering.

c. The initial notice filing is effective for 12 months from the date of the filing with the administrator.

50.90(2) *Renewal.* For each additional 12-month period in which the same offering described in paragraph 50.90(1)*"a"* is continued, an issuer conducting an offering under federal Regulation Crowdfunding may renew its notice filing by filing with the administrator the following on or before the expiration of the notice filing:

a. A completed Uniform Notice of Federal Crowdfunding Offering form (Form U-CF, accessible through nasaa.org/industry-resources/uniform-forms), marked "renewal," or a cover letter or other document requesting renewal; and

b. A renewal filing fee of $100.

This rule is intended to implement Iowa Code section 502.202.

191—50.91(502) Notice filing requirement for Regulation A – Tier 2 offerings. This rule applies to an issuer offering and selling securities in this state in an offering exempt under Tier 2 of 17 CFR Section 230.251 et seq. ("federal Regulation A") and Sections 18(b)(3) and 18(b)(4) of the Securities Act of 1933:

50.91(1) *Initial filing.*

a. An issuer planning to offer and sell securities in this state in an offering exempt under Tier 2 of federal Regulation A shall submit the following to the administrator at least 21 calendar days prior to the initial sale in this state:

(1) Either a completed Uniform Notice Filing of Regulation A – Tier 2 Offering form (accessible through nasaa.org/industry-resources/uniform-forms) or copies of all documents the issuer filed with the Securities and Exchange Commission related to that Tier 2 offering;

(2) If the issuer is not filing on the Uniform Notice Filing of Regulation A – Tier 2 Offering form, a completed consent to service of process form (Form U2, accessible through nasaa.org/industry-resources/uniform-forms); and

(3) A filing fee of $400.

b. The initial filing is effective for 12 months from the date of the filing with the administrator.

50.91(2) *Renewal.* For each additional 12-month period in which the same offering described in paragraph 50.91(1)*"a"* is continued, an issuer conducting a Tier 2 offering under federal Regulation A may renew its notice filing by filing with the administrator the following on or before the expiration of the notice filing:

a. One of the following: the Uniform Notice Filing of Regulation A – Tier 2 Offering form (accessible through nasaa.org/industry-resources/uniform-forms), a notice filing form marked "renewal," or a cover letter or other document requesting renewal; and

b. A renewal filing fee of $400.

This rule is intended to implement Iowa Code section 502.303.

191—50.92 to **50.99** Reserved.

DIVISION VII
FRAUD AND OTHER PROHIBITED CONDUCT

191—50.100(502) Fraudulent practices.

50.100(1) An issuer of securities registered under the Act, or any person who is an officer, director or controlling person of such issuer, is presumed to employ a "device, scheme or artifice to defraud" the purchasers of such securities under Iowa Code section 502.501(1) if such person applies, authorizes or causes to be applied any material part of the proceeds from the sale of such securities in any material way contrary to the purposes specified in the prospectus used in offering such securities and not reasonably related to the business of the issuer as described in the prospectus.

50.100(2) A broker-dealer or agent employing one or more of the following practices engages in an "act, practice, or course of business that operates or would operate as a fraud" under Iowa Code section 502.501(3):

a. Entering into any security transaction with a customer at an unreasonable price or at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit.

b. Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead or using any advertising or sales presentation in a deceptive or misleading manner.

c. In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer or agent possesses material, nonpublic information impacting the value of the security.

d. In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objectives for some to sell and others to purchase the same security, at or about the same time, when the recommendation is not justified by the particular circumstances of each investor.

e. Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution by, among other things, (1) transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees, or (2) parking or withholding securities.

f. Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance including but not limited to the use of "boiler-room" tactics such as repeated or harassing unsolicited telephone calls or the use of fictitious or nominee accounts.

50.100(3) Although nothing in this rule precludes applying the general antifraud provisions to any person who engages in practices similar to paragraphs 50.100(3)*"a"* through *"h"* listed below, the listed practices apply only to soliciting a purchase or sale of OTC non-NASDAQ equity securities and excludes interests in direct participation programs and shares in open-end mutual funds:

a. Failing to disclose the entity's present bid and ask price of a particular security at the time of solicitation.

b. Failing to advise the customer, both at the time of solicitation and on confirmation, of the total of all charges and fees related to a specific securities transaction.

c. In connection with a principal transaction, failing to disclose, both at the time of solicitation and upon confirmation, a short inventory position in the entity's account of more than 5 percent of the issued and outstanding shares of that class of securities of the issuer, if the entity is a market maker at the time of solicitation.

d. Conducting sales contests in a particular security.

e. After a solicited purchase by a customer, failing or refusing, for a principal transaction, to promptly execute sell orders.

f. Refusing to sell existing securities held by the customer unless the customer executes a purchase transaction.

g. Soliciting a secondary market when there has not been a bona fide distribution in the primary market.

h. Engaging in a pattern of compensating an agent in different amounts for effecting sales and purchases in the same security.

This list is not intended to be all-inclusive. Engaging in other conduct including but not limited to forgery, embezzlement, conversion, nondisclosure, incomplete disclosure or misstatement of material facts may also be deemed fraudulent.

This rule is intended to implement Iowa Code section 502.501.

191—50.101(502) Rescission offers.

50.101(1) Rescission offers made pursuant to Iowa Code section 502.510 shall be typed or printed and shall be captioned "RESCISSION OFFER" in boldface print or type. The rescission offer shall be delivered to each offeree personally or shall be sent by certified mail to the offeree's last-known address and shall contain the following information:

a. The name of the security that is the subject of the offer.

b. A reasonably detailed statement indicating why liability under Iowa Code section 502.509 may have arisen and fairly and adequately advising the offeree of the offeree's rights pursuant to the Act.

c. An offer to repurchase the security pursuant to Iowa Code section 502.510(1)*"b"* through *"f,"* as applicable.

d. A statement that the offeree's right to bring an action under the Act may be lost unless the offeree accepts the offer within 30 days after receiving the offer, or any shorter period, of not less than three days, that the administrator, by order, specifies.

e. Sufficient information about the issuer and the security offered to permit the offeree to make an informed decision regarding acceptance of the rescission offer including but not limited to information about the issuer's organization and management, its operations and plan of business, and its financial condition as shown by a current financial statement prepared under generally accepted accounting principles.

f. A form by which the offeree may accept the offer and a statement explaining that the offeree may accept the offer by returning the form to the offerer at the provided address by first-class mail, or any other type of mail.

g. If the basis for relief under Iowa Code section 502.510 alleges a violation of Iowa Code section 502.509 that employed a device, scheme, or artifice to defraud, made an untrue statement of material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading, or engaged in an act, practice, or course of business that operated or would operate as a fraud or deceit on another person, in capital letters and boldface type at least as large as that used in the body of the printed materials, and placed immediately before the signature of the offerer, the following statement:

THIS IS A RESCISSION OFFER MADE PURSUANT TO Iowa Code section 502.510, A COPY OF WHICH IS ON FILE WITH THE IOWA SECURITIES AND REGULATED INDUSTRIES BUREAU. THE BUREAU MAKES NO RECOMMENDATION AS TO WHETHER THE OFFER SHOULD BE ACCEPTED OR REJECTED NOR HAS THE BUREAU PASSED UPON THE ADEQUACY OR ACCURACY OF THIS OFFER.

50.101(2) If the basis for relief under Iowa Code section 502.510 alleges a violation of Iowa Code section 502.509 that employed a device, scheme, or artifice to defraud, made an untrue statement of material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading, or engaged in an act, practice, or course of business that operated or would operate as a fraud or deceit on another person, prior to making a rescission offer pursuant to Iowa Code section 502.510, the offerer shall file with the administrator:

a. A copy of the rescission offer;

b. The names and addresses of all holders or sellers who are to receive the rescission offer; and

c. Financial statements proving that the offerer's assets are sufficient to meet its obligations should all offerees accept the rescission offer.

50.101(3) Rescission offers made pursuant to Iowa Code section 502.510 shall be tendered to all persons to whom liability exists or may exist pursuant to Iowa Code section 502.509.

50.101(4) A rescission offer may be accepted at any time during the period stated in the rescission offer even if an offeree previously rejected the offer.

50.101(5) Rescission offers are subject to the provisions of Iowa Code sections 502.501, 502.501A, 502.505, 502.506, and 502.506A.

50.101(6) The administrator may, in the administrator's discretion, require proof by the offerer of compliance with this rule and the terms of the rescission offer.

50.101(7) A proposal or the making of a rescission offer shall not limit the administrator's administrative or enforcement authority provided by the Act.

This rule is intended to implement Iowa Code sections 502.509 and 502.510.

191—50.102(502) Fraudulent, deceptive or manipulative act, practice, or course of business in providing investment advice.

50.102(1) It shall constitute a fraudulent, deceptive or manipulative act, practice, or course of business for an investment adviser or an investment adviser representative acting as principal for such person's own account, knowingly to sell any security to or purchase any security from a client or, acting as broker for a person other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which the investment adviser is acting and obtaining the consent of the client to such transaction. The prohibitions of this subrule shall not apply to any

transaction with a customer of a broker-dealer if such broker-dealer is not acting as an investment adviser in relation to such transaction.

50.102(2) It shall constitute a fraudulent, deceptive or manipulative act, practice, or course of business for an investment adviser or an investment adviser representative to fail to disclose to any client or prospective client all material facts regarding financial and disciplinary information as provided in 17 CFR Section 275.206(4)-4.

50.102(3) Pooled investment vehicles.

a. It shall constitute a fraudulent, deceptive, or manipulative act, practice, or course of business within the meaning of Iowa Code section 502.502(2) for any investment adviser to a pooled investment vehicle to:

(1) Make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle; or

(2) Otherwise engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

b. For purposes of this subrule, "pooled investment vehicle" means any investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)) or any company that would be an investment company under Section 3(a) of that Act but for the exclusion provided from that definition by either Section 3(c)(1) or Section 3(c)(7) of that Act (15 U.S.C. 80a-3(c)(1) or (7)).

This rule is intended to implement Iowa Code section 502.502(2).

191—50.103(502) Investment advisory contracts.

50.103(1) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless the contract provides in writing all of the following:

a. That the investment adviser shall not be compensated on the basis of a share of capital gains or capital appreciation of the funds or any portion of the funds of the client.

b. That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract.

c. That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

50.103(2) The provisions of subrule 50.103(1) shall be construed consistent with Sections 205(b) through (d) of the Investment Advisers Act of 1940, the terms of which shall be defined by Investment Advisers Act of 1940 Rules 275.205-1 and 275.205-2.

50.103(3) The provisions of subrule 50.103(1) shall not prohibit compensation on the basis of a share of capital gains or capital appreciation of the funds or any portion of the funds of the client in compliance with the exemption in 17 CFR Section 275.205-3.

This rule is intended to implement Iowa Code section 502.502(3).

191—50.104 to **50.109** Reserved.

DIVISION VIII
VIATICAL SETTLEMENT INVESTMENT CONTRACTS

191—50.110(502) Application by viatical settlement investment contract issuers and registration of agents to sell viatical settlement investment contracts.

50.110(1) Under this rule, the term "viatical settlement investment contract issuer" includes but is not limited to any individual, company, corporation or other entity that offers or sells, directly or indirectly, viatical settlement investment contracts to investors.

50.110(2) A viatical settlement investment contract issuer employing agents in Iowa must make prior application to the administrator for this authority. The application shall be made by letter and shall include:

a. A statement of the issuer's intent to employ agents for the sale of its viatical settlement investment contracts; and

b. The name, address, social security number and proof of satisfaction of subrule 50.110(3) for each agent.

50.110(3) An applicant for registration as an Iowa-registered agent of an issuer of viatical settlement investment contracts shall file with the administrator:

a. Proof of obtaining a passing grade on the FINRA Series 7 examination;

b. Proof of obtaining a passing grade on the FINRA Series 63 examination;

c. An accurate, complete and signed Form U-4; and

d. A $30 filing fee.

This rule is intended to implement Iowa Code sections 502.102(2), 502.301 and 502.402.

191—50.111(502) Risk disclosure. Viatical settlement investment contract issuers and registered agents of issuers must provide specific, written disclosures of risk to Iowa investors at the time of the initial offer to sell a viatical settlement investment contract. These disclosures must be preceded by the following caption, which must be in bold, 16-point typeface:

IMPORTANT RISK DISCLOSURE INFORMATION—READ BEFORE SIGNING ANY VIATICAL SETTLEMENT INVESTMENT CONTRACT.

The disclosure must include, at a minimum, the following information:

1. That the actual annual rate of return on any viatical settlement investment contract is dependent upon an accurate projection of the viator's life expectancy and the actual date of the viator's death and that an annual "guaranteed" rate of return is not possible;

2. Whether, after purchasing the viatical settlement investment contract, the investor will be responsible for payment of premiums on the contract if the viator lives longer than projected and if the investor will be responsible for such premiums, the amount of the premium payment and any resulting negative effect on the investor's return;

3. Whether any premium payments on the contract have been escrowed and, if so, the date upon which the escrowed funds will be depleted, who is responsible for payment of premiums after depletion of the funds, and, if applicable, the amount of the premiums;

4. Whether any premium payments on the contract have been waived, whether the investor will be responsible for payment of the premiums if the insurer who wrote the policy terminates the waiver after purchase, and, if applicable, the amount of the premiums;

5. Whether the investor is responsible for payment of premiums on the contract if the viator returns to health and, if applicable, the amount of the premiums;

6. Whether the investor is entitled to all or part of the investor's investment under the contract if the viator's underlying policy is later determined to be null and void;

7. Whether the insurance policy is a group policy and, if so, the special risks associated with group policies including, but not limited to, whether the investor is responsible for payment of additional premiums if the policies are sold or converted;

8. Whether the insurance policy is term insurance and, if so, the special risks associated with term insurance including, but not limited to, whether the investor is responsible for additional premium costs if the viator continues the term policy at the end of the current term;

9. Whether the investor will be the beneficiary or owner of the insurance policy and, if the investor is the beneficiary, the special risks associated with beneficiary status;

10. Whether the insurance policy is contestable and, if so, the special risks associated with contestability including, but not limited to, the risk that the investor will have no claim or only a partial claim to death benefits should the insurer cancel the policy within the contestability period;

11. Who is making the projection of the viator's life expectancy, the information upon which the projection is based, and the relationship of the projection maker to the issuer;

12. Who is monitoring the viator's condition, how often the monitoring is done, how the date of death is determined, and how and when this information will be transmitted to the investor;

13. Whether the insurer who wrote the viator's underlying policy has any additional rights which could negatively affect or extinguish the investor's rights under the viatical settlement investment contract, what these rights are, and under what conditions these rights are activated;

14. That a viatical settlement investment contract is not a liquid investment and that there is no established secondary market for resale of these products by the investor;

15. That the investor will receive no returns (i.e., dividends and interest) until the viator dies; and

16. That the investor may lose all benefits or receive substantially reduced benefits if the insurer goes out of business during the term of the viatical investment.

This rule is intended to implement Iowa Code sections 502.102, 502.201(9E) and 502.301.

191—50.112(502) Advertising of viatical settlement investment contracts.

50.112(1) The issuer and agent shall file all viatical settlement investment contract advertisements with the administrator at least ten business days prior to the date of use or a shorter period as the administrator may permit. The administrator shall mark the advertisements with allowance for use or expressly disapprove them during this time frame. The advertisement shall not be used in Iowa until a copy thereof, marked with allowance for use, has been received from the administrator.

50.112(2) Viatical settlement investment contract advertisements shall contain no more than the following:

a. The name of the issuer;

b. The address and telephone number of the issuer;

c. A brief description of the security, including minimum purchase requirements and liquidity aspects;

d. If a rate of return is advertised, it must be stated as the annual average rate of return, with a disclaimer that this is an annual average rate of return, that individual investor rates of return will vary based upon the viator's projected and actual date of death, and that an annual rate of return on a viatical settlement investment contract cannot be guaranteed;

e. The name, address and telephone number of the agent of the issuer authorized to sell the viatical settlement investment contracts;

f. A statement that the advertisement is neither an offer to sell nor a solicitation of an offer to purchase and that any offer or solicitation may only be made by providing a disclosure document; and

g. How a copy of the disclosure document may be obtained.

50.112(3) Notwithstanding the provisions of rule 191—50.69(502), certain viatical settlement investment contract advertisements may be deemed false and misleading on their face by the administrator and are prohibited pursuant to Iowa Code sections 502.501 and 502.504. False and misleading viatical settlement investment contract advertisements include but are not limited to the following representations:

a. "Fully secured," "100% secured," "fully insured," "secure," "safe," "backed by rated insurance company(ies)," "backed by federal law," "backed by state law," or similar representations;

b. "No risk," "minimal risk," "low risk," "no speculation," "no fluctuation," or similar representations;

c. "Qualified or approved for IRA, Roth IRA, 401K, SEP, 403B, Keogh plans, TSA, other retirement account rollovers," "tax deferred," or similar representations;

d. "Guaranteed fixed return," "guaranteed annual return," "guaranteed principal," "guaranteed earnings," "guaranteed profits," "guaranteed investment," or similar representations;

e. "No sales charges or fees" or similar representations;

f. "High yield," "superior return," "excellent return," "high return," "quick profit," or similar representations;

g. "Perfect investment," "proven investment," or similar representations;

h. Purported favorable representations or testimonials about the benefits of viaticals as an investment, taken out of context from newspapers, trade papers, journals, radio or television programs, or any other form of print or electronic media.

50.112(4) For purposes of this rule, the term "advertisement" includes any written, electronic or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including filmstrips, motion pictures, and videos, published in connection with the offer or sale of a viatical settlement investment contract.

This rule is intended to implement Iowa Code sections 502.102, 502.301, and 502.504.

191—50.113(502) Duty to disclose. Issuers and agents equally share an affirmative duty to disclose all relevant and material information to prospective investors in viatical settlement investment contracts. The required disclosure is the registration statement required by Iowa Code section 502.304 that has been reviewed and made effective by the administrator.

This rule is intended to implement Iowa Code sections 502.102 and 502.201(9E).

Regulatory Analysis

Notice of Intended Action to be published: 265—Chapter 10
"Mortgage Credit Certificates"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.5 and 17A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 17A and 26 U.S.C. §25

Public Hearing

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

August 26, 2025	1963 Bell Avenue
9 to 9:15 a.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:

Tyler Barnard
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: tyler.barnard@iowafinance.com

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 10 and adopt a new chapter in lieu thereof. The proposed chapter eliminates language that is duplicative of statutory language, eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms, and updates outdated language. The proposed chapter also includes a statement on the availability of acquiring a reissued mortgage credit certificate (MCC) upon the refinancing of the original mortgage. The proposed chapter also includes a new rule designating references to certain Authority internal program documents.

Analysis of Impact

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

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

Eligible borrowers will bear the costs of the application fee and potentially (at the discretion of the participating lender) the commitment fee. Participating lenders will bear the costs of the annual participation fee.

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

Eligible borrowers and participating lenders 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 will have a quantitative impact on eligible borrowers by requiring them to incur the costs of the application fee and possibly the commitment fee. The quantitative impact on participating lenders is the incurrence of an annual participation fee to participate in the program. The

quantitative impact on the Authority is the staff time incurred in processing applications, issuing MCCs, and reissuing MCCs if requested.

- **Qualitative description of impact:**

The proposed rulemaking will provide clarity about the Authority's processes for its MCC program.

3. **Costs to the State:**

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

The Authority incurs staff time to administer MCC issuances and reissuances.

- **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 additional costs on either participating lenders or eligible borrowers compared to the existing Chapter 10. The cost to participating lenders and the cost to eligible borrowers is proportional to the benefits received from the program.

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 administering the MCC program.

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

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

The Authority did not consider any 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.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
MORTGAGE CREDIT CERTIFICATES

265—10.1(16) General.

10.1(1) *Authorization.* Mortgage credit certificates (MCCs) were authorized by Congress in the 1984 Tax Reform Act as a new concept for providing housing assistance. The Iowa finance authority (authority) may elect to allocate a portion of its mortgage revenue bonding authority for single-family housing toward an MCC program. The program will be made available to home buyers through participating Iowa lenders on a first-come, first-served basis.

10.1(2) *Federal income tax credit.* The MCC operates as a federal income tax credit. The MCC tax credit will reduce the federal income taxes of qualified home buyers purchasing qualified residences, in effect assisting buyers with their house payments.

10.1(3) *Application timing.* A purchaser of a new or existing single-family residence may apply for an MCC through a participating lender at the time of purchasing a home and obtaining financing through the lender. An MCC cannot be issued to a home buyer who is refinancing an existing mortgage or land contract, nor can it be used in conjunction with a mortgage financed through a mortgage subsidy bond. MCCs will be made available to home buyers with generally the same noncredit eligibility requirements as are in effect for the authority's single-family mortgage program.

265—10.2(16) Participating lenders.

10.2(1) Any lending institution as defined in Iowa Code section 16.1 may become a participating lender by entering into an MCC lender participation agreement with the authority. All other participating lenders may take applications for MCCs on loans closed after the effective date of the participation agreement.

10.2(2) The annual participation fee shall be:

a. $0 for a lender currently participating in the authority's first mortgage program.

b. $500 for a lender not participating in the authority's first mortgage program and with one to five branches listed on the authority's website.

c. $1,000 for a lender not participating in the authority's first mortgage program and with six or more branches listed on the authority's website.

265—10.3(16) Eligible borrowers.

10.3(1) To be eligible to receive a mortgage credit certificate, an eligible borrower must, on the date the loan is closed:

a. Be a resident of Iowa.

b. Be a purchaser of a single-family residence who will occupy the single-family residence as a permanent, primary, principal residence located within the state.

c. Have the legal capacity to incur the obligations of the loan.

d. Agree not to rent the single-family residence any time during the term of the loan.

10.3(2) To the extent determined by the authority to ensure its MCCs will be qualified MCCs pursuant to a qualified MCC program, the authority shall require that the eligible borrower meet the requirements of 26 U.S.C. §25 and the rules and regulations promulgated thereunder, as well as the requirements set forth in the MCC program guide. Copies of the program guide are available from the authority.

265—10.4(16) MCC procedures.

10.4(1) Applications for MCCs may be made with any participating lender. The applicant shall provide the lender with all information that is necessary to secure a mortgage loan and an MCC. An applicant must meet the eligibility requirements set out in rule 265—10.3(16). If the eligibility requirements are met, the participating lenders may nonetheless deny a loan, subject to all reporting and disclosure requirements of applicable state and federal law, for any reason premised on sound lending practices, including underwriting risk evaluation, portfolio diversification, and limitations on restrictions on investments or available funds.

10.4(2) If the loan is approved, the terms of the loan, including interest rate, length of loan, down payment, fees, origination charge and repayment schedule, shall not be greater than those available to similar customers that do not make application for an MCC. However, the lender may collect a one-time MCC commitment fee, which may be paid by the borrower, lender, or any other party. An MCC program application fee must accompany the MCC application and be submitted to the authority by the lender. The amount of the maximum allowable MCC commitment fee shall be $250 and the amount of the MCC program application fee shall be:

a. $0 if the borrower currently uses an authority first mortgage product.

b. $500 if the borrower does not currently use an authority first mortgage product.

10.4(3) No MCC will be issued unless the requirements and procedures set out in the MCC program guide are complied with by all parties to the home sale and financing.

10.4(4) An MCC may be reissued at the sole discretion of the authority if the mortgagor refinances; however, the credit cannot be taken beyond the term of the original mortgage. No MCC shall be reissued unless:

a. The borrower uses or continues to use the residence as its permanent, primary, principal residence; and

b. All other requirements and procedures set out in the authority's MCC reissuance instructions are complied with, which reissuance instructions shall be posted on the authority's website.

265—10.5(16) References. All references to the United States Code in this chapter are to the laws as in effect [effective date of this rulemaking]. All references to the MCC program guide are to the MCC program section within the authority's Procedural Guide (The Single Family Department) dated March 2018. All references to the MCC reissuance instructions are to the Instructions for Requesting Reissuance of Mortgage Credit Certificates dated March 2019.

These rules are intended to implement Iowa Code section 16.5(1)*"e," "i,"* and *"t."*

Regulatory Analysis

Notice of Intended Action to be published: 641—Chapter 109
"Prescription Drug Donation Repository Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 135M
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 135M

Public Hearing

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

September 9, 2025 10 a.m.	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja

Public Comment

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

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Purpose and Summary

The overall purpose of this proposed chapter is to establish administrative rules related to the requirements for medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies, as well as to establish eligibility criteria for individuals to receive donated prescription drugs and supplies.

Analysis of Impact

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

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

There are no costs associated with this proposed chapter.

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

Those who donate and those who receive donated prescription drugs will benefit from this proposed rulemaking.

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

- **Quantitative description of impact:**

An annual appropriation of $600,000 is used to support this activity.

- **Qualitative description of impact:**

This is a very successful program. It provides medications to people in disasters and when they are unable to afford the medications. It also keeps medications out of the waste stream by using the medications instead of destroying them.

3. **Costs to the State:**

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

There is an annual appropriation of $600,000 to support the activities described in this proposed chapter. The Department incurs personnel and other administrative costs associated with this proposed chapter.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no impact on State revenues.

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

Rulemaking is required by Iowa Code chapter 135M.

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:**

Rulemaking is required by Iowa Code chapter 135M.

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 impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 641—Chapter 109 and adopt the following **new** chapter in lieu thereof:

CHAPTER 109
PRESCRIPTION DRUG DONATION REPOSITORY PROGRAM

641—109.1(135M) Definitions. For purposes of this chapter, the following definitions apply:

"Centralized repository" means an entity approved by the contractor and licensed pursuant to applicable regulations of the board of pharmacy that accepts donated drugs, conducts a safety inspection of the drugs, and ships the donated drugs to a local repository to be dispensed in compliance with this chapter and federal and state laws, rules and regulations.

"Contractor" means the third party approved by the department to implement and administer the prescription drug donation repository program.

"Controlled substance" means the same as defined in Iowa Code section 124.101.

"Indigent" means the same as defined in Iowa Code section 135M.2.

"Local repository" means a pharmacy or medical facility that elects to accept and dispense donated drugs and that meets the eligibility requirements of rule 641—109.2(135M).

"Medical facility" means the same as defined in Iowa Code section 135M.2.

"NDC #" means the unique national drug code number that identifies a specific approved drug.

"Nurse practitioner" means an advanced registered nurse practitioner as defined in 481—Chapter 621.

"Pharmacist" means the same as defined in Iowa Code section 155A.3.

"Pharmacy" means the same as defined in Iowa Code section 155A.3.

"Physician" means an individual licensed under Iowa Code chapter 148.

"Physician assistant" means an individual licensed under Iowa Code chapter 148C.

"Prescription drug" means the same as defined in Iowa Code section 155A.3 and includes cancer drugs and antirejection drugs but does not include controlled substances.

"Supplies" means the same as defined in Iowa Code section 135M.2.

"USP" means United States Pharmacopoeia.

641—109.2(135M) Eligibility criteria for program participation by medical facilities and pharmacies.

109.2(1) To be eligible for participation in the prescription drug donation repository program, a medical facility or pharmacy shall be in compliance with all applicable federal and state laws, including laws applicable to the storage and distribution of drugs and the appropriate licensure standards, and shall hold active, nonrestricted, state-issued licenses or registrations in good standing.

109.2(2) Participation in the prescription drug donation repository program is voluntary.

109.2(3) A pharmacy or medical facility may elect to participate in the prescription drug donation repository program by providing, on a form prescribed by the department and available on the department's website, written notification to the centralized repository of all of the following:

a. The name, street address, and telephone number of the pharmacy or medical facility and any state-issued license or registration number issued to the pharmacy or medical facility, including the name of the issuing agency.

b. The name and telephone number of the responsible pharmacist, physician, physician assistant or nurse practitioner who is employed by or under contract with the pharmacy or medical facility.

c. A statement, signed and dated by the responsible pharmacist, physician, physician assistant or nurse practitioner, indicating that the pharmacy or medical facility meets the eligibility requirements under this rule and shall comply with the requirements of this chapter.

109.2(4) A pharmacy or medical facility may withdraw from participation in the prescription drug donation repository program at any time by providing written notice to the centralized repository on a form prescribed by the department and available on the department's website.

641—109.3(135M) Standards and procedures for accepting donated prescription drugs and supplies.

109.3(1) Any individual who is 18 years of age or older may donate legally obtained prescription drugs or supplies to the centralized repository or a local repository if the drugs or supplies meet the requirements of this rule, as determined by a pharmacist who is employed by or under contract with a drug repository.

109.3(2) No drugs that need storage temperatures other than normal room temperature as specified by the manufacturer or USP shall be donated or accepted as part of the prescription drug donation repository program. Drugs that need storage temperatures other than normal room temperature as specified by the manufacturer or USP shall not be donated or accepted because of the increased potential for these drugs to become adulterated. Excluded from this restriction are drugs donated directly from a drug manufacturer.

109.3(3) Controlled substances shall not be donated or accepted. Pursuant to federal and state laws, a controlled substance cannot be returned or reused once the drug has been dispensed to a patient.

109.3(4) The centralized repository or a local repository may accept a prescription drug only if all of the following requirements are met:

a. The drug is in its original sealed and tamper-evident packaging. However, a drug in a single-unit dose or blister pack with the outside packaging opened may be accepted if the single-unit-dose packaging is undisturbed;

b. The drug has been stored according to manufacturer or USP storage requirements;

c. The packaging contains the lot number and expiration date of the drug. If the lot number is not retrievable, all specified medications will be destroyed in the event of a recall, pursuant to board of pharmacy rules;

d. The drug has an expiration date that is more than six months after the date that the drug was donated. However, a donated prescription drug bearing an expiration date that is six months or less after the date the prescription drug was donated may be accepted and distributed if the drug is in high demand and can be dispensed for use prior to the drug's expiration date;

e. The drug does not have any physical signs of tampering or adulteration, and there is no reason to believe that the drug is adulterated;

f. The packaging does not have any physical signs of tampering, misbranding, deterioration, compromised integrity or adulteration; and

g. All drugs shall be inventoried at the centralized repository or a local repository. The inventory shall include the name of the drug, strength of the drug, quantity of the drug, and the date of donation if the drug has been continually under the control of a health care professional. If the drug has not been continually under the control of a health care professional, the repository shall collect a donation form provided by the prescription drug donation repository program that is signed by the person making the donation or that person's authorized representative.

109.3(5) A repository may accept supplies necessary to administer the prescription drugs donated only if all of the following requirements are met:

a. The supplies are in their original, unopened, sealed packaging;

b. The supplies are not adulterated or misbranded; and

c. The supplies are inventoried at the centralized repository or a local repository. The inventory shall include a description of the supplies and the date donated. Such inventory shall be recorded on a form provided by the department.

109.3(6) Drugs and supplies may be donated on the premises of a participating centralized repository or a local repository to a person designated by the repository. A drop box will not be used to deliver or accept donations.

641—109.4(135M) Standards and procedures for inspecting and storing donated prescription drugs and supplies.

109.4(1) A licensed pharmacist employed by or under contract with the centralized repository or a local repository shall inspect donated prescription drugs and supplies to determine, to the extent reasonably possible in the judgment of the pharmacist, that the drugs and supplies are not adulterated or misbranded, are safe and suitable for dispensing, and are not ineligible drugs or supplies. The pharmacist who inspects the drugs shall sign an inspection record stating the above and attach it to the copy of the inventory or donor record provided with the drugs. If a local repository receives drugs and supplies from the centralized repository, the local repository does not need to reinspect the drugs and supplies.

109.4(2) The centralized repository and local repositories shall store donated drugs and supplies in a secure storage area under environmental conditions appropriate for the drugs or supplies being stored. Donated drugs and supplies will not be stored with nondonated inventory. When donated drugs are not inspected immediately upon receipt, a repository shall quarantine the donated drugs separately

from all dispensing stock until the donated drugs have been inspected and approved for dispensing under the program.

109.4(3) Repositories shall destroy donated noncontrolled substances that are not suitable for dispensing and make a record of such destruction according to rules of the board of pharmacy. The destruction record shall be made in the same manner as prescribed for the record of return or destruction of a controlled substance in subrule 109.4(4).

109.4(4) Controlled substances shall not be accepted for donation.

a. Controlled substances submitted for donation shall be documented and returned immediately to the donor or the donor's representative that provided the drugs.

b. In the event controlled substances enter the centralized repository or a local repository and it is not possible or practicable to return the controlled substances to the donor or the donor's representative due to inability to identify the donor or the donor's representative or due to refusal by the donor or the donor's representative to receive them, abandoned controlled substances shall be documented and destroyed beyond reclamation pursuant to rules of the board of pharmacy. Such destruction shall be performed by a pharmacist or other person that has authority to dispense controlled substances and shall be witnessed by another responsible adult employee of the repository.

109.4(5) If a repository receives a recall notification, the repository shall perform a uniform destruction of all of the recalled prescription drugs in the repository and complete the destruction information form for all donated drugs destroyed. If a recalled drug has been dispensed, the repository shall immediately notify the recipient of the recalled drug pursuant to established drug recall procedures.

641—109.5(135M) Standards and procedures for dispensing donated prescription drugs and supplies.

109.5(1) Donated drugs and supplies may be dispensed only if the drugs or supplies are prescribed by a health care practitioner for use by an eligible individual and are dispensed by a licensed pharmacist, physician, physician assistant or nurse practitioner.

109.5(2) A repository shall prioritize dispensing to an individual requesting drugs through the program as follows:

a. First, to an indigent individual;

b. Second, to an individual who has no active third-party prescription drug reimbursement coverage for the drug prescribed; and

c. Third, to any other individual if an indigent or uninsured individual is unavailable.

109.5(3) A repository shall dispense donated prescription drugs in compliance with applicable federal and state laws and regulations for dispensing prescription drugs, including all requirements relating to packaging, labeling, recordkeeping, drug utilization review, and patient counseling.

109.5(4) The centralized repository and a local repository shall remove the original donor's identification and the name of the dispensing pharmacy from the package prior to dispensing the drugs or supplies.

109.5(5) The centralized repository and a local repository shall be responsible for drug recalls and shall have an established mechanism to notify recipients in the event of a drug recall.

109.5(6) Prescription drugs or supplies donated under this program shall not be resold.

109.5(7) The participating centralized repository and local repositories may distribute drugs and supplies donated under this program to other participating repositories for use pursuant to the program. The repository distributing the drugs or supplies shall complete a transfer form.

641—109.6(135M) Eligibility criteria for individuals to receive donated prescription drugs and supplies.

109.6(1) An individual who requests drugs from the prescription drug donation repository program shall certify to the repository that the individual is a resident of Iowa and meets one or both of the following criteria:

a. Is indigent; and

b. Has no active third-party prescription drug reimbursement coverage for the drug prescribed.

109.6(2) The local repository shall collect from each individual recipient a signed intake collection form provided by the department or its contractor.

a. The intake collection form shall attest that:

(1) The individual is a resident of the state of Iowa;

(2) The individual's income does not exceed 200 percent of the federal poverty level (FPL);

(3) The individual is uninsured and has no prescription coverage or is underinsured and has no prescription coverage;

(4) The individual acknowledges that the drugs may have been donated; and

(5) The individual consents to a waiver of the requirement for child resistant packaging of the Poison Prevention Packaging Act (as amended to August 1, 2025).

b. The intake collection form will include an identification card to be given to the recipient for continued use for one year.

109.6(3) The identification card is valid for one year or until the new federal poverty guidelines have been published for all prescriptions and supplies.

109.6(4) A summary of data taken from the intake collection form is to be sent via regular mail, email or facsimile to the centralized repository for data collection.

641—109.7(135M) Forms and recordkeeping.

109.7(1) The following forms developed for the administration of this program shall be utilized by participants of the program and are available on the department's website:

a. Prescription drug donation repository program notice of participation or withdrawal.

b. Prescription drug donation repository program donation, transfer, inventory or destruction record.

c. A record of medications dispensed.

109.7(2) The prescription drug donation repository program recipient data collection form and identification card are given to the recipient by the local repository, and the completed data collection form is collected from the recipient by the local repository.

109.7(3) Recordkeeping requirements.

a. All records required to be maintained as a part of the prescription drug donation repository program shall be maintained for a minimum of five years by participating pharmacies and medical facilities.

b. Records required as part of this program shall be maintained pursuant to all current applicable practice acts.

c. Data collected by the prescription drug donation repository program from all participating repositories shall be submitted quarterly or upon request to the centralized repository.

d. The centralized repository and the contractor shall submit reports to the department as required by the contract or upon request of the department.

641—109.8(135M) Handling fee. A repository may charge the recipient of a donated drug a handling fee, not to exceed a maximum of 200 percent of the Medicaid professional dispensing fee as established by rule. A prescription drug dispensed through the prescription drug donation repository program shall not be eligible for reimbursement under the medical assistance program.

641—109.9(135M) List of drugs and supplies program will accept. All prescription drugs, excluding controlled substances, that have been approved for medical use in the United States, that are listed in the USP or National Formulary (USP/NF), and that meet the criteria for donation established by these rules may be accepted for donation under the prescription drug donation repository program.

641—109.10(135M) Prescription drug donation repository in disaster emergencies. The following are the requirements for the department to receive and distribute prescription drugs and

supplies in preparation for a disaster emergency proclaimed by the governor or in preparation for a public health disaster.

109.10(1) The department may receive prescription drugs and supplies directly from the prescription drug donation repository contractor and dispense prescription drugs and supplies through licensed personnel during or in preparation for a disaster emergency proclaimed by the governor pursuant to Iowa Code section 29C.6 or during or in preparation for a public health disaster as defined in Iowa Code section 135.140(5).

109.10(2) The department may receive and distribute prescription drugs and supplies as outlined in Iowa Code section 135.142 to any Iowan who has been a victim of a disaster emergency proclaimed by the governor.

These rules are intended to implement Iowa Code chapter 135M.

Regulatory Analysis

Notice of Intended Action to be published: 661—Chapter 15
"Law Enforcement Administrator's Telecommunications Advisory Committee (LEATAC)"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 80.29
State or federal law(s) implemented by the rulemaking: Iowa Code section 80.28

Public Hearing

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

September 9, 2025 2 to 2:30 p.m.	First Floor Public Conference Room 125 Oran Pape State Office Building Des Moines, Iowa

Public Comment

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

Josie Wagler
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: wagler@dps.state.ia.us

Purpose and Summary

Pursuant to Executive Order 10, this proposed rulemaking rescinds Chapter 15 in its entirety. The LEATAC no longer exists, and the Law Enforcement Administrator's Communication Network frequency was removed. The committee and network were replaced by the Iowa Statewide Interoperable Communications System (ISICS) and ISICS Board, governed by Chapter 600 of the Department of Public Safety's administrative rules. Those entities and that chapter supplanted Chapter 15 and the need therefor.

Analysis of Impact

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

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

Not applicable. Chapter 15 is being rescinded in its entirety.

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

Not applicable. Chapter 15 is being rescinded in its entirety.

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

- **Quantitative description of impact:**

Not applicable. This rulemaking rescinds Chapter 15 now that LEATAC has been replaced by the ISICS and the ISICS Board.

- **Qualitative description of impact:**

The rescission of Chapter 15 removes outdated and obsolete language for a committee and network that no longer exist, preventing confusion for anyone attempting to read and interpret these rules.

3. **Costs to the State:**

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

There will be no costs to the Department or any other agency to implement or enforce these rules since Chapter 15 is being rescinded in its entirety.

- **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:**

Leaving rules in place for a committee and network that no longer exist will create confusion for anyone accessing or attempting to interpret these rules. Rescinding this chapter is a necessary step in maintaining clarity within the Department's administrative rules.

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

No methods exist that are less costly than the rescission of this chapter and the elimination of outdated and obsolete rules.

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?

This proposed rulemaking has no substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **661—Chapter 15**.

Regulatory Analysis

Notice of Intended Action to be published: 661—Chapter 23
"Reflective Devices on Slow-Moving Vehicles"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.383(2)
State or federal law(s) implemented by the rulemaking: Iowa Code section 321.383(2)

Public Hearing

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

September 9, 2025 1 to 1:30 p.m.	First Floor Public Conference Room 125 Oran Pape State Office Building Des Moines, Iowa

Public Comment

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

Josie Wagler
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: wagler@dps.state.ia.us

Purpose and Summary

Pursuant to Executive Order 10, this rulemaking proposes to repromulgate Chapter 23. The purpose of this proposed chapter is to outline the standards for an alternative reflective device for a person operating a vehicle drawn by a horse or mule who objects for religious reasons to using a reflective device that complies with the standards of the American Society of Agricultural Engineers.

Analysis of Impact

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

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

Anyone who is operating a vehicle drawn by a horse or mule who objects to using a reflective device that complies with the standards of the American Society of Agricultural Engineers for religious reasons will bear the cost of obtaining an alternative reflective device that is in compliance with the proposed rule.

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

Anyone operating a vehicle drawn by a horse or mule with an alternative reflective device compliant with the proposed rule will benefit from increased visibility on the roadway, as will the motoring public, increasing safety for both.

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:**

Anyone who objects to using a reflective device that complies with the standards of the American Society of Agricultural Engineers will be responsible for purchasing an alternative device that conforms with the proposed rule. The cost of such a device is estimated to be minimal.

- **Qualitative description of impact:**

Anyone seeking to understand the standards of an alternative reflective device will benefit from the proposed rule. Reflective devices also increase safety for the vehicle operator, as well as the motoring public traveling on Iowa's roadways.

3. **Costs to the State:**

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

There is no cost to the Department or any other agency to implement and enforce this rule.

- **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:**

Inaction would leave no alternative available to anyone who objects for religious reasons to using a reflective device that is compliant with American Society of Agricultural Engineers standards when operating a vehicle drawn by a horse or mule. The cost to purchase an alternative device is minimal, and the public benefits from having an alternative option if needed.

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

The Department has determined this method to be the least costly and least intrusive method for achieving the purpose of the proposed rule.

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 by the Department.

- **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 proposed rule will not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 661—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23
REFLECTIVE DEVICES ON SLOW-MOVING VEHICLES

661—23.1(321) Alternative reflective device. If a person operating a vehicle drawn by a horse or mule objects for religious reasons to using a reflective device that complies with the standards of the American Society of Agricultural Engineers, the vehicle may be identified by an alternative reflective device that is in compliance with the following:

23.1(1) The alternative reflective device will consist of one-inch-wide strips applied to the rear of the vehicle. The combined length of the strips will be at least 72 inches, and the strips, when applied, will approximate the outline of the vehicle.

23.1(2) The reflective material may be black, gray, silver or white in color but must reflect white when illuminated by other vehicles' headlamps.

23.1(3) The reflective material will be visible from a distance of not less than 500 feet from the rear of the vehicle when illuminated by other vehicles' headlamps.

23.1(4) The reflective material will be kept free of dirt and debris.

This rule is intended to implement Iowa Code section 321.383(2).

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 130
"Traffic Control Device Manual"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 307.12(1)"j"

State or federal law(s) implemented by the rulemaking: Iowa Code sections 321.249 and 321.252 and 23 U.S.C. §655.601

Public Hearing

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

September 11, 2025 3 to 3:30 p.m.	Microsoft Teams Or dial: 515.817.6093 Conference ID: 278 155 414#

Public Comment

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

Chris Poole
800 Lincoln Way
Ames, Iowa 50010
Email: chris.poole@iowadot.us

Purpose and Summary

The purpose of proposed Chapter 130 is to implement Iowa Code section 321.252 and to comply with federal law by formally adopting the national Manual on Uniform Traffic Control Devices (MUTCD) as the State's manual and specifications governing the installation of traffic control devices. Traffic control devices include all signs, signals, markings, and other devices used to regulate, warn, or guide traffic.

This proposed rulemaking adopts the 11th Edition of the national MUTCD that was published in December 2023, with two exceptions added for the use of portable STOP signs in school zones and law enforcement pictographs on memorial signs. This proposed rulemaking also reflects the manual's application not just to highways, but to any street, highway, or bicycle trail open to public travel.

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 cost associated with this proposed rulemaking for any particular class of person.

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

All Iowans will benefit from signs, signals, markings, and other devices that notify road users of regulations and provide warning and guidance needed for the uniform and efficient operation of all elements of the traffic stream in a manner intended to minimize the occurrence of crashes.

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:**

It is expected that the uniform installation of traffic control devices will lead to fewer crashes.

- **Qualitative description of impact:**

It is expected that the uniform installation of traffic control devices will result in improved user satisfaction with the transportation system.

3. **Costs to the State:**

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

The costs cannot be determined. Compared to the 10th Edition of the national MUTCD, the new 11th Edition that this proposed rulemaking adopts contains many incremental changes to the requirements for the installation of signs, pavement markings, and other traffic control devices. Depending on the characteristics of the roadways within a particular jurisdiction, some of these changes would be expected to increase expenditures, while others may decrease expenditures.

- **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 adopting the national MUTCD would place the State in violation of federal law and may jeopardize federal funding.

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

The only less intrusive option would be to adopt the national MUTCD in its entirety, without any exceptions.

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

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

One option considered was to adopt the national MUTCD in its entirety, without any exceptions. Another option considered was to develop an Iowa-specific MUTCD that is in substantial conformance with the national MUTCD.

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

Although adopting the national MUTCD without exceptions would be simpler, the two exceptions to the national MUTCD are desirable to Iowa's schools and to Iowa's law enforcement community.

Developing an Iowa-specific MUTCD would be time-intensive and cost-prohibitive and would not provide any significant benefit compared to adopting the national MUTCD with exceptions.

Small Business Impact

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

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

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

There is no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 130 and adopt the following **new** chapter in lieu thereof:

CHAPTER 130
TRAFFIC CONTROL DEVICE MANUAL

761—130.1(307,321) Manual. The "Manual on Uniform Traffic Control Devices" (MUTCD), 11th Edition, dated December 2023, published by the U.S. Department of Transportation, Federal Highway Administration, constitutes the manual and specifications for a uniform system of traffic control devices for use upon any street, highway, or bicycle trail open to public travel within this state.

130.1(1) The department makes the following exception to the MUTCD in Part 2, Section 2B.06, General Considerations, paragraph 10. In lieu of the sentence, "Portable or part-time STOP or YIELD signs shall not be used except for emergency and temporary traffic control zone purposes.", the department adopts the following: "Portable or part-time YIELD signs shall not be used except for emergency and temporary traffic control zone purposes. Portable or part-time STOP signs may be used only in the following situations:

"1. When necessary for emergency and temporary traffic control zone purposes, or

"2. In school zones at appropriate school crosswalks."

130.1(2) The department makes the following exception to the MUTCD in Part 2, Section 2M.10, Memorial or Dedication Signing, paragraph 08. In lieu of the sentence, "Decorative or graphical elements, pictographs, logos, or symbols shall not be displayed on memorial or dedication signs.", the department adopts the following: "Decorative or graphical elements, pictographs, logos, or symbols shall not be displayed on memorial or dedication signs, with the exception of an official pictograph representing an Iowa law enforcement agency."

130.1(3) Information regarding this chapter is available from: Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. The MUTCD is available at www.mutcd.fhwa.dot.gov.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 321.249 and 321.252.

Regulatory Analysis

Notice of Intended Action to be published: 781—subrules 16.11(3) and 16.13(2)
"Qualified Withdrawals"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 12D.2(16)

State or federal law(s) implemented by the rulemaking: Public Law No. 119-21 Sections 70115 and 70413

Public Hearing

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

September 9, 2025 9 to 10 a.m.	Office of the Treasurer of State, Room 113 State Capitol Building Des Moines, Iowa

Public Comment

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

Molly Widen, Chief of Staff
1007 East Grand Avenue, First Floor
Des Moines, Iowa 50319
Email: molly.widen@tos.iowa.gov

Purpose and Summary

This proposed rulemaking is necessary to implement changes to Iowa's 529 program that have already been implemented at the federal level. Beginning January 1, 2026, the annual federal withdrawal limit for kindergarten through twelfth grade expenses will increase from $10,000 to $20,000, and the ability to roll over funds from a 529 account to an ABLE account, such as IAble, will be made permanent.

Analysis of Impact

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

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

Not applicable.

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

Account owners and beneficiaries of 529 or 529A accounts or both will benefit.

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

- **Quantitative description of impact:**

Not applicable.

- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

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

Not applicable.

- **Anticipated effect on State revenues:**

Not applicable.

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

If there is inaction, Iowans will not be able to roll over funds from a 529 to a 529A account after January 1, 2026. Additionally, inaction would prevent 529 account holders from utilizing an additional $10,000 for kindergarten through twelfth grade tuition.

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

None exist.

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

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

No alternative methods were considered.

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

The rulemaking seeks to bring Iowa into compliance with a change in federal law.

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. Amend subrule 16.11(3) as follows:

16.11(3) Withdrawals for the payment of tuition in connection with enrollment or attendance at a K-12 institution may not exceed a maximum of ~~$10,000~~ $20,000 per taxable year per beneficiary from all 529 plans.

ITEM 2. Amend subrule 16.13(2) as follows:

16.13(2) Qualified rollovers will be paid in one of the following ways once the form has been received by the contractor:

a. Directly to the account owner, provided that within 60 days of such distribution, the funds are recontributed from the account owner as described in paragraph 16.13(2)*"b," "c"* or *"d."*

b. Directly to another qualified tuition program for the benefit of the designated beneficiary.

c. Directly to another account designated beneficiary under a qualified tuition program who is a member of the family of the designated beneficiary with respect to which the distribution as made.

d. ~~Before January 1, 2026, directly~~ Directly to an ABLE account of the designated beneficiary or a member of the family of the designated beneficiary.

e. Notwithstanding any of the foregoing, any qualified rollover to a Roth IRA under Section 529 must be paid in a direct trustee-to-trustee transfer to a Roth IRA maintained for the benefit of such designated beneficiary.

ARC 9487C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rulemaking related to Iowa minority grants for economic success and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to rescind Chapter 22, "Iowa Minority Grants for Economic Success (Images)," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 256.178.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 256.213 through 256.217.

Purpose and Summary

The Commission is proposing to rescind Chapter 22 pursuant to Executive Order 10. The Iowa Minority Grants for Economic Success program has not received an appropriation in over two decades and is not operational. There is no benefit of the chapter.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Commission no later than 4:30 p.m. on September 9, 2025. Comments should be directed to:

David Ford
Department of Education, Bureau of Iowa College Aid
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.901.9924
Fax: 515.242.5988
Email: david.ford@iowa.gov or administrative rules website at rules.iowa.gov

Public Hearing

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

September 9, 2025 4 to 4:30 p.m.	Room B50 Grimes State Office Building Des Moines, Iowa
September 10, 2025 9 to 9:30 a.m.	Room B50 Grimes State Office Building 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 Commission 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 **283—Chapter 22**.

ARC 9488C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rulemaking related to the chiropractic loan forgiveness program and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to rescind Chapter 33, "Chiropractic Loan Forgiveness Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 256.178.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.205.

Purpose and Summary

The Commission plans to rescind Chapter 33 pursuant to Executive Order 10. The Chiropractic Loan Forgiveness Program has not received an appropriation since FY 2010 and is not operational. There is no further benefit of the chapter.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Commission no later than 4:30 p.m. on September 9, 2025. Comments should be directed to:

David Ford
Department of Education, Bureau of Iowa College Aid
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.901.9924
Fax: 515.242.5988
Email: david.ford@iowa.gov or administrative rules website at rules.iowa.gov

Public Hearing

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

September 9, 2025 4 to 4:30 p.m.	Room B50 Grimes State Office Building Des Moines, Iowa
September 10, 2025 9 to 9:30 a.m.	Room B50 Grimes State Office Building 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 Commission 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 **283—Chapter 33**.

ARC 9486C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rulemaking related to homeland security and emergency response teams and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to rescind Chapter 12, "Homeland Security and Emergency Response Teams," Iowa Administrative Code, and to adopt a new Chapter 12 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 29C.8.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 29C.8.

Purpose and Summary

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 12 and to 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, is a shorter chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025. A public hearing was held on the following date(s):

- July 15, 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 September 9, 2025. Comments should be directed to:

Blake DeRouchey, General Counsel
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Public Hearing

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

September 9, 2025 8:30 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via videoconference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#
September 10, 2025 10 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via videoconference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#

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 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.

ARC 9485C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rulemaking related to flood mitigation program and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to rescind Chapter 14, "Flood Mitigation Program," Iowa Administrative Code, and to adopt a new Chapter 14 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 418.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 418.

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, is a shorter chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025. A public hearing was held on the following date(s):

- July 15, 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 September 9, 2025. Comments should be directed to:

Blake DeRouchey, General Counsel
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Public Hearing

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

September 9, 2025 9 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via videoconference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#
September 10, 2025 10:30 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via videoconference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#

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 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 as 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.

ARC 9484C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rulemaking related to emergency planning and reporting and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to rescind Chapter 102, "Emergency Planning Districts"; to adopt a new Chapter 102, "Emergency Planning and Reporting"; and to rescind Chapter 103, "Local Emergency Planning Committees," and Chapter 104, "Required Reports and Records," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 30.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 30 and 2024 Iowa Acts, Senate File 2370.

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 to 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 are administered throughout the State.

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025. A public hearing was held on the following date(s):

- July 15, 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 September 9, 2025. Comments should be directed to:

Blake DeRouchey
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Public Hearing

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

September 9, 2025 9:30 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via videoconference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#
September 10, 2025 11 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via videoconference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#

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 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 102.22(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).

605—102.23(30) References to federal law. Unless otherwise specified, all references in this chapter to federal statutes are to those provisions in effect on [effective date of the rulemaking].

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**.

ARC 9492C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to conditions of participation for providers of medical and remedial care, and 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 77, "Conditions of Participation for Providers of Medical and Remedial Care," and 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 2025 Iowa Acts, Senate File 418, and 2025 Iowa Acts, House File 1049.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2025 Iowa Acts, Senate File 418, and 2025 Iowa Acts, House File 1049.

Purpose and Summary

The purpose of this proposed rulemaking is to update language to conform to changes made in 2025 Iowa Acts, Senate File 418, and 2025 Iowa Acts, House File 1049, section 14.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 the Department's waiver provisions contained in 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 September 9, 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:

September 9, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja
September 9, 2025 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 249 793 891 240 3 Passcode: td6Y9eu7

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 **77.3(3)"a"** as follows:

a. Definitions.

"Adult beds" means the number of staffed and available psychiatric beds ready for admission to individuals 18 years of age to 60 years of age.

"Child beds" means the number of staffed and available psychiatric beds ready for admission to individuals up to the age of 18.

~~*"Gender"* means female or male.~~

"Geriatric beds" means the number of staffed and available psychiatric beds ready for admission to individuals 60 years of age and older.

"Hospital," for purposes of this subrule, means any licensed hospital providing inpatient psychiatric services and the state mental health institutes.

"Psychiatric bed tracking system" means a web-based electronic system managed by the department that can be searched to locate inpatient psychiatric services at an Iowa hospital.

"Sex" means the state of being either male or female as observed or clinically verified at birth.

ITEM 2. Amend paragraph **77.3(3)"d"** as follows:

d. Each update must include the number of child beds by ~~gender~~ sex, the number of adult beds by ~~gender~~ sex, and the number of geriatric beds by ~~gender~~ sex.

ITEM 3. Amend subparagraph **78.1(4)"b"(2)** as follows:

(2) Procedures related to transsexualism, hermaphroditism, gender identity disorders, or body dysmorphic disorders. This subparagraph is intended to implement Iowa Code section 249A.14 as enacted by 2025 Iowa Acts, House File 1049, section 14.

ITEM 4. Amend subparagraph **78.10(3)"c"(2)** as follows:

(2) The member is 36 weeks of age but younger than 108 weeks of age and there is documentation of either of the following conditions:

1. Cephalic index at least two standard deviations above the mean for the member's ~~gender~~ sex and age; or
2. Asymmetry of 12 millimeters or more in the cranial vault, skull base, or orbitotragial depth.

ARC 9489C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to early hearing detection and intervention (EHDI) program and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 3, "Early Hearing Detection and Intervention (EHDI) Program," Iowa Administrative Code, and to adopt a new Chapter 3 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.131.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.131.

Purpose and Summary

This proposed chapter was reviewed pursuant to Executive Order 10. Chapter 3 implements Iowa's EHDI program, which provides for universal hearing screening for all newborns and infants in Iowa. The goal of the program is early detection of hearing loss to allow children and their families the earliest possible opportunity to obtain appropriate early intervention services.

As a result of the Red Tape Review, the Department is proposing to eliminate restrictive terms and language duplicative of the Iowa Code. The Department is also proposing to eliminate sections of the chapter for which there is no rulemaking authority.

Finally, the Department updated language in rules 641—3.7(135) and 641—3.8(135) to conform to 2025 Iowa Acts, Senate File 418.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 the Department's waiver provisions contained in 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 September 9, 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:

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Review by Administrative Rules Review Committee

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The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM

641—3.1(135) Definitions. For the purposes of this chapter, the following definitions will apply:

"Audiologist" means a person licensed pursuant to Iowa Code chapter 147 or certified by the Iowa board of educational examiners pursuant to 282—Chapter 14 or a person appropriately licensed in the state where the person practices.

"Audiology assistant" means a person who works under the supervision of an Iowa-licensed speech pathologist or audiologist, does not meet the requirements to be licensed as a speech pathologist or audiologist, and meets the minimum requirements set forth in 481—Chapter 781.

"Audiometrist" means a technician who has received special training in the use of pure-tone audiometry equipment. An audiometrist conducts the hearing tests selected and interpreted by an audiologist, who supervises the process.

"Birth center" means the same as defined in Iowa Code section 10A.711.

"Birthing hospital" means the same as defined in Iowa Code section 135.131.

"Congenital cytomegalovirus" or *"cCMV"* means an infection where cytomegalovirus is transmitted to the fetus in the prenatal period.

"Cytomegalovirus" or *"CMV"* means a kind of herpes virus that usually produces very mild symptoms in an infected person but may cause severe neurological damage in a person with a weakened immune system and in a newborn.

"Diagnostic audiologic assessment" means physiological or behavioral procedures completed by an audiologist to evaluate and diagnose hearing loss.

"Discharge" means a release from a birthing hospital to the parent or legal guardian of the child.

"Early ACCESS" means Iowa's Individuals with Disabilities Education Act (IDEA), Part C, program for infants and toddlers. It is a statewide, comprehensive, interagency system of integrated early intervention services that supports eligible children and their families as defined in 281—Chapter 120.

"Guardian" means a person who is not the parent of a minor child, but who has legal authority to make decisions regarding life or program issues for the child. A guardian may be a court or a juvenile court. "Guardian" does not mean conservator as defined in Iowa Code section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

"Health care professional" means a licensed physician, nurse practitioner, physician assistant, certified midwife, registered nurse, licensed practical nurse, patient care technician, certified nursing assistant, licensed audiologist, audiology assistant, audiometrist, hearing aid specialist, speech-language pathologist or other licensed or certified professional for whom hearing screening is within the professional's scope of practice.

"Hearing loss" means a permanent unilateral or bilateral hearing loss of greater than 30 dB hearing loss (HL) in the frequency region important for speech recognition (500-4000 Hz).

"Hearing screening" means a physiological measurement of hearing of a newborn or infant with a "pass" or "refer" result. Screening is used to determine the newborn's or infant's need for further testing and must be performed bilaterally, when applicable.

"Initial screening" or *"newborn hearing screening"* means a screening performed in a birthing hospital, birth center or facility other than a birthing hospital within the first month of life. This is a physiological test to separate those newborns with normal hearing from those newborns who may have hearing thresholds of greater than 30 dB HL in either ear in the frequency region important for speech recognition (500-4000 Hz).

"Normal hearing" means hearing thresholds in both ears of 30 dB HL or less in the frequency region important for speech recognition (500-4000 Hz).

"Parent" means:

1. A biological or adoptive parent of a child;
2. A guardian, but not the state if the child is a ward of the state;
3. A person acting in the place of a parent, such as a grandparent or stepparent with whom a child lives, or a person who is legally responsible for the child's welfare;
4. A surrogate parent who has been assigned in accordance with 281—120.422(34CFR303); or
5. A foster parent, if:

- A biological parent's authority to make the decisions required of parents under state law has been terminated; and
- The foster parent has an ongoing, long-term parental relationship with the child, is willing to make the decisions required of a parent, and has no interest that would conflict with the interests of the child.

"Physician" means an individual licensed under Iowa Code chapter 148.

"Primary care provider" means a licensed physician, nurse practitioner, physician assistant or certified midwife who undertakes primary pediatric care responsibility for an infant or child to provide ongoing medical care and referrals to promote overall health and well-being.

"Protocol" means a document that guides decision making and provides the criteria to be used regarding screening, diagnosis, management, and treatment of children related to hearing health care. Early hearing detection and intervention protocols not otherwise specified in this chapter are available on the department's website.

"Provider" means a licensed audiologist, otolaryngologist or hearing aid specialist who agrees to provide hearing aids or audiologic services to eligible patients.

"Rescreen" means a newborn hearing screening performed after two weeks of age on an infant who did not pass the initial screening.

641—3.2(135) Program components.

3.2(1) The EHDI coordinator assigned within the department provides administrative oversight, including follow-up activities, for the EHDI program within Iowa.

3.2(2) The EHDI advisory committee represents the interests of the people of Iowa and assists in the development of programming that ensures the availability and access to quality hearing health care for Iowa children.

3.2(3) The EHDI program has an association with the Iowa Title V maternal and child health programs to promote comprehensive services for infants and children with special health care needs.

3.2(4) The EHDI program provides hearing screening surveillance and follow-up for infants and children under the age of three. Follow-up may include:

a. Contact with the parent or legal guardian of an infant who was not screened or does not pass the initial hearing screening, outpatient hearing screening or diagnostic audiologic assessment.

b. Contact with the infant's primary care provider to ensure the infant receives appropriate follow-up no later than the recommended timeline as outlined in the Joint Committee on Infant Hearing position statement at www.jcih.org as amended to August 1, 2025.

c. Contact with the birthing hospital or health care professional for inquiries on missing results, data entry discrepancies and recommendations for additional referrals.

d. Referrals to family support or early intervention service providers for infants or toddlers diagnosed with a hearing loss.

e. Technical assistance to birthing facilities, primary care providers and health care professionals regarding best practices related to newborn hearing screening, diagnosis and follow-up best practices.

641—3.3(135) Screening the hearing of all newborns. All newborns and infants born in Iowa, except those born with a condition that is incompatible with life, shall be screened for hearing loss. The person required to perform the screening shall use at least one of the following procedures:

1. Automated or screening auditory brainstem response, or
2. Evoked otoacoustic emissions.

641—3.4(135) Procedures required of birthing hospitals. Each birthing hospital in Iowa shall follow these procedures:

3.4(1) Each birthing hospital shall designate an employee of the hospital to be responsible for the newborn hearing screening program in that institution. If a birthing hospital contracts with a third party for newborn screening services, the hospital retains ultimate responsibility for screening and reporting.

3.4(2) Prior to the discharge of the newborn, each birthing hospital shall provide hearing screening to every newborn delivered in the hospital, except in the following circumstances:

a. The newborn is transferred for acute care prior to completion of the hearing screening.

b. The newborn is born with a condition that is incompatible with life.

3.4(3) If a newborn is transferred for acute care, the birthing hospital shall notify the receiving facility of the status of the hearing screening. The receiving facility shall then be responsible for completion of the newborn hearing screening prior to discharge of the newborn from the nursery.

3.4(4) Newborn hearing screening shall be performed by a health care professional.

3.4(5) The birthing hospital shall report newborn hearing screening results to the parent or guardian in written form.

3.4(6) The birthing hospital shall report newborn hearing screening results to the department pursuant to 641—3.7(135).

3.4(7) The birthing hospital shall report the results of the hearing screening to the primary care provider of the newborn or infant upon the newborn's or infant's discharge from the birthing hospital. If the newborn or infant was not tested prior to discharge, the birthing hospital shall report the status of the hearing screening to the primary care provider of the newborn or infant.

3.4(8) The birthing hospital shall follow the hearing screening protocols prescribed by the department.

641—3.5(135) Procedures required of birth centers. Each birth center in Iowa shall follow these procedures:

3.5(1) Each birth center shall designate an employee of the birth center to be responsible for the newborn hearing screening program in that institution.

3.5(2) Prior to discharge of the newborn, each birth center shall refer every newborn delivered in the birth center to a health care professional for a newborn hearing screening. Before discharge of the newborn, the birth center shall arrange an appointment for the newborn hearing screening no more than 15 days from the date of discharge and report the appointment time, date and location to the parent.

3.5(3) The health care professional to whom the newborn is referred for screening shall complete the screening within 30 days of the newborn's discharge from the birth center, unless the parent fails to attend the appointment. If the parent fails to attend the appointment, the health care professional shall document such failure in the medical or educational record and shall report such failure to the department.

3.5(4) The health care professional who completes the newborn hearing screening shall report screening results to the parent in written form.

3.5(5) The health care professional who completes the newborn hearing screening shall report screening results to the department pursuant to 641—3.7(135).

3.5(6) The health care professional who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the newborn or infant.

3.5(7) The person who completes the screening shall follow the hearing screening protocols prescribed by the department.

641—3.6(135) Procedures to ensure that children born in locations other than a birth center or birthing hospital receive a hearing screening.

3.6(1) The physician or other health care professional who undertakes primary pediatric care of a newborn delivered in a location other than a birthing hospital or birth center shall ensure a hearing screening is performed pursuant to Iowa Code section 135.131(5). The health care professional shall arrange an appointment for the newborn hearing screening and report to the parent the appointment time, date, and location.

3.6(2) The health care professional who completes the newborn hearing screening shall report screening results to the parent in written form.

3.6(3) The health care professional who completes the newborn hearing screening shall report screening results to the department pursuant to 641—3.7(135). If the parent fails to attend the appointment, the facility shall document such failure in the medical or educational record and shall report such failure to the department.

3.6(4) The health care professional who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the newborn or infant.

3.6(5) The person who completes the newborn hearing screening shall follow the hearing screening protocols prescribed by the department.

641—3.7(135) Reporting hearing screening results and information to the department and child's primary care provider.

3.7(1) Any birthing hospital, birth center, physician, audiologist or other health care professional required to report information pursuant to Iowa Code section 135.131 shall report all of the following information to the department relating to each newborn's hearing screening within six working days of the birth of the newborn and within six working days of any hearing rescreen, utilizing the department's designated reporting system:

a. The name, date of birth, and sex of the newborn.

b. The name, address, and telephone number, if available, of the mother of the newborn. If the mother is not the person designated as legally responsible for the child's care, the name, address, and telephone number of the parent, as defined in 641—3.1(135), shall be reported.

c. The name of the primary care provider for the newborn upon the newborn's discharge from the birthing hospital or birth center.

d. The results of the newborn hearing screening, either "pass," "refer," or "not screened," for each ear separately.

e. The results of any rescreening, either "pass" or "refer," and the diagnostic audiologic assessment procedures used for each ear separately.

f. Known risk indicators for hearing loss of the infant or child.

3.7(2) If the parent fails to attend the appointment, the facility shall document such failure in the medical or educational record and shall report such failure to the department.

3.7(3) The person who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the infant or child.

641—3.8(135) Conducting and reporting screening results and diagnostic audiologic assessments to the department and child's primary care provider. Any health care professional conducting newborn hearing screens, rescreens, or diagnostic audiologic assessments shall report the results within six working days for any child under three years of age to the department utilizing the department's designated reporting system. The health care professional shall conduct the diagnostic hearing assessment in accordance with the Pediatric Audiologic Diagnostic Protocol as amended to August 1, 2025, posted on the department's website. Results of a hearing screen, rescreen or diagnostic audiologic assessment shall be reported as follows.

3.8(1) Reports shall include:

a. The name, date of birth, and sex of the child.

b. The name, address, and telephone number, if available, of the mother of the child. If the mother is not the person designated as legally responsible for the child's care, the name, address, and telephone number of the parent, as defined in 641—3.1(135), shall be reported.

c. The name of the primary care provider for the child.

d. Known risk indicators for hearing loss.

e. The date the child is fit with a hearing aid(s) or a cochlear implant(s), if applicable.

f. The date of referral to early intervention, if applicable.

g. The date of referral to family support, if applicable.

3.8(2) Results of the newborn hearing screening shall be reported as either "pass" or "refer" for each ear separately.

3.8(3) Results of the hearing rescreen shall be reported as either "pass" or "refer" for each ear separately.

3.8(4) If an assessment results in a diagnosis of normal hearing for both ears, this shall be reported.

3.8(5) Any diagnosis of hearing loss shall also be reported except for transient conductive hearing loss lasting for less than 90 days in the professional judgment of the practitioner. This exception will apply only if the child passed the initial hearing screening or rescreening or had a diagnostic assessment resulting in normal hearing for both ears.

3.8(6) Diagnostic audiologic assessment results shall include a statement of the severity (mild, moderate, moderately severe, severe, profound, or undetermined) and type (sensorineural, conductive, mixed, or undetermined) of hearing loss.

3.8(7) Any health care professional conducting newborn hearing screens, rescreens, or diagnostic audiologic assessments shall report the results to the primary care provider of the infant or child.

641—3.9(135) Congenital cytomegalovirus (cCMV) testing for newborns who do not pass the initial newborn hearing screening. If the newborn hearing screen indicates potential hearing loss, as evidenced when a newborn does not pass the initial newborn hearing screening, the birthing hospital, birth center, physician, or other health care professional required to ensure that the hearing screening is performed shall follow the procedures related to cCMV testing outlined in Iowa Code section 135.131(9). If a parent objects to the testing, the birthing hospital, birth center, physician, or other health care professional required to ensure that the hearing screening is performed shall follow the procedures in 641—3.11(135).

641—3.10(135) Information sharing and confidentiality. Reports, records, and other information collected by or provided to the department relating to a child's newborn hearing screening, rescreen, diagnostic audiologic assessment, and early intervention enrollment are confidential records pursuant to Iowa Code section 22.7.

3.10(1) Personnel of the department shall maintain the confidentiality of all information and records used in the review and analysis of newborn hearing screenings, rescreens, diagnostic audiologic assessments, and early intervention enrollment, including information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

3.10(2) No individual or organization providing information to the department in accordance with this rule shall be deemed to be or held liable for divulging confidential information.

3.10(3) The department shall not release confidential information except to the following persons and entities under the following conditions:

a. The parent or guardian of an infant or child for whom the report is made.

b. A local birth-to-three coordinator with the Early ACCESS program or an agency under contract with the department to administer the children with special health care needs program.

c. A health care professional or primary care provider.

d. A representative of a federal or state agency, to the extent that the information is necessary to perform a legally authorized function of that agency.

e. A representative of a state agency, or an entity bound by that state, to the extent that the information is necessary to perform newborn hearing screening follow-up. The state agency or the entity bound by that state shall be subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa. The state agency or the entity bound by that state shall not use the information obtained from the department to market services to patients or nonpatients or identify patients for any purposes other than those expressly provided in this rule.

3.10(4) Research purposes. All proposals for research using the department's data to be conducted by persons other than program staff shall first be submitted to and accepted by the researchers' institutional review board. The department will then review and approve programs before research can commence.

641—3.11(135) Procedure to accommodate parental objection. These rules will not apply if the parent objects to the hearing screening, diagnostic audiologic assessment, or cCMV testing.

3.11(1) If a parent objects to the screening, the birthing hospital, birth center, physician, or other health care professional shall obtain a written refusal from the parent or guardian on the department newborn hearing screening or diagnostic audiologic assessment refusal form and shall maintain the original copy of the written refusal in the newborn's, infant's or child's medical record.

3.11(2) The birthing hospital, birth center, physician, or other health care professional shall send a copy of the written newborn hearing screening or diagnostic audiologic assessment refusal form to the department within six days of the birth of the newborn.

3.11(3) If a parent objects to a hearing rescreen or diagnostic audiologic assessment orally to a department EHDI staff member during follow-up, the staff member shall document the refusal in the department's designated reporting system and mail to the parent or guardian the department newborn hearing screening or diagnostic audiologic assessment refusal form in an attempt to obtain a written refusal to be maintained in the newborn's, infant's or child's medical record.

3.11(4) If a parent objects to cCMV testing, the birthing hospital, birth center, physician, or other health care professional required to ensure cCMV testing shall obtain, on the department cCMV testing refusal form, a written refusal from the parent or guardian, shall maintain the original copy of the written refusal in the child's medical record, and shall send a copy of the written refusal to the department within 21 days of the child's birth.

641—3.12(135) Civil/criminal liability. A person who acts in good faith in complying with these rules shall not be held civilly or criminally liable for reporting the information required.

These rules are intended to implement Iowa Code section 135.131.

ARC 9491C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to terminology—conforming changes and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to amend Chapter 7, "Immunization and Immunization Education: Persons Attending Elementary or Secondary Schools, Licensed Child Care Centers or Institutions of Higher Education," Chapter 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material," Chapter 95, "Vital Records: General Administration," Chapter 97, "Death Registration and Disposition of Dead Human Bodies," Chapter 99, "Vital Records Modifications," Chapter 142, "Out-of-Hospital Do-Not-Resuscitate Orders," and Chapter 154, "Medical Cannabidiol Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 2025 Iowa Acts, Senate File 418.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2025 Iowa Acts, Senate File 418.

Purpose and Summary

The purpose of this proposed rulemaking is to amend Chapters 7, 37, 95, 97, 99, 142, and 154 to reflect 2025 Iowa Acts, Senate File 418.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 the Department's waiver provisions contained in 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 September 9, 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:

September 9, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja
September 9, 2025 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 249 793 891 240 3 Passcode: td6Y9eu7

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 **7.10(3)"b"** as follows:

b. ~~Gender~~ Sex of patient;

ITEM 2. Amend paragraph **37.27(2)"b"** as follows:

b. Licensees may not use information received from a criminal history records check obtained under these rules in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, ~~gender~~ sex, or age.

ITEM 3. Amend paragraph **37.31(3)"b"** as follows:

b. If the recipient licensee verifies information such as name, date of birth, social security number, ~~gender~~ sex, and other applicable physical characteristics.

ITEM 4. Amend paragraph **95.15(4)"b"** as follows:

b. The name and ~~gender~~ sex of the baby, if known.

(1) If the name is not furnished by the patient, the department shall complete the certificate with the name "baby boy" or "baby girl" and the last name of the patient.

(2) If the ~~gender~~ sex is unknown, the department shall complete the certificate with the name "baby" and the last name of the patient.

ITEM 5. Amend subparagraph **97.15(2)"b"(1)** as follows:

(1) The full legal name and ~~gender~~ sex of the deceased at the time of the death;

ITEM 6. Rescind and reserve rule **641—99.20(144)**.

ITEM 7. Strike "gender" wherever it appears in **641—Chapter 142**, Appendix A, and insert "sex" in lieu thereof.

ITEM 8. Amend paragraph **154.3(3)"a"** as follows:

a. The patient's full legal name, Iowa residence address, date of birth, and sex ~~designation~~, as shown on the patient's valid photo identification. If the patient's information has changed since the issuance of the patient's valid photo identification, the patient shall first update the patient's valid identification to reflect the patient's current information.

ITEM 9. Amend paragraph **154.5(3)"a"** as follows:

a. The primary caregiver's full legal name, current residence address, date of birth, and sex ~~designation~~, as shown on the primary caregiver's valid photo identification. If the primary caregiver's information has changed since issuance of the primary caregiver's valid photo identification, the primary caregiver shall first update the primary caregiver's valid photo identification to reflect the primary caregiver's current information.

ARC 9490C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to concussion or other brain injury return-to-play protocol and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 54, "Concussion or Other Brain Injury Return-to-Play Protocol," Iowa Administrative Code, and to adopt a new Chapter 54 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 280.13C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 280.13C.

Purpose and Summary

This proposed chapter describes the return-to-play protocol for a concussion or other brain injury adopted by the board of directors of each school district and the authorities in charge of each accredited nonpublic school with enrolled students who participate in an extracurricular interscholastic activity in grades 7 through 12. Concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally works. Concussions can occur in an organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other, with the ground, or with obstacles. Concussions can occur with or without loss of consciousness, but the vast majority of concussions occur without loss of consciousness.

The proposed chapter underwent a Red Tape Review pursuant to Executive Order 10. As a result, the Department updated definitions to refer to the appropriate Iowa Code section and eliminated redundant language.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 the Department's waiver provisions contained in 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 September 9, 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:

September 9, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja
September 9, 2025 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 249 793 891 240 3 Passcode: td6Y9eu7

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 54 and adopt the following **new** chapter in lieu thereof:

CHAPTER 54
CONCUSSION OR OTHER BRAIN INJURY RETURN-TO-PLAY PROTOCOL

641—54.1(280) Definitions. For the purpose of these rules, the following definitions apply:

"Asymptomatic" means the student is no longer showing signs, symptoms, or behaviors consistent with a concussion or other brain injury.

"Contest" means the same as defined in Iowa Code section 280.13C(2).

"Extracurricular interscholastic activity" means the same as defined in Iowa Code section 280.13C(2).

"Licensed health care provider" means the same as defined in Iowa Code section 280.13C(2).

"Medical clearance" means written clearance from a licensed health care provider releasing the student following a concussion or other brain injury to return to or commence participation in any extracurricular interscholastic activity.

"Rest" means a recovery state at which physical and cognitive activities are reduced or removed with the intent to eliminate the signs, symptoms, or behaviors of brain injury.

"Return-to-learn plan" means the plan developed by personnel of a school district or accredited nonpublic school based on guidance developed as required under Iowa Code section 280.13C(6)*"b"* to provide adjustments or accommodations as the student returns to the classroom.

"Return-to-play" means the gradual, step-wise approach to returning a student to participation in any extracurricular interscholastic activity following a concussion or other brain injury.

641—54.2(280) Return-to-play protocol. The following return-to-play step-wise process shall begin when the student who has been removed from participation in any extracurricular interscholastic activity governed by the Iowa high school athletic association or the Iowa girls high school athletic union is no longer showing signs, symptoms, or behaviors consistent with a concussion or other brain injury for a minimum of 24 hours and has received written medical clearance from a licensed health care provider to return to or commence such participation.

54.2(1) *Return-to-play process.* Each step shall take a minimum of 24 hours.

a. If the student shows signs, symptoms, or behaviors consistent with a concussion or other brain injury at any step of the return-to-play protocol, the student must stop the activity and the student's licensed health care provider and parent or guardian shall be contacted.

b. If the student shows signs, symptoms, or behaviors consistent with a concussion or other brain injury during this process, an additional 24-hour period of rest shall take place. After the 24-hour period of rest, the student shall drop back to the previous step when the student showed no signs, symptoms, or behaviors consistent with a concussion or other brain injury and begin the progression again.

54.2(2) *Return-to-play steps.*

Step 1. Back to regular activities	The athlete has received written medical clearance from a licensed health care provider to begin the return-to-play process, and the athlete is back to regular activities, including school, without experiencing any concussion signs, symptoms, or behaviors for a minimum of 24 hours.
Step 2. Light aerobic activity	Light aerobic exercise only to increase the athlete's heart rate. This means about five to ten minutes on an exercise bike, walking, or light jogging. No resistance/weight training.
Step 3. Moderate activity	Continue activities to increase athlete's heart rate with body or head movement. This includes moderate jogging, brief running, moderate-intensity stationary biking, moderate-intensity weightlifting (less time, less weight, or both from the athlete's typical routine).
Step 4. Heavy, noncontact activity	Add heavy noncontact physical activity, such as sprinting/running, high-intensity stationary biking, regular weightlifting routine, noncontact sport-specific drills (in three planes of movement).
Step 5. Practice and full contact	Athlete may return to practice and full contact (if appropriate for the sport) in controlled practice.
Step 6. Contest participation	Athlete may return to contest participation.

These rules are intended to implement Iowa Code section 280.13C.

ARC 9483C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to tax credits and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 800, "Tax Credits," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 422.12P.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 422.12P.

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. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on July 16, 2025.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025. A public hearing was held on the following date(s):

- July 15, 2025

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text since publication of the Regulatory Analysis.

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 rule 701—3.7(99G,123,421,17A).

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 September 9, 2025. Comments should be directed to:

Kurt Konek
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0440
Email: kurt.konek@iowa.gov

Public Hearing

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

September 9, 2025 2 to 3 p.m.	Via videoconference call meet.google.com/utj-teer-eqw

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 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. 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 9515C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to mission and structure and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 50, "Mission and Structure," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 84.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84A.

Purpose and Summary

Chapter 50 informs the public of the mission and structure of the Department. This chapter is proposed to be rescinded.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 September 9, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9245
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:

September 9, 2025 8 to 8:30 a.m.	Microsoft Teams Meeting ID: 210 537 060 898 2 Passcode: Un7ke6rS Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 314 011 495#
September 9, 2025 1 to 1:30 p.m.	Microsoft Teams Meeting ID: 230 759 058 010 Passcode: q8YX9VE9 Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 900 956 120#

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 **871—Chapter 50**.

ARC 9518C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to coordinating service provider and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 51, "Coordinating Service Provider," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84A.

Purpose and Summary

The purpose of this rulemaking is to remove references to outdated federal workforce legislation.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 9, 2025. Comments should be directed to:

Brooke Axiotis
1000 East Grand Avenue
Des Moines, Iowa 50319
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:

September 9, 2025 8:30 to 9 a.m.	Microsoft Teams Meeting ID: 217 248 749 908 1 Passcode: A2yp9TP7 Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 422 116 79#
September 9, 2025 1:30 to 2 p.m.	Microsoft Teams Meeting ID: 298 979 008 566 0 Passcode: kC2NF3Q8 Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 424 326 671#

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 **871—Chapter 51**.

ARC 9516C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to regional advisory boards and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 52, "Regional Advisory Boards," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 96 and section 84A.1 and Executive Order 11.

Purpose and Summary

The purpose of this proposed rulemaking is to remove references to outdated federal workforce legislation.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 September 9, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9245
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:

September 9, 2025 9 to 9:30 a.m.	Microsoft Teams Meeting ID: 210 961 006 421 4 Passcode: 2AT7ci2R Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 903 962 880#
September 9, 2025 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 279 921 851 371 5 Passcode: K78Ve3GR Dial in by phone: +1 469.998.6043

Find a local number
Phone conference ID: 299 510 337#

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 **871—Chapter 52**.

ARC 9522C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to labor-management cooperation program and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 55, "Labor-Management Cooperation Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84A.

Purpose and Summary

The purpose of this rulemaking is to remove outdated references to outdated appropriations for outdated programs.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 9, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
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:

September 9, 2025 10:30 to 11 a.m.	Microsoft Teams Meeting ID: 289 962 729 758 2 Passcode: C89E6Vg2 Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 869 690 118#
September 9, 2025 3:30 to 4 p.m.	Microsoft Teams Meeting ID: 213 426 291 892 2 Passcode: Gh2Qg2py Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 468 558 492#

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 **871—Chapter 55**.

ARC 9517C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to Iowa welfare-to-work program and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 60, "Iowa Welfare-to-Work Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 84A and PL 105-33.

Purpose and Summary

The purpose of proposing to rescind this chapter is to remove outdated appropriations for an outdated program.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 September 9, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9245
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:

September 9, 2025 11 to 11:30 a.m.	Microsoft Teams Meeting ID: 254 877 982 640 Passcode: nb3Ss9ei Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 539 890 151#
September 9, 2025 4 to 4:30 p.m.	Microsoft Teams Meeting ID: 227 196 822 383 8 Passcode: 4o2fd2Tk Dial in by phone: +1 469.998.6043 Find a local number Phone conference ID: 703 882 313#

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 **871—Chapter 60**.

ARC 9519C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to voter registration and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 70, "Voter Registration," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 84A and section 96.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 96.10 and 96.11.

Purpose and Summary

The purpose of this rulemaking is to remove outdated rules that reference portions of the Iowa Code that have been repealed.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 9, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
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:

September 9, 2025 11 to 11:30 a.m.	Microsoft Teams Meeting ID: 244 348 493 885 Passcode: e36XV22u Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 326 151 219#
September 9, 2025 3:30 to 4 p.m.	Microsoft Teams Meeting ID: 211 778 895 744 5 Passcode: j5KQ2hy6 Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 683 617 517#

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 **871—Chapter 70**.

ARC 9521C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to public records and fair information practices and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 71, "Public Records and Fair Information Practices," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84A.

Purpose and Summary

The purpose of this rulemaking is to remove repetitive references to the Iowa Code.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 9, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
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:

September 9, 2025 9:30 to 10 a.m.	Microsoft Teams Meeting ID: 279 763 220 769 8 Passcode: EV6Az2vx Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 153 104 807#
September 9, 2025 2:30 to 3 p.m.	Microsoft Teams Meeting ID: 215 655 275 587 2 Passcode: bY9YY7za Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 144 492 875#

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 **871—Chapter 71**.

ARC 9520C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

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

The Workforce Development Department hereby proposes to rescind Chapter 72, "Petitions," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84A.

Purpose and Summary

The purpose of this proposed rulemaking is to remove repetitive rules.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 9, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
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:

September 9, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 213 389 964 217 7 Passcode: G4kd7sd7 Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 981 329 717#
September 9, 2025 3 to 3:30 p.m.	Microsoft Teams Meeting ID: 270 810 851 412 Passcode: si38BD3A Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 903 214 085#

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 **871—Chapter 72**.

ARC 9523C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to forms and informational materials and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 73, "Forms and Informational Materials," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 84A and 96.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 84A and 96.

Purpose and Summary

The purpose of this rulemaking is to remove outdated requirements to comply with federal code.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- July 29, 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 comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 9, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
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:

September 9, 2025 11:30 a.m. to 12 noon	Microsoft Teams Meeting ID: 241 945 059 517 4 Passcode: KR2zM6CN Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 186 063 725#
September 9, 2025 4 to 4:30 p.m.	Microsoft Teams Meeting ID: 279 592 832 151 8 Passcode: m6SS9gY6 Dial in by phone +1 469-998-6043 Find a local number Phone conference ID: 972 857 456#

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 **871—Chapter 73**.

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 August is 6.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

The rate of interest has been determined 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 August 9, 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 1.70%
180-364 days	Minimum 1.60%
One year to 397 days	Minimum 1.75%
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:

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%
August 1, 2025 — August 31, 2025	6.50%
September 1, 2025 — September 30, 2025	6.50%

ARC 9493C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Rulemaking related to agency realignment

The Department of Health and Human Services (Department) hereby rescinds 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 adopted 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 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 Department. To further effectuate that realignment, the Department 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 regulations implementing the federal Older Americans Act.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9371C**. Public hearings were held on the following date:

- July 16, 2025

No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on July 30, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking will become effective on October 1, 2025.

The following rulemaking action is adopted:

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**.

[Filed 7/30/25, effective 10/1/25]
[Published 8/20/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9494C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to amount, duration and scope of medical and remedial services

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

Legal Authority for Rulemaking

This rulemaking is adopted 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 rulemaking is to eliminate an outdated orthodontia practice standard from administrative rules.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9372C**. Public hearings were held on the following date:

- July 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on July 30, 2025.

Fiscal Impact

This 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

[Filed 7/30/25, effective 9/24/25]
[Published 8/20/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9495C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to aging services, state unit on aging responsibilities, area agency on aging responsibilities, and delivery of aging services

The Department of Health and Human Services hereby adopts 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 adopted 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 Older Americans Act.

Purpose and Summary

This rulemaking implements amendments to regulations implementing the federal 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 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 chapters provide requirements for service delivery and prioritization, increased flexibilities in the nutrition program, and coordination with tribal organizations and members in the State.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9375C**. Public hearings were held on the following date:

- July 16, 2025

No one attended the public hearings. No public comments were received.

One change from the Notice has been made. A reference to the federal Supporting Older Americans Act has been changed by removing the term "Supporting." This is to reflect the fact that the "Supporting Older Americans Act" was the name of the 2020 reauthorization bill, not the original Act of 1965. It is more correct to refer to the "Older Americans Act."

Adoption of Rulemaking

This rulemaking was adopted by the Department on July 30, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking will become effective on October 1, 2025.

The following rulemaking action is adopted:

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 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.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9496C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to long-term care ombudsman

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

Legal Authority for Rulemaking

This rulemaking is adopted 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 Older Americans Act as amended to October 1, 2025.

Purpose and Summary

This 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 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 Older Americans Act. This 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 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9385C**. Public hearings were held on the following date:

- July 16, 2025

No one attended the public hearings. No public comments were received.

One change from the Notice has been made. A reference to the federal Supporting Older Americans Act has been changed by removing the term "Supporting." This is to reflect the fact that the "Supporting Older Americans Act" was the name of the 2020 reauthorization bill, not the original Act of 1965. It is more correct to refer to the "Older Americans Act."

Adoption of Rulemaking

This rulemaking was adopted by the Department on July 30, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The

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

Effective Date

This rulemaking will become effective on October 1, 2025.

The following rulemaking action is adopted:

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 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.

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ARC 9497C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to office of public guardian

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

Legal Authority for Rulemaking

This rulemaking is adopted 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 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 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9380C**. Public hearings were held on the following date:

- July 16, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on July 30, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking will become effective on October 1, 2025.

The following rulemaking action is adopted:

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
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.

[Filed 7/30/25, effective 10/1/25]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9498C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to swimming pools, spas, and spray pads

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 15, "Swimming Pools and Spas," and adopts a new Chapter 15, "Swimming Pools, Spas, and Spray Pads," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 135I.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 135I.

Purpose and Summary

This rulemaking repromulgates Chapter 15 and implements Iowa Code chapter 135I in accordance with the goals and directives of Executive Order 10. Iowa Code section 135I.4 provides that the Department may inspect, at the time of installation and periodically thereafter, all spray pads, swimming pools, and spas for the purpose of detecting and eliminating health or safety hazards; establish minimum safety and sanitation criteria for the operation and use of spray pads, swimming pools, and spas; and establish minimum qualifications for swimming pool, spa, and waterslide operators and lifeguards. Additionally, the Department may adopt rules in accordance with Iowa Code chapter 17A for the implementation and enforcement of Iowa Code chapter 135I and the establishment of fees.

This rulemaking provides minimum safety standards for the operation and construction of spray pads, swimming pools, and spas throughout the State, as well as registration of the same (as required by Iowa Code section 135I.3). Currently, 1,222 facilities—encompassing 1,806 spray pads, swimming pools, and spas—are registered with the Department through April 30, 2025. The Department has 57 agreements with local boards of health to implement and enforce these rules. Through these rules and its agreements, the Department is able to enforce important safety requirements at over 1,800 unique spray pads, swimming pools, and spas, greatly improving the safety of numerous Iowans who attend and use these facilities.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on April 2, 2025, as **ARC 9048C**. A public hearing was held on the following date(s):

- April 29, 2025
- April 30, 2025

A number of comments were received, and the Department fully considered them all. Some of these comments contributed to changes to the rules, as discussed below. However, the Department determined that many of the comments would make the rules more restrictive (in violation of Executive Order 10), were redundant, or did not otherwise warrant a change to the rulemaking.

The Department received multiple comments related to the change in the rules that would make plan review and permitting voluntary for swimming pools with a water surface area of 500 square feet or less. Some commenters expressed concern that while the rulemaking only exempted such pools from the Department's plan review and permitting requirements, it would be beneficial to clarify that such pools must still comply with all other requirements in Chapter 15. Other commenters encouraged the Department to retract this new exemption. In response, the Department advised that swimming pools

exempted from the plan review and permitting process must still comply with all other rules in this chapter, including all other construction/reconstruction rules and the operational rules, and that in the Department's experience, swimming pools of this size are of simple and relatively standardized construction that does not appear to benefit from plan review by the Department. Additionally, this serves to make the rules less restrictive in accordance with the directives of Executive Order 10.

Changes from the Notice have been made. In subparagraph 15.4(4)"l"(3), "Gates and doors are lockable," was added to the swimming pool enclosure provisions for clarification, to align with other enclosure provisions in the chapter, and in response to public comment. In subrule 15.5(1), a note has been added clarifying that swimming pools for which plan review and permitting are voluntary must still comply with all other rules of Chapter 15 to address industry confusion reported to Department personnel and in response to public comment. In subparagraph 15.5(3)"c"(1), "for both full and empty conditions," was added to the swimming pool anticipated structural loading provision for clarification, to align with the spa anticipated structural loading provision in paragraph 15.52(3)"c," and in response to public comment. In rule 641—15.7(135I), language from existing rules regarding requests for waivers being sent to local inspection agencies for comment was added back in since the removal from prior versions of this rulemaking was in error. Finally, rule 641—15.13(135I) was revised to reflect the authority granted to the Department pursuant to Iowa Code section 135I.4(6) to enter into agreements with local boards of health to implement the inspection and enforcement provisions of Iowa Code chapter 135I and these rules. Erroneous citations were also updated.

Adoption of Rulemaking

This rulemaking was adopted by the Department on July 16, 2025.

Fiscal Impact

This rulemaking has no fiscal impact in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

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 September 24, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
SWIMMING POOLS, SPAS, AND SPRAY PADS

641—15.1(135I) Applicability.

15.1(1) These rules apply to spray pads, swimming pools, and spas as provided by Iowa Code section 135I.2. Spray pads, swimming pools, and spas must also comply with other applicable federal, state or local laws, rules, or ordinances.

15.1(2) A homeowners' association or housing cooperative shall notify the department in writing if its bylaws are amended as provided in Iowa Code section 135I.2. The inspector designated by the association or cooperative shall be a certified operator as defined in 15.3(1). A report of the inspection shall be filed with the association or cooperative secretary and be available to the department or any association or cooperative member on request.

641—15.2 Reserved.

641—15.3(135I) Definitions.

15.3(1) *Definitions.* The definitions set forth in Iowa Code section 135I.1 are incorporated herein by reference. Additionally:

"Air break" is a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into a receptacle at a point below the flood-level rim of the receptacle.

"Air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from an inlet pipe and the flood-level rim of a receptacle.

"Board of health" means a county, city, or district board of health.

"Body feed" means the continuous addition of controlled amounts of filtering aid during the operation of a diatomaceous earth filter to maintain a permeable filter cake.

"Certified operator" means a person who has:

1. Successfully completed the Certified Pool/Spa Operator® course sanctioned by PHTA, the Aquatic Facility Operator course sanctioned by NRPA, the Professional Pool & Spa Operator course sanctioned by the PHTA, or the Licensed Aquatic Facility Technician course sanctioned by the American Swimming Pool and Spa Association; and
2. Been recertified as required by the sanctioning organization; and
3. Obtained the continuing education required by 15.11(2).

"Combined chlorine" means nitrogen-chlorine compounds formed by the reaction of a chlorine disinfectant chemical with ammonia and organic nitrogen compounds as measured with a DPD test kit.

"Construction" means the installation of a new swimming pool facility or modifications to an existing facility that change the total recirculated water volume or the total water surface area by 20 percent or more.

"Deck" means a walkway immediately adjacent to a swimming pool.

"Decorative fountain" means a basin with water sprays or jets that does not serve primarily as a wading or swimming pool and whose drain is not directly connected to any type of suction device for removing or recirculating the water.

"Deep water" means water that is more than 5 ft deep.

"Engineering plans" means plans and specifications certified in accordance with the rules of the examining board by an engineer or architect licensed to practice in the state of Iowa.

"Equalizer" means an arrangement including a pipe from an opening below the water level in a swimming pool or spa to the body of a skimmer and a normally closed valve at the skimmer body.

"Facility" means a building, fenced enclosure, or lot where there is at least one spray pad, swimming pool, or spa subject to regulation under Iowa Code chapter 135I and these rules.

"Field fabricated," when applied to a sump or a cover/grate for a fully submerged outlet, means constructed on site with conventional building materials or of a size and shape different from readily available commercial sumps or cover/grates.

"Fill and drain wading pool" means a wading pool having no recirculation system.

"Filter" means a mechanical device for removing suspended particles from the swimming pool water and refers to the complete mechanism including all component parts.

"Flow rating," when applied to the cover/grate for a fully submerged outlet, means the maximum flow rate in gpm through the cover/grate that will not cause body or hair entrapment as determined by the test methods in the ASME/ANSI standard.

"Fountain" means a water fountain that is not established primarily for swimming or wading, but where swimming or wading is allowed, and that has a drain that is connected to a mechanical suction device for removing or recirculating the water.

"Free chlorine" means the concentration of hypochlorous acid and hypochlorite ion in the swimming pool water as measured with a DPD test kit or as measured by another method approved by the department.

"Fully submerged outlet" means an outlet that is completely under water when the water is at the normal operating level.

"Gravity outlet" means an outlet that directly connects to a tank or other structure that is at atmospheric pressure.

"Hose bib" means a water outlet that is threaded to permit the attachment of a hose.

"Hydrostatic relief valve" means a relief valve installed in the bottom of the swimming pool and designed to operate automatically when the swimming pool is empty, relieving the groundwater pressure around the structure by allowing the groundwater into the swimming pool tank.

"Inlet" means a fitting or opening through which recirculation water enters the swimming pool or spa.

"Inspection agency" means the department or a city, county or district board of health that has executed with the department pursuant to the authority of Iowa Code chapters 28E and 135I an agreement to inspect swimming pool/spa facilities and enforce these rules. Within its geographic area, the city, county or district board of health is the "local inspection agency."

"Leisure river" means a closed-path channel with a river-like flow of water. A leisure river may include water features and play devices.

"Lifeguard" means an individual who holds current lifeguard certification by one of the following organizations and current certification in first aid and infant, child and adult CPR, including compressions, rescue breathing, and two-person CPR:

1. American Red Cross.
2. YMCA.
3. Boy Scouts of America.
4. Ellis & Associates.
5. Starfish Aquatics Institute.
6. National Aquatic Safety Company (NASCO).

"Main drain" means the outlet(s) at the deepest part of a swimming pool or spa.

"Multisection water recreation pool" means a swimming pool with three or more distinct use areas.

"Outlet" means an opening through which water leaves the swimming pool or spa.

"Outlet system" means an arrangement of components associated with one or more connected fully submerged outlets including the cover/grate(s), the sump(s), the piping, and the pump(s) if one or more pumps are directly connected to the outlet(s).

"Perimeter overflow gutter" means a weir and trough around the perimeter of a swimming pool that is used to skim the surface of the water and return the water to the treatment system.

"Plunge pool" means a pool designed to serve as a landing area for a water slide.

"Recirculation system" means the pump(s), piping, inlets, outlets, filtration system, chemical feed systems and accessories provided to convey and treat the spray pad, swimming pool, or spa water to meet the water quality standards in these rules.

"Reconstruction" means the replacement or modification of a spray pad, swimming pool, or spa shell or deck, a spray pad, swimming pool, or spa recirculation system, a perimeter overflow gutter or skimmer, or a bathhouse associated with a public spray pad, swimming pool, or spa. "Reconstruction" does not include the replacement of equipment or piping previously approved by the department, provided that the type and size of the equipment are not revised, nor does it include normal maintenance or repair.

"Residential swimming pool" means any swimming pool that is used, or intended to be used, in connection with a single-family residence and that is available only to the family of the householder and the householder's private guests. A residential swimming pool used for private swimming lessons for over 207 hours in a calendar month, or the number of hours prescribed by local ordinance applicable to such use of a residential swimming pool, whichever is greater, is considered a public swimming pool and is subject to all the requirements of this chapter. A residential swimming pool used for any other commercial purposes for more than 60 hours in a calendar month is considered a public swimming pool and is subject to all the requirements of this chapter.

"Shallow water" means those areas of a swimming pool where the water is 5 ft deep or less.

"Skimmer" means a manufactured device designed to be directly connected to the recirculation pump suction and used to skim the swimming pool over a self-adjusting weir.

"Spa" means a structure, chamber, or tank, with a bench and a means of agitation, that is designed for recreational or therapeutic use and is not drained, cleaned, and refilled after each individual use. A swimming pool with a bench equipped with agitation is not considered a spa provided that the water temperature is maintained at 90°F or less.

"Speed slide" means a water slide that is designed to enter users into a plunge pool or other deceleration arrangement at a speed of 30 ft per second or more.

"Suction outlet" means an outlet that is directly connected to the inlet side of a circulation pump.

"Superchlorination" means the addition of a chlorine disinfectant compound to a spray pad, swimming pool, or spa to a concentration at least 10 ppm chlorine concentration.

"Swimming pool slide" means any device used to enter a swimming pool by sliding down an inclined plane or through a tube similar to a playground slide that has a slide path of 20 ft or less in length and a water flow down the slide of 20 gpm or less. A slide exceeding either of these criteria is a water slide.

"Total bromine" means the concentration of hypobromous acid, hypobromite ion and nitrogen-bromine compounds in the swimming pool water as measured with a DPD test kit.

"Tri-chlor" means trichloro-s-triazinetrione. Tri-chlor is a form of chlorine that includes cyanuric acid in its formulation.

"Unblockable," when applied to a cover/grate for a fully submerged outlet, means a size and shape that cannot be fully covered by an 18-inch by 23-inch mat with 4-inch-diameter rounded corners and the differential pressure generated by the flow through the uncovered open area is not enough to cause body entrapment.

"Wading pool" means a swimming pool that is no more than 24 inches deep at any point.

"Water slide" means a recreational ride that is a sloped trough-like or tubular structure using water as a lubricant and as a method of regulating rider velocity and that terminates in a plunge pool, swimming pool, or in a specially designed deceleration structure.

"Wave pool" means a swimming pool of special shape and design that is provided with wave-generating equipment.

"Zero-depth pool" means a swimming pool in which the pool floor intersects the water surface along at least one side of the pool.

15.3(2) *Abbreviations.*

"AFO" means aquatic facility operator.

"AGA" means American Gas Association.

"ANSI" means American National Standards Institute.

"ASME" means American Society of Mechanical Engineers.

"ASME/ANSI standard" means ASME/ANSI A112.19.8a-2008, "Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs."

"ASTM" means ASTM International (formerly American Society of Testing and Materials).

"AWWA" means American Water Works Association.

"BTU" means British thermal unit.

"CO_2" means carbon dioxide.

"CPO®" means certified swimming pool/spa operator.

"CPR" means cardiopulmonary resuscitation.

"DPD" means diethyl-p-phenylene diamine.

"feet" means feet of water (feet × 0.43 = psi) when used in discussing pump requirements.

"ft" means foot or feet (distance).

"ft^2" means square foot or square feet.

"gal" means gallon(s).

"GFCI" means ground fault circuit interrupter.

"gpm" means gal per minute.

"in Hg" means inches of mercury (in Hg × 0.49 = psi).

"in^2" means square inch(es).

"LAFT" means licensed aquatic facility technician.

"mg/L" means milligram(s) per liter.

"mV" means millivolts.

"NRPA" means National Recreation and Park Association.

"NSF" means NSF International (formerly National Sanitation Foundation).

"ORP" means oxidation-reduction potential.

"PHTA" means the Pool & Hot Tub Alliance.

"ppm" means parts per million; mg/L and ppm are equivalent terms.

"PPSO" means professional pool and spa operator.

"psi" means pounds per square inch.

"SDS" means safety data sheets.

"sec" means second (time).

"Standard 50" means NSF/ANSI Standard 50-2016a (2017), "Circulation System Components for Swimming Pools, Spas, or Hot Tubs."

"TDH" means total dynamic head.

"UL" means Underwriters Laboratories.

SWIMMING POOLS

641—15.4(135I) Swimming pool operations. Swimming pools shall be operated in a safe, sanitary manner and shall meet the following operational standards.

15.4(1) *Filtration and recirculation.*

a. Filtration. A swimming pool shall have a filtration system in good working condition that provides water clarity in compliance with the water quality standards of 15.4(2).

b. Recirculation. The recirculation system of a swimming pool shall meet the following requirements:

(1) During the operating season, pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the swimming pool water recirculation system shall be operated continuously except for backwashing or servicing.

(2) The recirculation system has an operating pressure gauge located in front of the filter if it is a pressure filter system. A vacuum filter system has a vacuum gauge located between the filter and the pump.

(3) The recirculation system has inlets adequate in design, number, location, and spacing to ensure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the swimming pool.

(4) Swimming pools have a means for skimming the pool water surface.

1. Each skimmer has an easily removable basket or screen upstream from any valve. Self-adjusting weirs shall be in place to provide skimming action.

2. Gutter or skimmer drainage is sufficient to minimize flooding and prevent backflow of skimmed water into the swimming pool.

c. Wastewater. Backwash water from a swimming pool shall be discharged through an air break or an air gap.

d. Water supply. The water supplied to a swimming pool shall be from a water supply meeting the requirements of the department of natural resources for drinking water and meet the following criteria:

(1) Water supplied to a swimming pool is discharged to the pool system through an air gap or a reduced-pressure principle backflow device meeting AWWA C-511-97, "Reduced-Pressure Principle Backflow-Prevention Assembly."

(2) Each hose bib at a facility is equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

e. Water heaters. Swimming pool water heaters shall meet the following criteria:

(1) Electric water heaters bear the seal of UL.

(2) Gas-fired water heaters are equipped with a pressure relief valve.

(3) Fuel-burning water heaters are vented to the outside in accordance with the state plumbing code.

(4) Each indoor swimming pool equipment room with fuel-burning water heating equipment has one or more openings to the outside of the room for the provision of combustion air.

15.4(2) *Water quality and testing.*

a. Disinfection.

(1) Swimming pool water shall have a free chlorine residual of at least 1.0 ppm and no greater than 8.0 ppm, or a total bromine residual of at least 2.0 ppm and no greater than 18 ppm when the swimming pool is open for use.

(2) The swimming pool shall be closed if the free chlorine is measured to be less than 0.6 ppm or the total bromine is measured to be less than 1.0 ppm or if a free chlorine measurement exceeds 8.0 ppm or if the total bromine measurement exceeds 18 ppm.

(3) The swimming pool water shall have an ORP of at least 700 mV, but no greater than 880 mV, and be closed if the ORP is less than 650 mV or greater than 880 mV.

(4) The swimming pool shall be closed if the cyanuric acid concentration in the swimming pool water exceeds 80 ppm. The swimming pool may be reopened when the cyanuric acid concentration is 40 ppm or less.

(5) No cyanuric acid in any form shall be added to an indoor swimming pool.

b. pH level. The pH of swimming pool water shall be 7.2 to 7.8. An inspection agency may require that a swimming pool be closed if the pH is less than 6.8 or greater than 8.2.

c. Water clarity. A swimming pool shall be closed if the swimming pool is less than 8 ft deep and the grate openings on the main drain are not clearly visible from the deck or the swimming pool is 8 ft deep or deeper and the main drain is not clearly visible from the deck.

d. Bacteria detection.

(1) If coliform bacteria are detected in a sample taken in accordance with 15.4(2)*"e"*(5), the swimming pool shall be superchlorinated and a check sample taken when the disinfectant residual is within the requirements of 15.4(2)*"a."* If coliform bacteria are detected in the check sample, the swimming pool shall be closed. The swimming pool may reopen when no coliform bacteria are detected in a swimming pool water sample taken when the pool water meets the requirements of 15.4(2)*"a," "b"* and *"c."*

(2) The facility management shall notify the local inspection agency of the positive bacteriological result within one business day after the facility management has become aware of the result.

e. Test frequency. The results of the tests required below shall be recorded in the swimming pool records.

(1) The disinfectant residual in the swimming pool water shall be tested or the ORP of the swimming pool water checked each day within one-half hour of the swimming pool opening time and at intervals not to exceed four hours thereafter until the swimming pool closing time. For swimming pools at condominiums, apartments, housing cooperatives, or homeowners associations with 25 or fewer living units, testing must be performed at least once each day that the swimming pool is available for use.

The operator may make visual readings of ORP on site from an automatic controller in lieu of manual testing, but the swimming pool water shall be tested manually for disinfectant residual at least twice per day. Both ORP and disinfectant residual shall be recorded when manual testing is done. The operator shall specify in the swimming pool records which results are from the manual tests.

(2) The pH of the swimming pool water shall be tested each day within one-half hour of the swimming pool opening time and at intervals not to exceed four hours thereafter until the swimming pool closing time. For swimming pools at condominiums, apartments, housing cooperatives, or homeowners associations with 25 or fewer living units, testing for pH must be performed at least once each day that the swimming pool is available for use.

The operator may make visual readings of pH on site from an automatic controller in lieu of manual testing, but the swimming pool water shall be tested manually for pH at least twice per day. The operator shall specify in the swimming pool records which results are from the manual tests.

(3) If a chlorine chemical is used for disinfection, the swimming pool water shall be tested for combined chlorine at least once in each week that the swimming pool is open for use.

(4) If cyanuric acid or a stabilized chlorine is used at a swimming pool, the swimming pool water shall be tested for cyanuric acid at least once in each week that the swimming pool is open for use.

(5) At least once in each month that a swimming pool is open for use, the facility management shall have a sample of the swimming pool water analyzed for total coliform by submitting the sample to a laboratory certified by the department of natural resources for the determination of coliform bacteria in drinking water.

f. Test equipment. Each facility shall have functional water testing equipment for free chlorine and combined chlorine, or total bromine; pH; total alkalinity; calcium hardness; and cyanuric acid (if cyanuric acid or a stabilized chlorine is used at the facility) that meets the following criteria:

(1) The test equipment provides for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm or less over the full range.

(2) The test equipment provides for the measurement of swimming pool water pH from 7.0 to 8.0 with at least five increments in that range.

(3) A controller used in lieu of manual disinfectant residual testing has a numerical analog or digital display with an ORP scale with a range of at least 600 to 900 mV with increments of 20 mV or less.

(4) A controller used in lieu of manual pH testing has a numerical analog or digital display with a pH range at least equal to the range required in 15.4(2)*"f"*(2) with increments of 0.2 or less over the full range.

g. Operator availability. A person knowledgeable in testing water and in operating the water treatment equipment shall be available whenever a swimming pool is open for use.

15.4(3) *Chemical feed equipment and cleaning.*

a. Chemical feed equipment.

(1) Equipment for continuous feed of chlorine, a chlorine compound or a bromine compound to the swimming pool water shall be provided and be operational. The equipment shall be adjustable in at least five increments over its feed capacity and, where applicable, the chemical feeder listed by NSF or another listing agency for compliance with Standard 50.

(2) Equipment for the continuous feed of a chemical for pH adjustment of the swimming pool water shall be provided and be operational for each swimming pool and, where applicable, the chemical feeder listed by NSF or another listing agency for compliance with Standard 50.

b. Cleaning.

(1) The inspection agency may require that a swimming pool be drained and scrubbed with a disinfecting agent prior to further usage.

(2) A vacuum system shall be provided to remove dirt from the bottom of the swimming pool.

15.4(4) *Safety.*

a. Chemical safety. Swimming pool chemical safety shall meet the following criteria:

(1) When chemical additions are made from the deck, the swimming pool is closed from use for at least one-half hour. The operator tests the swimming pool water as appropriate before allowing use of the swimming pool. The chemical addition and the test results are recorded in the swimming pool records.

(2) Swimming pool treatment chemicals shall be stored and handled in accordance with the manufacturer's recommendations.

(3) SDS for the chemicals used at the pool are at the facility in a location known and readily accessible to the facility staff.

(4) Chemical storage containers are clearly labeled.

(5) A chemical hazard warning sign is placed at the entrance of a room where chemicals are used or stored or where bulk containers are located.

b. Stairs, ladders, recessed steps, and ramps. Swimming pool stairs, ladders, recessed steps, and ramps shall meet the following criteria:

(1) Ladders or recessed steps are provided in the deep portion of a swimming pool. Stairs, ladders, recessed steps, or ramps are provided in the shallow portion if the vertical distance from the bottom of the swimming pool to the deck is more than 2 ft.

(2) Ladders, ladder rungs and ramps are securely anchored.

(3) The distance between the swimming pool wall to the vertical rail of a ladder is no greater than 6 inches and no less than 3 inches. The lower end of each ladder rail is securely covered with a smooth nonmetallic cap and within 1 inch of the swimming pool wall.

(4) Stairs, ladder rungs, ramps and recessed steps are slip-resistant.

(5) If a swimming pool is over 30 ft wide, recessed steps, ladders, ramps, or stairs are installed on each side. If a stairway centered on the shallow end wall of the swimming pool is within 30 ft of each side of the swimming pool, that end of the swimming pool is considered in compliance with this subparagraph.

(6) Each set of recessed steps are equipped with a securely anchored grab rail on each side of the recessed steps.

(7) Each set of stairs and each ramp are equipped with a securely anchored handrail(s).

(8) When stairs are provided for entry into a swimming pool, a slip-resistant stripe at least 1 inch wide of a color contrasting with the step surface and with the swimming pool floor is marked at the top front edge of each tread.

c. Diving areas. Swimming pool diving areas shall meet the following criteria:

(1) No diving is permitted in areas where the water is 5 ft deep or less except for purposes of competition or training. The diving is supervised by a lifeguard, swim instructor or swim coach.

(2) Starting blocks are only used for competition or training purposes under the supervision of a lifeguard, swim instructor, or swim coach. Starting blocks and starting block installation meet the requirements of the competition governing body (National Collegiate Athletic Association, USA Swimming, or National Federation of State High School Associations). When the swimming pool is open for general use, the starting blocks are secured from use by removal, covering, or signage and active supervision.

(3) Diving boards are permitted only if the diving area dimensions conform to the minimum requirements indicated below in Figure 1 and Tables 1 and 2.

(4) There is a completely unobstructed clear distance of 13 ft above the diving board, measured from the center of the front end of the board, and extending at least 8 ft behind, 8 ft to each side, and 16 ft ahead of the measuring point.

(5) Diving boards and platforms over 3 meters in height are prohibited, except where used only for competition or training purposes under the supervision of a diving coach and diving area dimensions conform to minimum requirements of World Aquatics (FINA).

(6) Diving boards and platforms have a slip-resistant surface.

(7) Where the top of a diving board or platform is more than 18 inches above the deck, stairs or a ladder are provided for access to the diving board or platform.

(8) Handrails are provided at all steps and ladders leading to diving boards that are more than 32 inches above the deck.

(9) A platform or diving board that is 32 inches or more above the swimming pool deck has a guardrail on both sides. The guardrails are at least 36 inches high and extend to the edge of the deck.

(10) Supports, platforms, and steps for diving boards are of substantial construction and of sufficient structural strength to safely carry the maximum anticipated load.

NOTE: The information contained in Figure 1 and Tables 1 and 2 is for swimming pools constructed prior to March 14, 1990. Swimming pools constructed after March 14, 1990, shall comply with 15.5(13)*"a."*

When determining distances set out in Tables 1 and 2, measurements shall be taken from the top center of the front edge of the diving board. The reference water level shall be the midpoint of the skimmer opening for a skimmer pool or a stainless steel gutter system with surge weirs. The reference water level for a gutter pool shall be the top of the gutter weir.

Figure 1

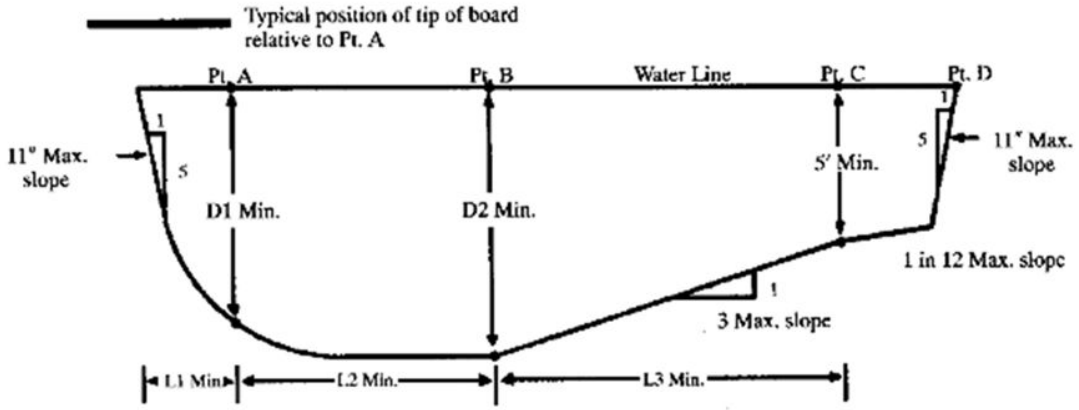


Table 1

		Minimum Dimensions				
Diving Board Height Above Water	Maximum Diving Board Length	D1	D2	L1	L2	L3
Deck level to 2/3 meter	10 ft	7 ft	8.5 ft	2.5 ft	8 ft	10.5 ft
Greater than 2/3 meter to 3/4 meter	12 ft	7.5 ft	9 ft	3 ft	9 ft	12 ft
Greater than 3/4 meter to 1 meter	16 ft	8.5 ft	10 ft	4 ft	10 ft	15 ft
Greater than 1 meter to 3 meters	16 ft	11 ft	12 ft	6 ft	10.5 ft	21 ft

Table 2

	Minimum Distance		
Diving Board Height Above Water	To Pool Side	To 1-Meter Diving Board	To 3-Meter Diving Board
Deck level to 1 meter	9 ft	8 ft	10 ft
Greater than 1 meter	11 ft	10 ft	10 ft

d. Lifeguards.

(1) Except for wading pools and spray pads, lifeguards are required at municipal and school swimming pools of any size and other swimming pools having a water surface area of 1,500 ft^2 or larger. Swimming pools operated by apartments, condominiums, country clubs, neighborhoods, manufactured home communities, or mobile home parks are exempt from lifeguard requirements.

(2) For open recreation swimming, there shall be at least one lifeguard guarding the pool at all times for up to 30 swimmers in the water; at least two lifeguards on duty for over 30 swimmers in the water and up to 125 swimmers in the water; and an additional lifeguard for each additional 125 swimmers in the water or fraction thereof.

NOTE: This is the minimum lifeguard coverage. It is the responsibility of the management of each facility to evaluate the facility configuration, the features of the facility, the patrons, and the type of use and to determine the facility-specific requirements for supervision by lifeguards.

(3) For a structured swimming program, such as lap swim, competitive swimming, water exercise classes, swim lessons and physical education classes, a lifeguard is not required provided the program is supervised by an instructor, teacher, or coach who is a lifeguard or who has current certification from the American Red Cross in basic water rescue, first aid, and infant, child and adult CPR, or equivalent training approved by the department. An instructor, teacher or coach may be responsible for a maximum of 30 persons within a structured activity. If more than 30 persons are involved in a structured activity, a second qualified supervisor must be present.

(4) Each water slide shall have one slide attendant trained in the operation of the slide stationed at the top of the slide and one lifeguard at the bottom of the slide.

If two or three water slides start at the same platform and the distance between the centerlines of any two start structures is 10 ft or less, one attendant may supervise the top of the slides. If two or three water slides terminate within the same landing area, one lifeguard may supervise the landing area.

e. Lifeguard chairs. For outdoor swimming pools where lifeguards are required by rule, elevated lifeguard chairs shall be provided as follows: at least one chair for a swimming pool with a water surface area of 2,000 to 4,000 ft^2 inclusive; at least two chairs if the area is 4,001 to 6,000 ft^2; and at least three chairs if the area is 6,001 ft^2 or more. Swimming pools are not required to have more than three lifeguard chairs. This requirement does not apply to wave pools, leisure rivers, spray pads, or wading pools.

f. Emergency equipment and facilities. Emergency equipment and facilities at swimming pools shall meet the following criteria:

(1) Except for wading pools, a minimum of 1 unit of lifesaving equipment is provided for each 1,500 ft^2 of water surface area or fraction thereof. The area of a swimming pool where the water is 2 ft deep or less may be subtracted from the total area for this requirement. A swimming pool is not required to have more than 10 units of lifesaving equipment.

(2) A unit of lifesaving equipment consists of one of the following:

1. A U.S. Coast Guard-recognized ring buoy fitted with a ¼-inch diameter line with a length of at least one-half the width of the pool, but no more than 60 ft; or
2. A life pole, or a "shepherd's crook" of at least 8 ft in length and having blunted ends; or
3. A rescue buoy made of lightweight, hard, buoyant plastic with molded handgrips along each side and provided with a 4- to 6-ft tow rope and shoulder strap, or
4. A rescue tube made of a soft, strong foam material 3 inches by 6 inches by 40 inches with a molded strap providing a ring at one end and a hook at the other. Attached to the end with the ring shall be a 6-ft-long towline with a shoulder strap.

NOTE: Rescue equipment identified in 15.4(4)*"f"*(2)"3" and "4" above shall be used only at swimming pools where lifeguards are employed. If a facility employs lifeguards, the lifeguards shall be provided with the minimum equipment required by their training including but not limited to rescue tubes and personal CPR masks.

(3) Lifesaving equipment is mounted in conspicuous places around the swimming pool deck during normal operations.

(4) A swimming pool facility has a first-aid kit which contains, at a minimum, the following:

1. Band-Aids.
2. Sterile 4″ × 4″ bandage compress.
3. Self-adhering gauze bandage.
4. Disposable gloves.
5. Chemical cold compress.

Where lifeguards are not provided, the first-aid kit is prominently mounted in the swimming pool enclosure or a sign stating its location is posted near the swimming pool. The first-aid kit is accessible when the swimming pool is open.

(5) A standard spine board with straps and a head immobilizer is provided at each swimming pool where lifeguards are required by rule.

(6) Except for wading pools and spray pads, each swimming pool where lifeguards are not provided has a designated emergency telephone or equivalent emergency communication system available to users of swimming pools when the swimming pool is open. When the telephone is not within the confines of the swimming pool enclosure, the location of the emergency telephone is posted in at least one conspicuous place within the swimming pool enclosure. Instructions for emergency use of the telephone are posted near the telephone.

At each swimming pool where lifeguards are employed, a telephone is available to the swimming pool staff for emergency purposes.

g. Water level. Water level in swimming pools shall be maintained at the skimming level.

h. Fully submerged outlets. Swimming pools and fully submerged outlets shall meet the following criteria:

(1) Each outlet, including the main drain(s), is designed to prevent user entrapment. A swimming pool is closed if the cover/grate of a fully submerged outlet is missing or broken.

(2) Each fully submerged outlet shall have a cover/grate that has been tested for compliance with the requirements of the ASME/ANSI standard by a testing agency that is certified for compliance by an engineer licensed in Iowa.

1. The cover/grate for an outlet system with a single fully submerged outlet has a flow rating of at least 100 percent of the maximum system flow rate. The combined flow rating for the cover/grates for an outlet system with more than one fully submerged outlet is at least 200 percent of the maximum system flow rate.

The maximum system flow rate for a main drain system is at least the design filter flow rate but may include play feature and water slide flow. The maximum system flow rate for other fully submerged outlets is the design flow rate of the pump(s) directly connected to the outlet system.

2. Fully submerged outlet cover/grates are not removable without the use of tools.

3. Purchase records and product information that demonstrate compliance are maintained by the facility for at least five years from the time the cover/grate is purchased. If a field fabricated cover/grate is certified for compliance to the ASME/ANSI standard by an engineer licensed in Iowa, a copy of the certification letter is kept at the facility for at least five years from the certification date.

(3) A swimming pool with a single fully submerged outlet that is not unblockable and that is directly connected to a pump is closed if the outlet does not have a cover/grate that complies with the ASME/ANSI standard.

If a swimming pool has two or more fully submerged outlets on a single surface that are all less than 3 ft apart on center, are not unblockable, and are directly connected to a pump, the swimming pool is considered to have a single fully submerged outlet.

(4) A swimming pool with a single fully submerged outlet that is not unblockable and that is directly connected to a pump is closed if the outlet system is not equipped with a safety vacuum release system that is listed for compliance with ASME/ANSI A112.19.17-2002 or ASTM F2387-04 (2012).

1. Purchase records and product information that demonstrate compliance are maintained by the facility for at least five years from the time the SVRS is purchased or another approved system is installed.

2. An SVRS is installed in accordance with the manufacturer's instructions.

3. An SVRS is tested for proper function at the frequency recommended by the manufacturer but at least once in each month the swimming pool is operated. The date and result of each test is recorded.

(5) In lieu of compliance with 15.4(4)*"h"*(2), (3) and (4) above, a fully submerged outlet in a swimming pool may be disabled with the approval of the department, except that an equalizer in a skimmer may be plugged without department approval if the management of the swimming pool submits to the department information, including but not necessarily limited to:

1. The area and volume of the pool;

2. The functional areas of the pool and the depths in those areas;

3. Detailed information about the inlet system, including the location of the inlets, the depth of the inlets, and the type of inlet fitting;

4. Detailed information about the overflow system, gutter or skimmer, number of skimmers, and pipe sizes;

5. Pump information and flow rates for the outlet system;

6. Filter type, number of filters, the size of the filter(s), and whether multiple filters are backwashed together or separately.

If the department approves the application to disable the outlet, the outlet valve is closed and the valve secured by removing the handle, by locking the handle closed, or by another method approved by the department. The outlet may be physically disconnected from the pump system.

i. Surface finish and float lines. Surface finish and float lines shall meet the following criteria:

(1) The bottom and sides of a swimming pool are white or a light color. This does not prohibit painting or marking racing lines, stairs or turn targets with contrasting colors.

(2) The swimming pool walls and floor have a smooth surface to facilitate cleaning.

(3) The boundary between shallow and deep water (5 ft) is marked by a float line with floats spaced no more than 5 ft apart. The float line is installed on the shallow side of the boundary within 12 inches of the boundary. When the slope of the floor of a swimming pool exceeds 1 ft vertical to 12 ft horizontal at a depth of less than 5 ft, the float line is placed on the shallow side of the slope change within 12 inches of the slope change in lieu of a float line at the 5 ft depth.

(4) A wave pool is equipped with a float line with floats spaced no more than 5 ft apart. The float line shall be located at least 6 ft from the deep-end wall. Users are not permitted between the float line and the deep-end wall.

(5) The landing area for a swimming pool slide or a water slide that terminates in a swimming pool is delineated by a float line.

A float line is not required when the landing area is in deep water provided the distance between the slide and any diving board(s) meets the requirements for diving board spacing. The distance between the side of the slide at the slide's terminus and the swimming pool wall is in accordance with the manufacturer's recommendations, but shall be at least 8 ft.

A float line is not required for a slide that is designed for toddlers and young children and that terminates in water that is 2 ft deep or less. The landing area is designated by a brightly colored pad securely fastened to the floor of the swimming pool or by painting the floor at the end of the slide.

j. Depth marking. Depth marking shall meet the following criteria:

(1) Depth markers are painted or otherwise marked on the deck within 3 ft of the edge of the swimming pool. The depth of a wave pool is also marked on the side walls of the wave pool, above the maximum static water level, where the depth is 3 ft or more, and on the deep-end wall of the wave pool. Depth markers are not required at the zero-depth end of a wading pool, wave pool, or a zero-depth swimming pool. Depth markers are not required at a plunge pool on the flume discharge end or on the exit end if stairs are used for exit.

(2) Depth markers are located at 1-ft depth intervals but not more than 25 ft apart measured between the centers of the depth markers around the area of a swimming pool that has a water depth of 5 ft or less.

(3) Depth markers are located not more than 25 ft apart measured between the centers of the depth markers around the deep end of the swimming pool. The words "Deep Water" may be used in place of numerals.

(4) In lieu of 15.4(4)*"j"*(2) above, the maximum depth of a wading pool may be posted at each entrance to a wading pool enclosure and at one conspicuous location inside the wading pool enclosure in letters or numbers at least 3 inches high.

(5) The depth of a leisure river is posted at the entrance(s) to the leisure river in characters at least 3 inches high. The depth of the leisure river is marked on the side wall of the leisure river above the static water level at intervals not to exceed 50 ft on center. The depth of the leisure river is marked on the deck in the areas where users are permitted. The depth markers are within 3 ft of the edge of the leisure river

at intervals not to exceed 25 ft on center. The depth markers at a leisure river constructed before May 4, 2005, are not required to be changed until the deck or channel structure is replaced or repaired.

(6) "No Diving" or equivalent wording or graphics are marked on the swimming pool deck within 3 ft of the edge of the swimming pool where the water is shallow and at other pool areas determined by management. The markers are 25 ft apart or less, center to center, around the perimeter of the area. This marking is not required for wading pools or at the zero-depth end of a wave pool or of a zero-depth swimming pool. "No Diving" or equivalent wording or graphics are marked on the deck of a leisure river in areas where users are permitted. The "No Diving" markers are within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center. The "No Diving" markers at a leisure river constructed before May 4, 2005, are not required to be changed until the deck or channel structure is replaced or repaired.

(7) Letters, numbers, and graphics marked on the deck are slip-resistant, of a color contrasting with the deck and at least 4 inches in height.

k. Deck safety. Deck safety shall meet the following criteria:

(1) Decks are maintained slip-resistant, and free of litter, obstructions and tripping hazards.

(2) Glass objects, other than eyeglasses and safety glass doors and partitions, are not permitted on the deck.

l. Enclosure. Swimming pool enclosure shall meet the following criteria:

(1) Except for a circulated wading pool that is drained when not in use, or a spray pad, a swimming pool is enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The enclosure is constructed of durable materials.

(2) A fence, wall, or other means of enclosure has no openings that would allow the passage of a 4-inch sphere and are not easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from outside the facility, or between the two lowest horizontal supports accessible from outside the facility, is at least 45 inches. A horizontal support is considered accessible if it is on the exterior of the fence relative to the swimming pool, or if the gap between the vertical members of the fence is greater than 1¾ inches.

(3) At least one gate or door with an opening of at least 36 inches in width is provided for emergency purposes. When closed, gates and doors comply with the requirements of 15.4(4)*"l"*(2). Gates and doors are lockable. Except where lifeguard or structured program supervision is provided whenever the swimming pool is open, gates and doors are self-closing and self-latching.

(4) If a wading pool is within 50 ft of a swimming pool, the wading pool has a barrier at least 36 inches high separating it from the swimming pool. A barrier installed after May 4, 2005, has no openings that would allow the passage of a 4-inch sphere and is not easily climbable by toddlers. The barrier has at least one 36-inch-wide gate or door. Gates and doors are lockable. Except where lifeguard supervision is provided, gates and doors are self-closing and self-latching.

The department may approve alternate management of the area between the wading pool and swimming pool at a facility where lifeguards are provided whenever the pools are open. The alternate management plan will be in writing and shall be at the facility when the pools are open.

(5) An indoor swimming pool is enclosed by a barrier at least 3 ft high if there are sleeping rooms, hallways, apartments, condominiums, or permanent recreation areas that are used by children and that open directly into the swimming pool area. No opening in the barrier permits the passage of a 4-inch sphere. The barrier is not easily climbable by toddlers. There is at least one 36-inch-wide gate or door through the barrier. Gates and doors are lockable. Except where lifeguard supervision is provided whenever the pool is open, gates and doors are self-closing and self-latching.

(6) A wave pool has a continuous barrier along the full length of each side of the wave pool. The barrier is at least 42 inches high and is installed no more than 3 ft from the side of the wave pool. Wave pool users are not permitted in this area.

m. Electrical. Electrical systems and components shall meet the following criteria:

(1) Each electrical outlet in the deck, shower room, and pool water treatment equipment areas is equipped with a properly installed GFCI at the outlet or at the breaker serving the outlet. Electrical outlets energized through an ORP/pH controller are not required to have a separate GFCI if the controller

is equipped with a GFCI or is energized through a GFCI breaker. GFCI receptacles and breakers are tested at least once in each month that the swimming pool is in operation. Testing dates and results are recorded in the pool records.

(2) Lighting.

1. Artificial lighting is provided at a swimming pool that is to be used at night or that does not have adequate natural lighting so that all portions of the swimming pool, including the bottom and main drain, may be clearly seen.

2. Underwater lights and fixtures are designed for their intended use. When the underwater lights operate at more than 15 volts, the underwater light circuit is equipped with a GFCI. When an underwater light needs to be repaired, the electricity is shut off until repairs are completed.

3. For outdoor swimming pools, no electrical wiring, except for overhead illumination, extends over a swimming pool.

n. Chlorine gas and carbon dioxide. Swimming pool facilities shall meet the following criteria:

(1) Chlorine gas feed equipment and full and empty chlorine cylinders are housed in a room or building used exclusively for that purpose during the pool operation season. Chlorine gas installations constructed prior to March 14, 1990, that are housed within chain-link fence or similar enclosure may be used provided that the chlorine cylinders are protected from direct sunlight and the applicable requirements below are met.

1. A chlorine gas room or building has an airtight exhaust system that takes its suction near the floor and discharges out of doors in a direction to minimize the exposure to swimming pool patrons. The system provides one air change every four minutes.

2. An air intake is provided near the ceiling.

3. The exhaust fan is operated from a switch in a nearby location outside the chlorine room or building. The switch is clearly labeled "Chlorine Exhaust Fan."

4. The discharge from the exhaust system is outside the pool enclosure.

5. Artificial lighting is provided in the chlorine room or building.

6. The door of a chlorine room or building is secured in an open position whenever the room is occupied.

7. A plastic bottle of commercial strength ammonia solution for leak detection is provided.

8. Rooms or buildings where chlorine is stored or used are placarded in accordance with 481—Chapter 221.

(2) CO_2 cylinders.

1. Chlorine gas and CO_2 cylinders are individually anchored with safety chains or straps.

2. Storage space is provided so that chlorine cylinders are not subject to direct sunlight.

3. The chlorinator is designed to prevent the backflow of water or moisture into the chlorine gas cylinder.

4. An automatic shutoff is provided to shut off the gas chlorinator and the pH control chemical pump when the recirculation pump stops.

o. Water slides. Water slides shall meet the following criteria:

(1) Water slide support structures are free of obvious structural defects.

(2) The internal surface of a flume is smooth and continuous for its entire length.

(3) The flume has no sharp edges within reach of a user while the user is in the proper sliding position.

p. Projections or obstructions. There shall be no underwater or overhead projections or obstructions that would endanger swimmer safety or interfere with proper swimming pool operation.

15.4(5) *Showers, dressing rooms, and sanitary facilities.* Swimming pool users shall have access to showers, dressing rooms, and sanitary facilities that are clean and free of debris. If a bathhouse is provided, the following shall be met:

a. Floors have a slip-resistant surface.

b. Floors provide adequate drainage to prevent standing water.

c. Olefin or other approved carpeting may be used in locker room or dressing room areas provided there is an adequate drip area between the carpeting and the shower room, toilet facilities, swimming pool, or other area where water can accumulate.

d. All lavatories, showers, and sanitary facilities are functional.

e. Soap is available at each lavatory and at each indoor shower fixture.

15.4(6) *Management, notifications, and records.*

a. Certified operator required. Each facility shall employ a certified operator. One certified operator may be responsible for a maximum of three facilities. Condominium associations, apartments, housing cooperatives, and homeowners associations with 25 or fewer living units are exempt from this requirement.

b. Pool rules sign. A legible pool rules sign shall be posted conspicuously at a minimum of two locations within the swimming pool enclosure. The sign shall include the following stipulations:

(1) No diving in the shallow end of the swimming pool and in other areas marked "No Diving."

(2) No rough play in or around the swimming pool.

(3) No running on the deck.

c. Other rules. Management may adopt and post such other rules as it deems necessary to provide for user safety and the proper operation of the facility.

d. "No Lifeguard" signs. Where lifeguards are not provided whenever the pool is open, a sign shall be posted at each entry to a swimming pool, stating that lifeguards are not on duty and children under the age of 12 must be accompanied by an adult, or at each entry to a wading pool, stating that lifeguards are not on duty and children must be accompanied by an adult.

e. Water slide rules. Rules and restrictions for the use of a water slide shall be posted near the slide and address the following as applicable:

(1) Use limits.

(2) Attire.

(3) Riding restrictions.

(4) Water depth at exit.

(5) Special rules to accommodate unique aspects of the attraction.

(6) Special warnings about the relative degree of difficulty.

f. Operational records. The operator of a swimming pool shall have the swimming pool operational records for the previous 12 months at the facility and make these records available when requested by a swimming pool inspector. These records shall contain a day-by-day account of swimming pool operation, including:

(1) ORP and pH readings, results of pH, free chlorine or total bromine residual, cyanuric acid, combined chlorine, and any other chemical test results.

(2) Results of microbiological analyses.

(3) Reports of complaints, accidents, injuries, and illness.

(4) Dates and quantities of chemical additions, including resupply of chemical feed systems.

(5) Dates when filters were backwashed or cleaned or when a filter cartridge was changed.

(6) Monthly ground fault circuit interrupter test results.

(7) Dates of review of material safety data sheets.

(8) If applicable, dates and results of tests of each SVRS installed at a facility.

g. Submission of records. An inspection agency may require a facility operator to submit to the inspection agency on a monthly basis a copy of the records of the ORP and pH readings, chemical test results and microbiological analyses. The inspection agency will notify the facility management of this requirement in writing at least 15 days before the reports are to be submitted for the first time. The facility management shall submit the required reports to the inspection agency within ten days after the end of each month of operation.

h. Certificates. Copies of certified operator certificates and copies of lifeguard, first-aid, basic water rescue, and CPR certificates for the facility staff shall be kept at the facility.

i. Operations manual. A permanent manual for the operation of the swimming pool shall be kept at the facility and include instructions for routine operations at the swimming pool including but not necessarily limited to:

(1) Water testing procedures, including the required frequency of testing.
(2) Maintaining the chemical supply for the chemical feed systems.
(3) Filter backwash or cleaning.
(4) Vacuuming and cleaning the swimming pool.
(5) Superchlorination.
(6) Controller sensor maintenance, where applicable.

j. Schematic drawing. A schematic drawing of the pool recirculation system shall be posted in the swimming pool filter room or in the operations manual. Clear labeling of the swimming pool piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.

k. Safety data sheets. Copies of SDS of the chemicals used at the swimming pool shall be kept at the facility in a location known and readily accessible to facility staff with chemical-handling responsibilities. Each member of the facility staff with chemical-handling responsibilities shall review the SDS at least annually. The facility management shall retain records of the SDS reviews at the facility and make the records available upon request by a swimming pool inspector.

l. Emergency plan. The facility management shall develop a written emergency plan. The plan shall include but not be limited to actions to be taken in cases of drowning, serious illness or injury, chemical-handling accidents, weather emergencies, and other serious incidents. The emergency plan shall be reviewed with the facility staff at least once a year, and the dates of review or training shall be recorded in the pool records. The written emergency plan shall be kept at the facility and be available to a swimming pool inspector upon request.

m. Lifeguard staffing plan. The lifeguard/program staffing plan for the facility shall be available to the swimming pool inspector at the facility and include staffing assignments for all programs conducted at the pool.

15.4(7) *Reports.* Swimming pool and spa operators shall report to the local inspection agency, within one business day of occurrence, all deaths; near drowning incidents; head, neck, and spinal cord injuries; and any injury that renders a person unconscious or requires immediate medical attention.

641—15.5(135I) Construction and reconstruction. A swimming pool that is constructed or reconstructed shall comply with the following standards. Nothing in these rules exempts swimming pools and associated structures from any applicable federal, state or local laws, rules, or ordinances.

15.5(1) *Construction permit.*

a. Permit required. No swimming pool with a water surface area greater than 500 ft^2 shall be constructed or reconstructed without the owner or a designated representative of the owner first receiving a permit from the department. Construction shall be completed within 24 months from the date the construction permit is issued unless an extension is granted in writing by the department.

NOTE: While plan review and permitting are voluntary for swimming pools with a water surface area of 500 ft^2 or less under this rule, such swimming pools must still comply with all other requirements of this chapter, including but not limited to all other construction and reconstruction requirements under this rule (including notification of completion pursuant to paragraph 15.5(1)*"e"*) and all operational requirements under rule 641—15.4(135I).

b. Permit application. The owner of a proposed or existing facility or a designated representative of the owner shall apply for a construction permit on forms provided by the department.

c. Plan submission and fee. Three sets of plans and specifications shall be submitted with the application, as well as a nonrefundable plan review fee for each swimming pool, leisure river, water slide, wave pool, wading pool, spray pad, zero-depth swimming pool, and multisection water recreation pool as required in 15.12(3).

d. Exception. After receiving a construction permit application, the department may authorize construction on a project to start before issuance of a permit. The authorization will be in writing to the owner or the owner's authorized representative.

e. Notification of completion. The owner of a newly constructed or reconstructed swimming pool, or the owner's designated representative, shall notify the department in writing at least 15 business days prior to opening the swimming pool.

15.5(2) *Plans and specifications.*

a. Plan certification. Plans and specifications shall be sealed and certified in accordance with the rules of the engineering and land surveying examining board or the architectural examining board by an engineer or architect licensed to practice in Iowa. This requirement may be waived by the department if the project is the addition or replacement of a chemical feed system, including a disinfection system, or a simple replacement of a filter or pump or both, or combination thereof.

If the requirement for engineering plans is waived, the owner of the facility assumes full responsibility for ensuring that the reconstruction complies with these rules and with any other applicable federal, state and local laws, rules and ordinances.

b. Content of plans. Plans and specifications submitted shall contain sufficient information to demonstrate to the department that the proposed swimming pool will meet the requirements of this chapter, including but not limited to:

(1) The name and address of the owner and the name, address, and telephone number of the architect or engineer responsible for the plans and specifications. If a swimming pool contractor applies for a construction permit, the name, address, and telephone number of the swimming pool contractor shall be included.

(2) The location of the project by street address or other legal description.

(3) A site plan showing the pool in relation to buildings, streets, water and sewer service, gas service, and electrical service.

(4) Detailed scale drawings of the swimming pool and its appurtenances, including a plan view and cross sections, showing the location of inlets, overflow system components, main drains, the deck and deck drainage, the location and size of pool piping, the swimming pool ladders, stairs and deck equipment, including diving stands and boards, and fencing.

(5) A drawing(s) showing the location, plan, and elevation of filters, pumps, chemical feeders, ventilation devices, heaters, and surge tanks; and additional drawings or schematics showing operating levels, backflow preventers, valves, piping, flow meters, pressure gauges, thermometers, the make-up water connection, and the drainage system for the disposal of filter backwash water.

(6) Plan and elevation drawings of bathhouse facilities including dressing rooms; lockers; showers, toilets and other plumbing fixtures; water supply; drain and vent systems; gas service; water heating equipment; electrical fixtures; and ventilation systems, if provided.

(7) Complete technical specifications for the construction of the swimming pool, for the swimming pool equipment and for the swimming pool appurtenances.

c. Deviation from plans. No deviation from the plans and specifications or conditions of approval may be made without prior written approval of the department.

15.5(3) *General design.*

a. Construction of fill and drain wading pools is prohibited.

b. Materials. Swimming pools shall be constructed of materials that are inert, stable, nontoxic, watertight, and durable.

c. Structural loading.

(1) Swimming pools shall be designed and constructed to withstand the anticipated structural loading for both full and empty conditions.

(2) Except for aboveground swimming pools, a hydrostatic relief valve or a suitable underdrain system shall be provided.

d. The water supplied to a swimming pool shall comply with 15.4(1)*"d."*

e. No part of a swimming pool recirculation system may be directly connected to a sanitary sewer. An air break or an air gap shall be provided.

15.5(4) *Decks.*

a. Deck width. A swimming pool shall be surrounded by a deck. The deck shall be at least 6 ft wide for a swimming pool with a water surface area of 1,500 ft^2 or greater, and 4 ft wide for a smaller swimming pool, and extend at least 4 ft beyond the diving stands, lifeguard chairs, swimming pool slides, or any other deck equipment.

b. Materials. Decks shall be constructed of stable, nontoxic, durable, and impervious materials and shall be provided with a slip-resistant surface.

c. Deck coverings. Porous, nonfibrous deck coverings may be used, subject to department approval, provided that:

(1) The covering allows drainage so that the covering and the deck underneath it do not remain wet or retain moisture.

(2) The covering is inert and will not support bacterial growth.

(3) The covering provides a slip-resistant surface.

(4) The covering is durable and cleanable.

d. Deck drainage. The deck of a swimming pool shall not drain to the pool or to the pool recirculation system, except as provided in 15.5(15)*"c"* and 15.5(16)*"b."* For deck-level swimming pools ("rim flow" or "rollout" gutter), a maximum of 5 ft of deck may slope to the gutter.

e. Deck slope. The deck slope shall be at least 1/8 inch/ft and no more than 1/2 inch/ft to drain. The deck shall be designed and constructed so that there is no standing water on the deck during normal operation of the facility.

f. Surface runoff. For outdoor swimming pools, the drainage for areas outside the facility and for nondeck areas within the facility shall be designed and constructed to keep the drainage water off the deck and out of the swimming pool.

g. Carpeting. The installation of a floor covering of synthetic material may be used only in separate sunbathing, patio, or refreshment areas, except as permitted by 15.5(4)*"c."*

h. Hose bibs. At least one hose bib shall be provided for flushing the deck.

i. Rinse showers. If users are permitted free access between the deck and an adjacent sand play area without having to pass through a bathhouse, a rinse shower area shall be installed between the deck and the sand play area, with fences, barriers and other structures installed so that users must pass through the rinse shower area when going from the sand play area to the deck, and meet the following criteria:

(1) Tempered water is provided for the rinse shower(s).

(2) The rinse shower area has sufficient drainage so that there is no standing water.

(3) Foot surfaces in the rinse shower area are impervious and slip-resistant.

15.5(5) *Recirculation.*

a. Combined recirculation. Two or more swimming pools may share the same recirculation system, but a wading pool cannot share a recirculation system with any other wading pool or swimming pool. Combined recirculation shall meet the following criteria:

(1) The recirculation flow rate for each swimming pool is calculated in accordance with 15.5(5)*"b."* The recirculation flow rate for the system is at least the arithmetic sum of the recirculation flow rates of the swimming pools.

(2) The flow to each pool is adjustable. A flow meter is provided for each pool.

b. Recirculation flow rate. The recirculation flow rate shall provide for the treatment of one pool volume within:

(1) Four hours for a swimming pool with a volume of 30,000 gal or less.

(2) Six hours for a swimming pool with a volume of more than 30,000 gal.

(3) Two hours for a wave pool.

(4) Four hours for a zero-depth pool.

(5) One hour for a wading pool.

(6) One hour for a water slide plunge pool.

(7) Four hours for a leisure river.

(8) Thirty minutes for a spray pad with its own filter system.

(9) For swimming pools with skimmers, the recirculation flow rate shall be at least 30 gpm per skimmer or the recirculation flow rate defined above, whichever is greater.

The recirculation flow rate for pools not specified in 15.5(5)*"b"*(1) through 15.5(5)*"b"*(9) will be determined by the department.

c. Recirculation pump. The recirculation pump(s) shall be listed by NSF or by another listing agency as complying with the requirements of Standard 50 and shall comply with the following requirements:

(1) The pump(s) supply the recirculation flow rate required by 15.5(5)*"b"* at a TDH of at least that given in "1," "2," or "3" below unless a lower TDH is shown by the designer to be appropriate. A valve for regulating the rate of flow is provided in the recirculation pump discharge piping.

1. 40 feet for vacuum filters; or
2. 60 feet for pressure sand filters; or
3. 70 feet for pressure diatomaceous earth filters or cartridge filters.

(2) For sand filter systems, the pump and filter system are designed so that each filter can be backwashed at a rate of at least 15 gpm/ft^2 of filter area.

(3) If a pump is located at an elevation higher than the pool water surface, it is self-priming or the piping is arranged to prevent the loss of pump prime when the pump is stopped.

(4) Where a vacuum filter is used, a vacuum limit control is provided on the pump suction line. The vacuum limit switch is set for a maximum vacuum of 18 in Hg.

(5) A compound vacuum-pressure gauge is installed on the pump suction line as close to the pump as practical. A vacuum gauge may be used for pumps with suction lift. A pressure gauge is installed on the pump discharge line as close to the pump as practical. Gauges are of such a size and located so that they may be easily read by the facility staff.

(6) On pressure filter systems, a hair and lint strainer is installed on the suction side of each recirculation pump. The hair and lint strainer basket is readily accessible for cleaning, changing, or inspection. A spare strainer basket shall be provided, except where the strainer basket has a volume of 15 gallons or more. This requirement may be waived for systems using vertical turbine pumps or pumps designed for solids handling.

d. Water heaters. Swimming pool water heaters shall meet the following criteria:

(1) A heating coil, pipe or steam hose cannot be installed in a swimming pool.

(2) Gas-fired pool water heaters comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004.

(3) Electric pool water heaters comply with the requirements of UL 1261 (2017) and bear the UL mark.

(4) A swimming pool water heater with an input of greater than 400,000 BTU/hour (117 kilowatts) has a water heating vessel constructed in accordance with ASME Boiler Code, Section 8 (2007). The data plate of the heater bears the ASME mark.

(5) A thermometer is installed in the piping to measure the temperature of the water returning to the pool. The thermometer is located so that it may be easily read by the facility staff.

(6) Combustion air is provided for fuel-burning water heaters as required by the state plumbing code, 481—Chapter 425, or as required by local ordinance.

(7) Fuel-burning water heaters are vented as required by the state plumbing code, 481—Chapter 425, or as required by local ordinance.

(8) Each fuel-burning water heater is equipped with a pressure relief valve sized for the energy capacity of the water heater.

e. Flow meters. Swimming pool flow meters shall meet the following criteria:

(1) Each swimming pool recirculation system is provided with a permanently installed flow meter to measure the recirculation flow rate.

(2) In a multiple pool system, a flow meter is provided for each pool.

(3) A flow meter is accurate within 5 percent of the actual flow rate between ± 20 percent of the recirculation flow rate specified in 15.5(5)*"b"* or the nominal recirculation flow rate specified by the designer.

(4) A flow meter is installed on a straight length of pipe with sufficient clearance from valves, elbows or other sources of turbulence to attain the accuracy required by 15.5(5)*"e"*(3). The flow meter is installed so that it may be easily read by facility staff, or a remote readout of the flow rate is installed where it may be easily read by the facility staff. The designer may be required to provide documentation that the installation meets the requirements of 15.5(5)*"e"*(3).

f. Vacuum cleaning system.

(1) A swimming pool vacuum cleaning system capable of reaching all parts of the pool bottom shall be provided.

(2) A vacuum system may be provided that utilizes the attachment of a vacuum hose to the suction piping through a skimmer.

(3) Automatic vacuum systems may be used provided they are capable of removing debris from all parts of the swimming pool bottom.

15.5(6) *Filtration.* A filter shall be listed by NSF or by another listing agency as complying with the requirements of Standard 50 and comply with the following requirements:

a. Each pressure filter has a pressure gauge on the inlet side. Gauges are of such a size and located so that they may be read easily by the facility staff. A differential pressure gauge that gives the difference between the inlet and outlet pressure of the filter may be used in place of a pressure gauge.

b. An air relief valve is provided for each pressure filter.

c. Backwash water from a pressure filter discharges through an observable free fall, or a sight glass is installed in the backwash discharge line.

d. Backwash water is discharged indirectly to a sanitary sewer.

e. Rapid sand filter.

(1) The filtration rate does not exceed 3 gpm/ft^2 of filter area.

(2) The backwash rate is at least 15 gpm/ft^2 of filter area.

f. High-rate sand filter.

(1) The filtration rate does not exceed 15 gpm/ft^2 of filter area.

(2) The backwash rate is at least 15 gpm/ft^2 of filter area.

(3) If more than one filter tank is served by a pump, the designer demonstrates that the backwash flow rate to each filter tank meets the requirements of 15.5(6)*"f"*(2), or an isolation valve is installed at each filter tank to permit each filter to be backwashed individually.

g. Vacuum sand filter.

(1) The filtration rate does not exceed 15 gpm/ft^2 of filter area.

(2) The backwash rate is at least 15 gpm/ft^2 of filter area.

(3) An equalization screen is provided to evenly distribute the filter influent over the surface of the filter sand.

(4) Each filter system has an automatic air-purging cycle.

h. Sand filter media complies with the filter manufacturer's specifications.

i. Diatomaceous earth filter.

(1) The filtration rate does not exceed 1.5 gpm/ft^2 of effective filter area, except that a maximum filtration rate of 2.0 gpm/ft^2 may be allowed where continuous body feed is provided.

(2) Diatomaceous earth filter systems have piping to allow recycling of the filter effluent during precoat.

(3) Waste diatomaceous earth is discharged to a sanitary sewer. The discharge may be subject to the requirements of the local wastewater utility.

j. Cartridge filter.

(1) The filtration rate does not exceed 0.38 gpm/ft^2 of filter area.

(2) A duplicate set of cartridges is provided.

15.5(7) *Piping.*

a. Piping standards. Swimming pool piping shall conform to applicable nationally recognized standards and be specified for use within the limitations of the manufacturer's specifications. Swimming pool piping shall comply with the applicable requirements of NSF/ANSI Standard 61 (2020), "Drinking

Water System Components—Health Effects." Plastic swimming pool pipe shall comply with the requirements of NSF/ANSI Standard 14 (2016b), "Plastic Piping Components and Related Materials," for potable water pipe.

b. Pipe sizing. Swimming pool recirculation piping shall be sized so water velocities do not exceed 6 ft/sec for suction flow and 10 ft/sec for pressure flow. Gravity piping shall be sized in accordance with recognized engineering principles.

c. Overflow system piping. The piping for an overflow perimeter gutter system shall be designed to convey at least 125 percent of the recirculation flow rate. The piping for a skimmer system shall be designed to convey at least 100 percent of the recirculation flow rate.

d. Main drain piping. If the main drains are connected to the recirculation system, the main drains and main drain piping shall be designed to convey at least 100 percent of the recirculation flow rate.

e. Play feature circulation. Where there are features that circulate water to the swimming pool and through the main drain and overflow systems, the main drain and overflow systems and the associated piping shall be designed to accommodate the combined flow of the recirculation system and the features within the requirements of 15.5(7)*"b"* and the applicable requirements of 15.5(9) and 15.5(10).

15.5(8) *Inlets.*

a. Inlets required. Wall inlets or floor inlets, or both, shall be provided for a swimming pool. The inlets shall be adequate to ensure effective distribution of treated water and the maintenance of a uniform disinfectant residual throughout the swimming pool. The designer may be required to provide documentation of adequate distribution, such as dye testing of a pool.

b. Wall inlet spacing. Where wall inlets are used, they shall be no more than 20 ft apart around the perimeter of the area with an inlet within 5 ft of each corner of the swimming pool and meet the following criteria:

(1) There is at least one inlet at each stairway or ramp leading into a swimming pool.

(2) Except for wading pools, wall inlets are located at least 6 inches below the design water surface.

(3) Wall inlets in pools with skimmers are directional flow-type inlets.

(4) Each inlet has a directional flow inlet fitting with an opening of 1-inch diameter or less, or a fixed fitting with openings ½-inch wide or less.

c. Floor inlets. Floor inlets shall be provided for the areas of a zero-depth swimming pool or wave pool where the water is less than 2 ft deep and may be used throughout a swimming pool in lieu of or in combination with wall inlets. Floor inlets shall be flush with the pool floor, as well as no more than 20 ft apart and within 15 ft of each wall of the swimming pool in the area where they are used.

15.5(9) *Overflow system.*

a. Skimmers. Swimming pool skimmers shall meet the following criteria:

(1) Recessed automatic surface skimmers are listed by NSF or by another listing agency as complying with the requirements of Standard 50, except that an equalizer is not required for a skimmer installed in a swimming pool equipped with an automatic water level maintenance device.

(2) Skimmers may be used for swimming pools that are no more than 30 ft wide.

(3) A swimming pool has at least one skimmer for each 500 ft^2 of surface area or fraction thereof.

(4) Each skimmer is designed for a flow-through rate of at least 30 gpm or 3.8 gpm per lineal inch of weir, whichever is greater. The combined flow capacity of the skimmers in a swimming pool cannot be less than the total recirculation rate.

(5) Each skimmer has a weir that adjusts automatically to variations in water level of at least 4 inches.

(6) Each skimmer is equipped with a device to control flow through the skimmer.

(7) If a swimming pool is not equipped with an automatic water level maintenance device, each skimmer that is a suction outlet has an operational equalizer. The equalizer opening in the swimming pool is covered with a fitting listed by a listing agency as meeting the requirements of the ASME/ANSI standard.

(8) A skimmer pool has a handhold around the perimeter of the pool. The handhold is 9 inches or less above the minimum skimmer operation level.

b. Perimeter overflow gutters. Swimming pool perimeter overflow gutters shall meet the following criteria:

(1) A swimming pool greater than 30 ft in width, except for a wave pool or a wading pool, has a perimeter overflow gutter system.

(2) The overflow weir extends completely around the swimming pool, except at stairs, ramps, or water slide flumes.

(3) The gutter is designed to provide a handhold and to prevent entrapment.

(4) Drop boxes, converters, return piping, or flumes used to convey water from the gutter are designed to convey 125 percent of the recirculation flow rate. The flow capacity of the gutter and the associated plumbing are sufficient to prevent backflow of skimmed water into the swimming pool.

(5) Gutter overflow systems are designed with an effective surge capacity within the gutter system and surge tank of not less than 1 gal/ft^2 of swimming pool surface area. In-pool surge may be permitted for prefabricated gutter systems, subject to the approval of the department.

c. Alternative overflow systems. Overflow systems not meeting all of the requirements in 15.5(9)*"a"* or *"b"* may be used if the designer can provide documentation that the alternative overflow system will skim the pool water surface at least as effectively as a skimmer system.

15.5(10) *Main drain system.* Swimming pool main drain systems shall meet the following criteria:

a. Main drains. Each swimming pool has a convenient means of draining the water from the pool for winterization and service.

b. Main drains for recirculation. If the main drain system is connected to the recirculation system, there are two or more main drains or a single main drain that is unblockable.

(1) Two main drains are at least 3 ft apart on center. If three or more main drains are installed, the distance between the drains farthest apart is at least 3 ft on center.

(2) Each main drain and its associated piping in a swimming pool are designed for the same flow rate. Multiple drains are plumbed in parallel, and the piping system is designed to equalize flow among the main drains.

(3) If one or two main drains are installed, each main drain cover/grate, sump and the associated piping is designed for at least 100 percent of the recirculation flow rate specified by 15.5(5)*"b."* If three or more main drains are installed, the combined flow rating of the cover/grates, the sumps and the associated piping is at least 200 percent of the recirculation flow rate. If water for water slides, fountains and play features is circulated through the main drain and overflow systems, the main drains are designed for the combined feature and recirculation flow.

(4) Manufactured main drain sumps are listed by a listing agency for compliance with the ASME/ANSI standard. Field fabricated sumps are designed in accordance with the ASME/ANSI standard and certified by an engineer licensed in Iowa.

(5) There is a control valve to adjust the flow between the main drain and the overflow system.

(6) Main drain covers. Each main drain is covered with a cover/grate that complies with the ASME/ANSI standard.

1. The flow rating for each cover/grate complies with 15.5(10)*"b"*(3).

2. The mark of a listing agency is permanently marked on the top surface of each manufactured cover/grate.

3. Field fabricated cover/grates are certified for compliance to the ASME/ANSI standard by a professional engineer licensed in Iowa. A certificate of compliance is provided to the swimming pool owner and to the department.

4. The main drain cover/grate is designed to be securely fastened to the pool so that the cover/grate is not removable without tools.

c. Feature outlets. Where fully submerged outlets for play or decorative features or water slides are in the swimming pool, the outlets shall be designed in accordance with 15.5(10)*"b."*

15.5(11) *Disinfection.* Swimming pool disinfection shall meet the following criteria:

a. Each swimming pool recirculation system is equipped with an automatic controller for maintenance of the disinfectant level in the swimming pool water. The control output of the controller to

the disinfectant feed system is based on the continuous measurement of the ORP of the water in the swimming pool recirculation system.

b. No disinfection system designed to use di-chlor or tri-chlor is installed for an indoor swimming pool.

c. A continuous feed disinfectant system is provided. The disinfectant feed system has the capacity to deliver at least 10 mg/L chlorine or bromine equivalent based on the recirculation flow rate required in 15.5(5)*"b"* for an outdoor swimming pool and 4 mg/L chlorine or bromine equivalent based on the recirculation flow rate required in 15.5(5)*"b"* for an indoor swimming pool.

d. A disinfectant feeder (except chlorine gas feed equipment) is listed by NSF or by another listing agency as complying with the requirements of Standard 50.

e. The disinfectant system is installed so that chemical feed is automatically and positively stopped when the recirculation flow is interrupted.

f. Gas chlorinator facilities comply with applicable federal, state and local laws, rules and ordinances and the requirements below.

(1) The chlorine supply and gas feeding equipment is housed in a separate room or building.

1. No entrance or openable window to the chlorine room goes to the inside of a building used other than for the storage of chlorine.

2. The chlorine room is provided with an exhaust system that takes its suction not more than 8 inches from the floor and discharges out of doors in a direction to minimize the exposure of swimming pool patrons to chlorine gas. The exhaust system is capable of producing 15 air changes per hour in the chlorine room.

3. An automatic chlorine leak detector and alarm system is provided in the chlorine room. The alarm system provides visual and audible alarm signals outside the chlorine room.

4. An air intake is provided near the ceiling of the chlorine room. The air intake and the exhaust system outlet are at least 4 ft apart.

5. The room has a window at least 12 inches square. The window glass is shatterproof.

6. The door of the chlorine enclosure opens outward. The inside of the door is provided with panic hardware.

7. The chlorine room has adequate lighting.

8. Electrical switches for the exhaust system and for the lighting are outside the chlorine room and adjacent to the door, or in an adjoining room.

9. An anchoring system is provided so that full and empty chlorine cylinders can be individually secured.

10. Scales are provided for weighing the cylinders that are in use.

(2) A chlorine enclosure that is 30 inches deep or less and 72 inches wide or less and that is installed out of doors complies with the above requirements except:

1. An automatic chlorine leak detector is not required.

2. The enclosure has a window of at least 48 in^2.

3. The light and exhaust fan may be activated by opening the door rather than by a separate switch.

(3) The chlorinator is designed to prevent the backflow of water into the chlorine cylinder.

g. Where a metering pump is used to feed a solution of disinfectant, the disinfectant solution container has a capacity of at least one day's supply at the rate specified in 15.5(11)*"c,"* except that when the system is designed to feed directly from a 55-gal shipping container, a larger solution container is not required.

Secondary containment is provided when a tank larger than 55 gallons is installed for the storage of sodium hypochlorite.

h. The storage capacity of an erosion feeder is at least one day's supply of disinfectant at the rate specified in 15.5(11)*"c."*

15.5(12) *pH control.* Swimming pool pH control shall meet the following criteria:

a. pH controller required. Each swimming pool recirculation system approved for construction after May 4, 2005, is equipped with a controller that senses the pH of the swimming pool water and that

automatically controls the operation of a metering pump for the addition of a pH control chemical or the operation of a CO_2 gas feed system.

b. pH chemical feed required. Each swimming pool has a metering pump for the addition of a pH control chemical to the pool recirculation system, or a CO_2 gas feed system.

c. Metering pump listing. A metering pump is listed by NSF or by another listing agency as meeting the requirements of Standard 50.

d. CO_2 cylinder anchors. Where CO_2 is used as a method of pH control, an anchoring system is provided to individually secure full and empty CO_2 cylinders.

e. Chemical feed stop. The pH control system is installed so that chemical feed is automatically and positively stopped when the recirculation flow is interrupted.

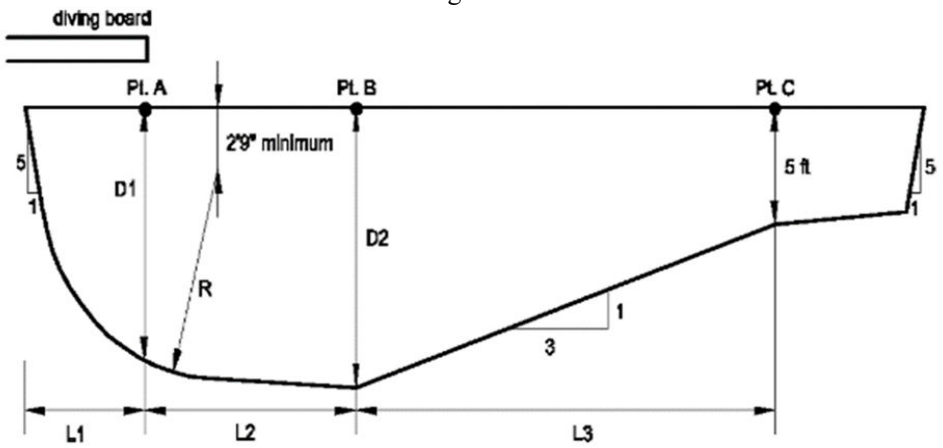
15.5(13) *Safety.*

a. Diving areas shall meet the following criteria:

(1) Diving boards are permitted only if the diving area dimensions conform to the minimum requirements shown in Figure 2 and Tables 3 and 4. The distances specified in Tables 3 and 4 are measured from the top center of the leading edge of the diving board. The reference water level is the midpoint of the skimmer opening for a skimmer pool or a stainless steel gutter system with surge weirs. The reference water level for a gutter pool is the top of the gutter weir.

(2) Where diving boards are specified that have been advertised or promoted to be "competition" diving boards, the diving area complies with the standards of the National Collegiate Athletic Association (NCAA) or the National Federation of State High School Associations (NFSHSA).

Figure 2



R minimum = Pool depth minus Vertical wall depth from the water line minus 3 inches.

Table 3

		Minimum Dimensions					Minimum Width of Pool		
Diving Board Height Above Water	Maximum Board Length	D1	D2	L1	L2	L3	Pt A	Pt B	Pt C
Deck level to 2/3 meter	10 ft	7 ft	8.5 ft	2.5 ft	8 ft	10.5 ft	16 ft	18 ft	18 ft
Greater than 2/3 meter to 3/4 meter	12 ft	7.5 ft	9 ft	3 ft	9 ft	12 ft	18 ft	20 ft	20 ft
Greater than 3/4 meter to 1 meter	16 ft	8.5 ft	10 ft	4 ft	10 ft	15 ft	20 ft	22 ft	22 ft
Greater than 1 meter to 3 meters	16 ft	11 ft	12 ft	6 ft	10.5 ft	21 ft	22 ft	24 ft	24 ft

Table 4

Diving Board Height Above Water	To Pool Side	To 1-Meter Board	To 3-Meter Board
Deck level to 1 meter	10 ft	8 ft	10 ft

Diving Board Height Above Water	To Pool Side	To 1-Meter Board	To 3-Meter Board
Greater than 1 meter	11 ft	10 ft	10 ft

(3) There is a completely unobstructed clear distance of 13 ft above the diving board measured from the center of the front end of the board. This area extends at least 8 ft behind, 8 ft to each side, and 16 ft beyond the end of the diving board.

(4) Diving boards and platforms have slip-resistant surfaces.

(5) Diving board supports, ladders, and guardrails.

1. Supports, platforms, and steps for diving boards are of substantial construction and of sufficient structural strength to safely carry the maximum anticipated loads.

2. Ladders, steps, supports, handrails, and guardrails are of corrosion-resistant materials or are provided with a corrosion-resistant coating and are designed to have no exposed sharp edges. Ladder steps have slip-resistant surfaces.

3. Handrails are provided at steps leading to diving boards and diving platforms. Guardrails are provided for diving boards and platforms that are more than 1 meter above the water. Guardrails for diving boards and platforms are at least 36 inches high and extend to the edge of the water.

b. Starting blocks and starting block installation shall meet the requirements of the competition governing body (National Collegiate Athletic Association, USA Swimming, or National Federation of State High School Associations).

c. Stairs, ladders, and recessed steps shall meet the following criteria:

(1) Ladders or recessed steps are provided in the deep portion of a swimming pool and in the shallow portion if the vertical distance from the bottom of the swimming pool to the deck is more than 2 ft. Stairs or ramps may be used instead of ladders or recessed steps at the shallow end of the swimming pool.

(2) If a swimming pool is over 30 ft wide, recessed steps, ladders, ramps, or stairs are installed on each side. If a stairway centered on the shallow end wall of the swimming pool is within 30 ft of each side of the swimming pool, that end of the swimming pool is considered in compliance with this subrule.

(3) The foot contact surfaces of stairs, ramps, ladder rungs, and recessed steps are slip-resistant.

(4) Ladders.

1. Ladders have a handrail on each side that extends from below the water surface to the top surface of the deck.

2. Ladders, treads, or supports are of a color contrasting with the swimming pool walls; however, stainless steel ladders may be used with stainless steel wall pools.

3. A ladder has a tread width of at least 16 inches and a uniform rise of 12 inches or less.

4. The distance between the swimming pool wall and the vertical rail of a ladder is no greater than 6 inches and no less than 3 inches. The lower end of each ladder rail is securely covered with a smooth nonmetallic cap and within 1 inch of the swimming pool wall.

(5) Recessed steps.

1. Recessed steps have a tread depth of at least 5 inches, a tread width of at least 12 inches, and a uniform rise of no more than 12 inches.

2. Each set of recessed steps is equipped with a securely anchored deck-level grab rail on each side.

3. Recessed steps drain to the pool.

(6) Stairs.

1. Stairs have a uniform tread depth of at least 12 inches and a uniform rise of no more than 10 inches. The area of each tread shall be at least 240 in^2.

2. Stairs are provided with at least one handrail for each 12 ft in width. Handrails are between 34 inches and 38 inches high, measured vertically from the line defined by the front edge of the steps.

3. A slip-resistant stripe at least 1 inch wide of a color contrasting with the step surface and with the swimming pool floor is marked at the top front edge of each tread.

(7) Handrails and grab rails.

1. Ladders, handrails, and grab rails are designed to be securely anchored so that tools are required for their removal.

2. Ladders, handrails, and grab rails are constructed of corrosion-resistant materials or provided with corrosion-resistant coatings and have no exposed sharp edges.

d. Swimming pool floor slope shall meet the following criteria:

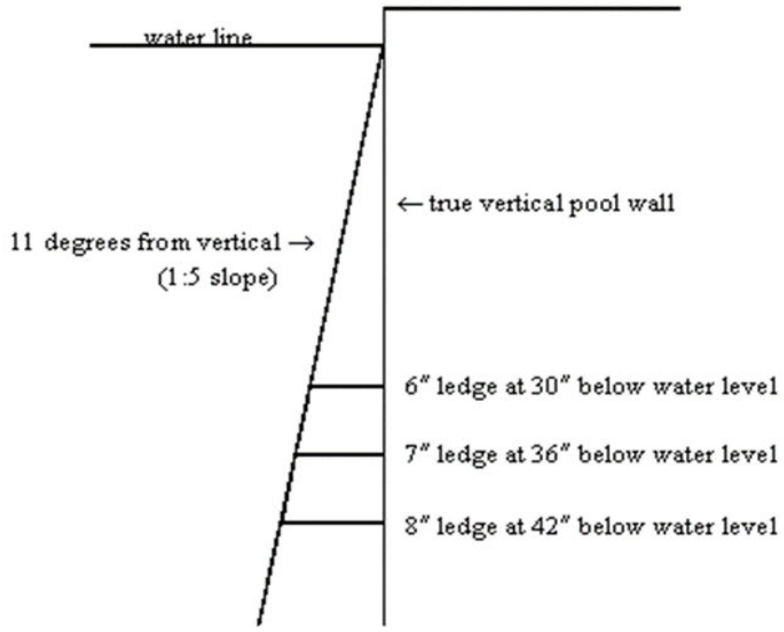
(1) The bottom of the swimming pool slopes toward the main drain(s). The slope of the swimming pool bottom where the water is less than 5 ft deep does not exceed 1 ft vertical in 12 ft horizontal.

(2) Subject to the written approval of the department, a swimming pool may be designed to have the change in slope (from 1:12 or less to a steeper slope) at a point where the water depth is less than 5 ft. The marking requirements of 15.5(13)*"f"*(3) and 15.5(13)*"f"*(4) shall apply and, if possible, depth markers that are clearly visible to persons in the pool shall be provided.

e. Swimming pool walls shall meet the following criteria:

(1) Walls in the deep section of a swimming pool are vertical to a water depth of at least 2.8 ft. If a transition radius is provided, it complies with Figure 2.

Figure 3



(2) The term "vertical" is interpreted to permit slopes not greater than 1 ft horizontal for each 5 ft of depth of side wall (11° from vertical).

(3) Ledges, when provided, fall within an 11° line from vertical, starting at the water surface (Figure 3). A ledge is no less than 4 inches wide and no more than 8 inches wide. A ledge has a slip-resistant surface.

f. Surface finish and markings shall meet the following criteria:

(1) The swimming pool floor has a slip-resistant finish.

(2) The bottom and sides of the swimming pool are white or a light color. This does not prohibit painting or marking racing lines or turn targets.

(3) Where the slope of a swimming pool bottom in a shallow area changes from 1:12 or less to a slope greater than 1:12, or at the 5-ft depth area, the pool bottom and sides are marked with a stripe at least 4 inches wide in a color contrasting with the pool bottom and sides. The stripe is on the shallow side of the slope change or 5-ft depth area within 6 inches of the slope change or 5-ft depth area. Depending on the pool configuration, more than one stripe may be required.

(4) A float line with floats no more than 5 ft apart are installed on the shallow side of the stripe required in 15.5(13)*"f"*(3) within 12 inches of the stripe.

(5) The landing area for a swimming pool slide or a water slide that does not terminate in a separate plunge pool is delineated by a float line or as approved by the department.

(6) Depth markers.

1. Depth markers are painted or otherwise marked on the deck within 3 ft of the edge of a swimming pool. The depth of a wave pool is also marked on the side walls of the wave pool above the maximum static water level where the static water depth is 3 ft or more and on the deep-end wall of the wave pool.

2. Depth markers are located 25 ft apart or less, center to center, around the full perimeter of a swimming pool.

EXCEPTIONS: Depth markers are not required at the zero-depth end of a wading pool, wave pool, or a zero-depth swimming pool. Depth markers are not required on the deck of a plunge pool on the flume discharge end or on the exit end if stairs are used for exit.

3. The maximum depth of a swimming pool is marked on both sides of a swimming pool at the main drain.

4. The water depth of a swimming pool is marked at both ends of a float line required by 15.5(13)*"f"*(4).

5. In shallow water, the depth is marked at 1-ft depth intervals starting at one of the points specified in "3" and "4" above, if the 1-ft depth interval is less than 25 ft. The zero depth is used as the starting point for a zero-depth swimming pool.

6. In deep water, the words "Deep Water" may be used in place of numerals except as required in "3" above.

7. "No Diving" or equivalent wording or graphics are marked on the swimming pool deck within 3 ft of the edge of the swimming pool where the water is shallow and at other pool areas determined by management. The markers are 25 ft apart or less, center to center, around the perimeter of the area. This marking is not required at the zero-depth end of a wave pool or of a zero-depth swimming pool. "No Diving" or equivalent wording or graphics are marked on the deck of a leisure river in the areas where users will be permitted. The "No Diving" markers are within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center.

8. Letter, number and graphic markers are slip-resistant, of a contrasting color from the deck and at least 4 inches in height.

9. In lieu of the requirements of "1" through "8" above, the maximum depth of a wading pool may be posted in lettering a minimum of 3 inches high at each entrance to the wading pool area and at least at one conspicuous location inside the wading pool enclosure. "No Diving" markers are not required at a wading pool.

10. The depth of a leisure river is posted at the entrance(s) to the leisure river in characters at least 3 inches high. The depth of the leisure river is marked on the side wall of the leisure river above the static water level at intervals not to exceed 50 ft on center. The depth of the leisure river is marked on the deck in the areas where users will be permitted. The depth markers are within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center.

g. Elevated lifeguard chairs or stations shall be provided as follows: one chair or station for a swimming pool with a water surface area of 2,000 to 4,000 ft^2 inclusive; two chairs or stations if the area is 4,001 to 6,000 ft^2; three chairs or stations if the area is 6,001 ft^2 or more. A swimming pool is not required to have more than three lifeguard chairs or stations. This requirement does not apply to wave pools, leisure rivers or wading pools.

h. Emergency equipment and facilities shall meet the following criteria:

(1) If a swimming pool facility employs lifeguards, whether required by rule or not, the lifeguards are provided with the minimum equipment required by their training, including but not necessarily limited to rescue tubes and personal CPR masks.

(2) A minimum of one unit of lifesaving equipment is provided for each 1,500 ft^2 of water surface area or fraction thereof. The area of a swimming pool where the water is 2 ft deep or less may be subtracted from the total area for this requirement. A swimming pool is not required to have more than ten units of lifesaving equipment.

(3) A unit of lifesaving equipment consists of at least one of the following:

1. A U.S. Coast Guard-recognized ring buoy fitted with a ¼-inch diameter line with a length at least one-half the width of the pool, but no more than 60 ft; or

2. A life pole with a "shepherd's crook," having blunted ends with a minimum length of 8 ft; or

3. A rescue buoy which is made of a hard, buoyant plastic and is provided with molded handgrips along each side, a shoulder strap, and a towing rope between 4 and 6 ft long; or

4. A rescue tube made of a soft, strong foam material 3 inches by 6 inches by 40 inches with a molded strap providing a ring at one end and a hook at the other. Attached to the ring end is a 6-ft-long towline with a shoulder strap.

Rescue equipment identified in 15.5(13)*"h"*(3)"3" and "4" above is used only at swimming pools where lifeguards are employed.

(4) Whenever lifeguard chairs are provided, each chair is equipped with at least one unit of lifesaving equipment.

(5) A standard spine board with straps and head immobilizer is provided at each swimming pool where lifeguards are required by rule.

i. Pool enclosures shall meet the following criteria:

(1) Except for a circulated wading pool that is drained when not in use, or a spray pad, a swimming pool is enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The enclosure is constructed of durable materials.

(2) A fence, wall, or other means of enclosure has no openings that would allow the passage of a 4-inch sphere and is not easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from outside the facility, or between the two lowest horizontal supports accessible from outside the facility, is at least 45 inches. A horizontal support is accessible if it is on the exterior of the fence relative to the swimming pool or if the space between the vertical members of a fence is greater than 1¾ inches.

(3) Gates and doors are installed in the enclosure for general access, maintenance, and emergency access. At least one 36-inch-wide gate or door is installed for emergency access. When closed, gates and doors comply with the requirements of 15.5(13)*"i"*(1) and (2). Gates and doors are lockable. Except where lifeguard or structured program supervision is provided whenever the swimming pool is open, gates and doors are self-closing and self-latching.

(4) If a wading pool is within 50 ft of a swimming pool, the wading pool has a barrier at least 36 inches high separating it from the swimming pool. The barrier has no openings that would allow the passage of a 4-inch sphere and is not easily climbable by toddlers. The barrier has at least one 36-inch-wide gate or door. Gates and doors are lockable. Except where lifeguard supervision is provided, gates and doors are self-closing and self-latching.

The department may approve alternate management of the area between the wading pool and swimming pool at facilities where lifeguards are provided whenever the pools are open. The alternate management plan will be in writing and shall be at the facility when the pools are open.

(5) An indoor swimming pool is enclosed by a barrier at least 3 ft high if there are sleeping rooms, hallways, apartments, condominiums, or permanent recreation areas that are used by children and that open directly into the swimming pool area. No opening in the barrier permits the passage of a 4-inch sphere. The barrier is not easily climbable by toddlers. There is at least one 36-inch-wide gate or door through the barrier. Gates and doors are lockable. Except where lifeguard supervision is provided whenever the pool is open, gates and doors are self-closing and self-latching.

j. Construction or reconstruction shall comply with the state electrical code, 481—Chapter 404, including Article 680 of the adopted National Electrical Code, and the following requirements:

(1) Each electrical outlet in the deck, shower and dressing rooms and the pool water treatment equipment areas is equipped with a properly installed GFCI at the outlet or at the breaker serving the outlet. Electrical outlets energized through an ORP/pH controller are not required to have a separate GFCI if the controller is equipped with a GFCI or is energized through a GFCI breaker.

(2) An underwater light circuit is equipped with a GFCI unless the underwater light(s) operates at 15 volts or less.

k. Artificial lighting shall be provided at indoor swimming pools and at outdoor swimming pools which are to be used after sunset in accordance with the following:

(1) Underwater lighting of at least 8 lamp lumens/ft^2 or 0.5 watts/ft^2 of water surface area, located to provide illumination of the entire swimming pool bottom, and area lighting of at least 10 footcandles (fc) or 0.6 watts/ft^2 of deck area.

(2) If underwater lights are not provided, overhead lighting of at least 30 fc or 2.0 watts/ft^2 of swimming pool water surface area are provided.

l. Swimming pool slides shall be installed in accordance with the manufacturer's recommendations.

15.5(14) *Wading pools.* Wading pools shall comply with the applicable provisions of 15.5(1) through 15.5(13) and 15.5(21), except as modified below.

a. A wading pool shall have at least 4 ft of deck.

b. Overflow system.

(1) Intermittent fixed weir overflow structures, including gutters, overflow fixtures, and drains at zero depth may be used. They shall have a hydraulic capacity of at least 125 percent of the recirculation flow rate.

(2) If skimmers are used, there shall be at least one skimmer for every 500 ft^2 of water surface area or fraction thereof.

1. The recirculation flow rate shall be at least 3.8 gpm per lineal inch of skimmer weir or as required in 15.5(5)*"b,"* whichever is greater.

2. The skimmer(s) suction line may be connected to the main drain line in lieu of an equalizer.

3. A skimmer(s) may be used in combination with overflow drains in a zero-depth wading pool.

c. Inlets shall be designed to uniformly distribute treated water throughout the wading pool. Wall and floor inlets or other means may be used, alone or in combination.

15.5(15) *Wave pools.* Wave pools shall comply with the applicable provisions of 15.5(1) through 15.5(13) and 15.5(21), except as modified below.

a. Perimeter overflow gutters and skimmers are not required on the deep-end wall where the wave generation equipment is located.

b. There shall be an overflow drain or weir across the full width of the zero-depth end of the wave pool.

The drain shall be covered with a grate designed to prevent entrapment. The grate shall be designed so that it is securely fastened to the pool floor and cannot be removed without a tool or tools.

c. The deck above the overflow drain at the zero-depth end of the pool may slope to the overflow drain for a distance no greater than 15 ft. The deck slope shall be no greater than 1 ft vertical in 12 ft horizontal.

d. There shall be a perimeter overflow gutter or overflow fittings along both sides of the wave pool where the water is 3 ft deep or more.

(1) If a perimeter overflow gutter is used, it shall be designed to prevent entrapment during wave action. Overflow grates shall be securely fastened so they will not be dislodged by wave action.

(2) Overflow fittings need not be continuous, but they shall be spaced no more than 10 ft apart.

e. The combined hydraulic capacity of the overflow drain at zero depth and the gutter or overflow outlets shall be at least 125 percent of the recirculation flow rate.

f. The main drain system shall comply with the requirements of 15.5(10).

g. Openings or connections between the wave pool and the wave generation equipment shall be designed to prevent entrapment of users.

h. There shall be a continuous barrier along the full length of each side of a wave pool. The barrier shall be at least 42 inches high and installed no more than 3 ft from the side of the wave pool.

i. Emergency switches that will stop the wave action shall be provided in at least four locations on the deck of the wave pool. Switch locations shall be marked by signs or contrasting bright colors.

j. A wave pool shall be equipped with a float line with floats spaced no more than 5 ft apart. The float line shall be located at least 6 ft from the deep-end wall. Users shall not be permitted between the float line and the deep-end wall.

15.5(16) *Zero-depth swimming pools.* Zero-depth swimming pools shall comply with the applicable provisions of 15.5(1) through 15.5(13) and 15.5(21), except as modified below.

a. There shall be an overflow drain or weir across the full width of the zero-depth end of the swimming pool.

(1) The drain shall be covered with a grate designed to prevent entrapment. The grate shall be designed so that it is not removable without a tool.

(2) The drain and its associated piping shall be designed to convey at least 50 percent of the recirculation flow rate.

b. The deck above the overflow drain at the zero-depth end of the pool may slope to the overflow drain for a distance no greater than 15 ft. The deck slope shall be no greater than 1 ft vertical in 12 ft horizontal.

c. If a perimeter overflow gutter is provided, the gutter may be interrupted in the area where the water is less than 2 ft deep, provided that:

(1) The length of the perimeter overflow gutter and overflow drain shall be at least 60 percent of the total pool perimeter.

(2) The hydraulic capacity of the perimeter overflow gutter system combined with the overflow drain shall be at least 125 percent of the recirculation flow rate.

d. Recessed automatic surface skimmers may be used with the overflow drain at zero depth in accordance with 15.5(9)*"a."* The hydraulic capacity of the skimmer/drain system shall be at least 125 percent of the recirculation flow rate.

15.5(17) *Water slides.* Water slides shall comply with the applicable provisions of 15.5(1) through 15.5(13) and 15.5(21) and the following:

a. A water slide flume shall comply with the following:

(1) The flume is perpendicular to the plunge or swimming pool wall for at least 10 ft from the flume end.

(2) The flume is sloped no more than 1 ft vertical in 10 ft horizontal for at least 10 ft before the end of the flume.

(3) The flume terminates between 6 inches below and 2 inches above the design water level in the plunge pool or swimming pool.

(4) There is at least 5 ft between the side of the plunge pool or swimming pool and the side of the flume. Adjacent flumes are at least 10 ft apart on center.

(5) The inside surface of a flume is smooth and continuous.

(6) The flume is designed to ensure that users cannot be thrown out of the flume and to minimize user collisions with the sides of the flume.

(7) The flume has no sharp edges within reach of a user while the user is in the proper riding position.

(8) The flume path is designed to prevent users from becoming airborne while in the ride.

b. The landing area for a water slide flume shall comply with the following:

(1) The water depth is at least 3 ft and no more than 4 ft at the end of the flume and for at least 15 ft beyond the end of the flume.

(2) The landing area floor may slope up to a minimum of 2 ft water depth subject to 15.5(1)*"b"*(1). The slope is no greater than 1 ft vertical in 12 ft horizontal.

(3) There is at least 20 ft between the end of the flume and any barrier or steps.

(4) If the water slide flume ends in a swimming pool, the landing area is divided from the rest of the swimming pool by a float line.

c. A speed slide shall provide for the safe deceleration of the user. A run-out system or a special plunge pool entry system shall control the body position of the user relative to the slide to provide for a safe exit from the ride.

d. The deck around a water slide plunge pool shall be at least 4 ft wide, except on the side where the flume enters the pool. A walkway that is at least 4 ft wide and meets the requirements of a deck shall be provided between the plunge pool and the slide steps.

e. Alternate overflow systems. Intermittent fixed weir overflow structures may be used for a separate plunge pool if:

(1) Floor inlets are provided according to the requirements of 15.5(8)*"c."*

(2) The hydraulic capacity of the combined overflow structures and the appurtenant piping is at least 125 percent of the recirculation flow rate. The department may require more hydraulic capacity based on the specific design of the plunge pool system.

f. If a pump reservoir or surge tank is provided, it shall have a capacity of at least one minute of the combined recirculation and flume flow. Openings between the plunge pool and the pump reservoir or surge tank shall be designed and constructed in accordance with 15.5(10)*"a"* and *"b."*

g. If the water slide flume ends in a swimming pool, the water level shall not be lowered more than 1 inch when the flume pump(s) is operating.

h. If a fully submerged suction outlet is in a plunge pool or in a swimming pool, it shall be located away from normal water slide user traffic areas. The suction outlet system shall be designed in accordance with 15.5(10)*"b."*

i. The support structure for a water slide and for any access stairs or ramps shall be designed and constructed to withstand the anticipated structural loading, both static and dynamic forces.

j. A stairway providing access to the top of a water slide shall be at least 2 ft wide. Stair surfaces shall be slip-resistant and easily cleanable. The stairway shall comply with the applicable requirements of state and local building codes and Occupational Safety and Health Administration requirements.

15.5(18) *Multisection water recreation pools.* A multisection water recreation pool shall comply with the applicable provisions of 15.5(1) through 15.5(13) and 15.5(21) and the following:

a. The minimum recirculation flow rate for a multisection water recreation pool is determined by computing the recirculation flow rate for each section of the pool in accordance with 15.5(5)*"b"* and adding the flow rates together.

b. The treated water distribution system is designed to return treated water to the sections of the pool in proportion to the flow rates determined in 15.5(18)*"a."*

c. Each section of a multisection water recreation pool is separated from the other sections by a float line meeting the requirements of 15.5(13)*"f"*(4).

15.5(19) *Spray pads.* A spray pad shall comply with the applicable provisions of 15.5(1) through 15.5(13) and 15.5(21) and the following:

a. The surface of a spray pad is impervious and durable. Padding specifically designed for spray pads may be used with play features. The padding is water resistant or permits full drainage without retaining water in its structure. Walking surfaces are slip-resistant.

b. The spray pad surface slopes to drain at least 1/8 inch per ft but no more than ½-inch per ft. Deck or other areas outside the spray pad do not drain into the spray pad.

c. A spray pad is exempt from the following requirements: fencing (15.5(13)*"i"*), "No Lifeguard" sign (15.4(6)*"d"*), safety equipment (15.4(4)*"f"*), and depth marking (15.4(4)*"j"*). Unless the spray pad is supervised by facility staff, a sign is posted near the spray pad that addresses:

(1) No running on or around the spray pad.

(2) No rough play.

(3) No facility supervision. Parents are responsible for supervising their children.

Facility management may adopt and post other rules deemed necessary for user safety and the proper operation of the spray pad.

d. Spray pad drains are gravity outlets. At least two drains are provided, or a single drain that is unblockable is provided.

(1) The drain system and associated piping are designed for 125 percent of the flow into the spray pad (play feature and recirculation, as applicable).

(2) Each drain cover/grate is flush with the spray pad surface and has no opening wider than ½-inch.

(3) Each drain cover/grate is designed to be securely fastened to the spray pad so that the drain cover/grate is not removable without tools.

(4) Drain cover/grates that are exposed to foot traffic:

1. Have a slip-resistant surface; and

2. Support a 300-pound concentrated load, structural strength verified by documentation of test results from a testing agency or by certification by an engineer licensed in Iowa; and

3. If the drain cover is exposed to sunlight, be resistant to ultraviolet light (UV), with UV resistance verified by documentation of test results from a testing agency or by certification by an engineer licensed in Iowa.

e. Spray pads with independent treatment systems.

(1) The minimum volume of water for a spray pad is two minutes of the flow of the play features and the recirculation system combined.

(2) The water storage tank has a volume of at least 125 percent of the volume specified in 15.5(19)*"e"*(1). The tank is accessible for cleaning and inspection.

(3) The recirculation (treatment) system and the play feature pump and piping system are separate.

(4) The recirculation system inlet(s) and outlet(s) within the water storage tank are designed to ensure a uniform disinfectant concentration and pH level throughout the water volume of the spray pad.

(5) The play feature pump system is designed so that it will not operate if the recirculation system is not operating.

(6) There is a readily accessible sample tap in the equipment area that allows sampling of the water in the play feature piping.

f. Spray pads using water from an adjacent swimming pool or wading pool.

(1) If there is a suction outlet in the swimming pool or wading pool for the play feature pump(s), the outlet is designed as a main drain as specified in 15.5(10). Water velocity through the outlet cover is 1½ ft per second or less.

(2) If the adjacent pool has a volume of 10,000 gallons or less, or if the spray pad water is circulated directly from the swimming pool surge tank, the spray pad pump system is equipped for automatic supplemental disinfection in accordance with 15.5(11), except that the disinfection capacity is at least one-half of the capacity specified in 15.5(11)*"c"*; with filtration in accordance with 15.5(6); or both.

g. Play features and sprays are designed and installed so that they do not create a safety hazard.

(1) Surface sprays are flush with the spray pad surface. Spray openings have a diameter of ½ inch or less. Noncircular spray openings have a width of ½ inch or less.

(2) Aboveground features do not present a tripping hazard. Features have no sharp edges or points and no rough surfaces. Aboveground features are constructed of corrosion-resistant materials or provided with a corrosion-resistant coating. Accessible spray openings have a diameter of ½ inch or less. Noncircular accessible spray openings have a width of ½ inch or less.

15.5(20) *Leisure rivers.* A leisure river shall comply with the applicable requirements of 15.5(1) through 15.5(13) and 15.5(21) and the following:

a. The leisure river propulsion system and recirculation system are separate.

b. Intermittent fixed weir structures may be used for the overflow system. At least two separate fixed weir structures are used. The hydraulic capacity of the overflow system using fixed weir structures are at least 125 percent of the recirculation flow rate. Fixed weir structures are designed to prevent entrapment of leisure river users.

c. A deck as specified in 15.5(4) is not required in areas where users are not permitted. A leisure river and the area on the inside and outside perimeter of the leisure river is designed to ensure that lifeguard staff and emergency personnel can access any part of the leisure river quickly and to provide a sufficient hard surface area for emergency functions.

d. The depth of a leisure river is posted conspicuously at the entrance(s) to the leisure river in characters at least 3 inches high. The depth of the leisure river is marked on the side wall of the leisure river above the static water level at intervals not to exceed 50 ft on center. The depth of the leisure river is marked on the deck in the areas where users are permitted. The depth markers are within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center.

e. "No Diving" characters or graphics are marked every 25 ft on center on the deck in deck areas where users are permitted.

f. At least one user egress point is provided for each 500 ft of leisure river length (measured at the centerline) or fraction thereof.

g. Outlets for the leisure river propulsion system are designed in accordance with 15.5(10)*"b."*

15.5(21) *Showers, dressing rooms, and sanitary facilities.* Swimming pool and spray pad showers, dressing rooms, and sanitary facilities shall meet the following criteria:

a. Facilities required. Bather preparation facilities are provided at each swimming pool or spray pad facility, except where the facility is intended to serve living units.

b. Swimming pool patron load. If a bathhouse is provided, the patron load for determining the minimum number of cleansing showers is:

(1) One individual per 15 ft^2 of water surface in shallow areas.

(2) One individual per 20 ft^2 of water surface in deep areas with the exclusion of 300 ft^2 of water surface for each diving board.

(3) For each swimming pool slide, 200 ft^2 is excluded, and for each water slide that terminates in the swimming pool, 300 ft^2 is excluded in determining the patron load.

c. Bathhouses.

(1) A bathhouse is designed and constructed to meet the requirements of the local building ordinance. If no local ordinance is in effect, the bathhouse is designed to meet the requirements of the state building code.

(2) Bathhouse floors have a slip-resistant finish and slope at least 1/8 inch/ft to drain. Except as provided in 15.5(19)*"c"*(3), floor coverings comply with the requirements of 15.5(4)*"c."*

(3) Olefin, or other approved carpeting, may be permitted in locker room or dressing room areas provided:

1. There is an adequate drip area between the carpeting and the shower room, toilet facilities, swimming pool, or other areas where water can accumulate.

2. Drip areas are constructed of materials as described in 15.5(4)*"b"* and *"c."*

(4) Bathhouse fixtures are provided in accordance with the state plumbing code, 481—Chapter 425, based on the Iowa building code occupancy type and design occupant load. In addition, cleansing showers are provided at a ratio of at least 1:50 based on the pool patron load as calculated by 15.5(21)*"b."*

(5) All indoor swimming pool areas, bathhouses, dressing rooms, shower rooms, and toilets are ventilated to control condensation and odors.

d. Showers and lavatories.

(1) Showers are supplied with water at a temperature of at least 90°F and no more than 110°F.

(2) Soap dispensers or bar soap trays are provided at each lavatory and in the showers. Glass soap dispensers are prohibited.

e. Hose bibs. At least one hose bib is installed within the bathhouse.

ADMINISTRATION

641—15.6(135I) Enforcement.

15.6(1) The department may inspect spray pads, swimming pools, and spas regulated by these rules and enforce these rules. A city, county or district board of health may inspect spray pads, swimming pools, and spas regulated by these rules and enforce these rules in accordance with agreements executed with the department pursuant to the authority of Iowa Code chapters 28E and 135I.

15.6(2) The inspection agency will take the following steps when enforcement of these rules is necessary.

a. Owner notification. As soon as possible after the violations are noted, the inspection agency will provide written notification to the owner of the facility that:

(1) Cites each section of the Iowa Code or Iowa Administrative Code violated.

(2) Specifies the manner in which the owner or operator failed to comply.

(3) Specifies the steps required for correcting the violation.

(4) Requests a corrective action plan, including a time schedule for completion of the plan.

(5) Sets a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the owner of the facility must respond.

b. Corrective action plan review. The inspection agency will review the corrective action plan and approve it or require that it be modified.

c. Failure to comply. When the owner of a spray pad, swimming pool, or spa fails to comply with conditions of the written notice, the inspection agency may take enforcement action in accordance with Iowa Code chapters 137 and 135I, or in accordance with local ordinances.

d. Adverse actions. The department may enforce Iowa Code chapter 135I and these rules pursuant to Iowa Code section 135I.6.

(1) A local inspection agency may request that the department withhold or revoke the registration of a spray pad, swimming pool, or spa, or issue an order to close a spray pad, swimming pool, or spa. The request shall be in writing, list the violations of Iowa Code chapter 135I and these rules, and provide a full accounting of the actions taken by the local inspection agency to enforce Iowa Code chapter 135I and these rules.

(2) Notice of the decision to withhold or revoke the registration for a spray pad, swimming pool, or spa or an order to close a spray pad, swimming pool, or spa will be delivered by restricted certified mail, return receipt requested, or by personal service. The notice will inform the owner of the right to appeal the decision and the appeal procedures. The local inspection agency and the county attorney in the county where the spray pad, swimming pool, or spa is located will be notified in writing of the decision or order.

15.6(3) An appeal of a decision to withhold or revoke a registration or of an order to close shall be requested, in writing, within 30 days of receipt or service of the department's notice. The request shall be sent to the department at the contact information provided in 481—Chapter 1 or as set forth in the department's notice. If such a request is timely made within the 30-day time period, a contested case proceeding will be initiated and held in accordance with Iowa Code chapter 17A and 481—Chapters 9 and 10.

641—15.7(135I) Waivers. A waiver from these rules may be granted only by the department pursuant to 481—Chapter 6. A request for waiver shall be in writing and sent to the local inspection agency for comment. The local inspection agency shall send the request for waiver to the department within 15 business days of its receipt.

641—15.8(135I) Penalties. Penalties are provided pursuant to the authority of Iowa Code section 135I.5.

641—15.9(135I) Registration.

15.9(1) *Registration.* No spray pad, swimming pool, spa, or swimming pool or spa water heater shall be operated in the state without being registered with the department. The owner of a spray pad, swimming pool, or spa or the owner's designated representative shall register the spray pad, swimming pool, spa, or swimming pool or spa water heater before the spray pad, swimming pool, or spa is first used and renew the registration annually on or before April 30. The initial registration and registration renewal shall be submitted on forms supplied by the department. The registration for a spray pad, swimming pool, or spa is valid from May 1 through the following April 30.

15.9(2) *Change in ownership.* Within 30 days of the change in ownership of a spray pad, swimming pool, or spa, the new owner shall furnish the department with the following information:

a. Name and registration number of the spray pad, swimming pool, or spa.

b. Name, address, and telephone number of new owner.

c. Date the change in ownership took place.

d. A nonrefundable fee of $20 per spray pad, swimming pool, or spa.

15.9(3) *Withholding registration.* The department may withhold or revoke the registration of a swimming pool or spa pursuant to 15.6(2)*"d"* if an owner or the owner's designated representative has violated a provision of Iowa Code chapter 135I or this chapter.

641—15.10(135I) Training courses.

15.10(1) A training course designed to fulfill the requirements of 641—15.11(135I) will be reviewed by the department.

15.10(2) At least 15 days prior to the course date, the course director shall submit at a minimum the following to the department:

a. A course outline with a list of instructors and guest speakers and their qualifications.

b. Date or dates the course is to be held.

c. Place the course is to be held.

d. Number of hours of instruction.

e. Course agenda.

15.10(3) The department will approve or disapprove the course of instruction in writing within ten business days of receipt of the information required in 15.10(2).

641—15.11(135I) Swimming pool/spa operator qualifications.

15.11(1) A person designated as a certified operator of a facility for compliance with 15.4(6)*"a"* and 15.51(5)*"a"* shall have successfully completed a CPO® certification course, an AFO certification course, a PPSO certification course, or an LAFT certification course. A copy of a current, valid certificate for the certified operator shall be maintained in the pool or spa records.

15.11(2) A certified operator shall attend at least two hours of continuing education per year. Proof of continuing education shall be kept with certification records at the facility.

641—15.12(135I) Fees.

15.12(1) *Registration fees.* For each spray pad, swimming pool, or spa, the registration fee is $35. Registration fees are delinquent if not received by the department by April 30 or the first business day thereafter. The owner shall pay a $25 penalty for each month or fraction thereof that the fee is late for each swimming pool or spa that is required to be registered.

15.12(2) *Registration change fees.* For each spray pad, swimming pool, or spa, the fee for a change of ownership, change of facility name, or other change in registration is $20.

15.12(3) *Inspection fees.* The inspection agency will bill the owner of a facility upon completion of an inspection. Inspection fees are due upon receipt of a notice of payment due.

When the facility is located within the jurisdiction of a local inspection agency, the local inspection agency may establish fees needed to defray the costs of inspection and enforcement under this chapter. Inspection fees billed by a local inspection agency shall be paid to the local inspection agency or its designee.

a. Inspection fee schedule.

Table 5

Swimming Pools, Spray Pads, and Spas

Pool Type	Inspection Fee
Swimming pool, spray pad, or leisure river, surface area less than 1500 ft^2	$170
Swimming pool, spray pad, or leisure river, surface area 1500 ft^2 or greater	$270
Wave pool	$270
Water slide and plunge pool	$270
Spa	$170
Wading pool less than or equal to 500 ft^2	$50
Wading pool greater than 500 ft^2	$90
Residential swimming pool used for commercial purposes	$50

Table 6

Water Slides

	Inspection Fee
Each additional water slide into a plunge pool	$75
Water slide into a swimming pool	$175
Each additional water slide into a swimming pool	$75

b. Multipool facilities. If more than one pool (swimming pool, water slide, wave pool, wading pool, or spa) is located within a fenced compound or a building, the inspection fee for the pools in the fenced compound or building will be reduced by 10 percent. This reduction does not apply to the fees specified in Table 6.

c. Special inspection fee. When an inspection agency determines that a special inspection is required, the inspection agency may charge a special inspection fee that will be based on the actual cost of providing the inspection.

d. Penalty. Unpaid inspection fees will be considered delinquent 45 days after the date of the bill. A penalty of $30 per month or fraction thereof that the payment is delinquent will be assessed to the owner for each pool inspected.

15.12(4) *Plan review fees.*

a. New construction. A plan review fee as specified in Tables 7, 8, and 9 shall be submitted with a construction permit application for each body of water in a proposed facility. If two or more pools share a common recirculation system as specified in 15.5(5)*"a,"* the plan review fee shall be 25 percent less than the total plan review fee required by Tables 7, 8, and 9.

Table 7

Swimming Pools and Spray Pads

Swimming Pool or Spray Pad Area (ft^2)	Plan Review Fee
500 or less	$165
greater than 500 to less than 1000	$275
1000 to less than 2000	$385
2000 to less than 4000	$550*
4000 and greater	$825*

*This may include one water slide.

Table 8

Water Slides

Description	Plan Review Fee
Water slide and dedicated plunge pool	$550
Each additional water slide into a plunge pool or swimming pool	$165

Table 9

Spas

Spa Volume (gal)	Plan Review Fee
less than 500	$165
500 to 999	$275
1000 +	$385

b. Reconstruction. The plan review fee for reconstruction is $250 for each swimming pool, spray pad, spa, or bathhouse altered in the reconstruction.

c. Penalty for construction without a permit. Whenever any work for which a permit is required has been started before a permit is issued, the plan review fee will be 150 percent of the fee specified in

15.12(3)*"a"* or *"b."* The department may require that construction not done in accordance with the rules be corrected before a facility is used.

EXCEPTION: After receiving a construction permit application, the department may authorize construction on a project to start before issuance of a permit. The authorization will be in writing to the owner or the owner's authorized representative.

641—15.13(135I) Inspection and enforcement agreements. The department and local boards of health may enter into agreements to implement the inspection and enforcement provisions of Iowa Code chapter 135I and these rules pursuant to Iowa Code section 135I.4(6). For purposes of such agreements, a person who is a registered sanitarian (R.S.) or a registered environmental health specialist (R.E.H.S.) with the National Environmental Health Association is considered to have met the educational requirements of subrule 15.11(2).

641—15.14(135I) Application denial or partial denial—appeal.

15.14(1) Denial or partial denial of an application will be done in accordance with the requirements of Iowa Code chapter 17A. Notice to the applicant of denial or partial denial will be served by restricted certified mail, return receipt requested, or by personal service.

15.14(2) Any request for appeal concerning denial or partial denial shall be submitted by the aggrieved party, in writing, to the department by certified mail, return receipt requested, within 30 days of the receipt of the department's notice. The address is Iowa Department of Inspections, Appeals and Licensing, Swimming Pool Program, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321. Prior to or at the hearing, the department may rescind the denial or partial denial. If no request for appeal is received within the 30-day time period, the department's notice of denial or partial denial becomes the department's final agency action.

641—15.15 to **15.50** Reserved.

SPAS

641—15.51(135I) Spa operations. A spa shall be operated in a safe, sanitary manner and meet the following operational standards.

15.51(1) *Filtration and recirculation.*

a. A spa shall have a filtration system in good working condition that provides water clarity in compliance with the water quality standards of 15.51(2) and meets the following criteria:

(1) Each filter cartridge is replaced with a new, unused, or cleaned and disinfected filter cartridge in accordance with the manufacturer's recommendations for pressure rise at the inlet of the filter, but at least once a month. If a functioning pressure gauge is not present at the filter inlet, the filter cartridge is replaced whenever the spa is drained and at least every two weeks. Filter cartridge replacements are recorded in the spa records.

(2) Each sand filter serving a spa is opened at least annually and the sand media examined for grease buildup, channeling and other deficiencies. The sand is cleaned and disinfected before the filter is put back into service. The annual inspection is recorded in the spa records.

(3) Each diatomaceous earth filter serving a spa is dismantled, and the filter socks and the interior of the filter are cleaned and disinfected at least annually. The annual cleaning is recorded in the spa records.

(4) The recirculation system has an operating pressure gauge located in front of the filter if it is a pressure filter system. A vacuum filter system has a vacuum gauge located between the filter and the pump.

b. The recirculation system for a spa shall treat one spa volume of water in 30 minutes or less.

c. Pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the spa water recirculation system shall be operated continuously whenever the spa contains water, except for cleaning or servicing.

d. The recirculation system shall have inlets adequate in design, number, location, and spacing to ensure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the spa.

e. A spa shall have at least one skimmer and meet the following criteria:

(1) Each skimmer has a self-adjusting weir in place and operational.

(2) Each skimmer has an easily removable basket or screen upstream from any valve.

f. Wastewater and backwash water from a spa shall be discharged through an air break or an air gap.

g. The water supplied to a spa shall be from a water supply meeting the requirements of the department of natural resources for drinking water and meet the following criteria:

(1) Water supplied to a spa is discharged to the spa system through an air gap or a reduced-pressure principle backflow device meeting AWWA C-511-97, "Reduced-Pressure Principle Backflow-Prevention Assembly."

(2) Each hose bib at a facility is equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

h. Spa water heaters shall meet the following criteria:

(1) Electric water heaters bear the seal of UL.

(2) Gas-fired water heaters are equipped with a pressure relief valve.

(3) Fuel-burning water heaters are vented to the outside, in accordance with the state plumbing code.

(4) Each indoor swimming pool equipment room with fuel-burning water heating equipment has one or more openings to the outside of the room for the provision of combustion air.

15.51(2) *Water quality and testing.*

a. Disinfection.

(1) Spa water shall have a free chlorine residual of at least 2.0 ppm and no greater than 8.0 ppm or a total bromine residual of at least 4.0 ppm and no greater than 18 ppm when the spa is open for use.

(2) A spa shall be closed if the free chlorine is measured to be less than 1.0 ppm or the total bromine is measured to be less than 2.0 ppm.

(3) The spa shall be closed if a free chlorine measurement exceeds 8.0 ppm or if the total bromine measurement exceeds 18 ppm.

(4) The spa water shall have an ORP of at least 700 mV, but no greater than 880 mV, and be closed if the ORP is less than 650 mV or greater than 880 mV.

(5) The spa shall be closed if the cyanuric acid concentration in the spa water exceeds 80 ppm. The spa may be reopened when the cyanuric acid concentration is 40 ppm or less.

(6) No cyanuric acid in any form shall be added to an indoor spa.

b. pH level. The pH of spa water shall be 7.2 to 7.8.

c. Water clarity. A spa shall be closed if the grate openings on drain fittings at or near the bottom of the spa are not clearly visible when the agitation system is off.

d. Bacteria detection.

(1) If coliform or *Pseudomonas aeruginosa* bacteria are detected in a sample taken in accordance with 15.51(2)*"e"*(8), the spa shall be drained, cleaned, and disinfected. The spa may reopen and a check sample shall be taken when the spa water meets the requirements of 15.51(2)*"a," "b"* and *"c."* If coliform or *Pseudomonas aeruginosa* bacteria are detected in the check sample, the spa shall be closed, drained, physically cleaned, and disinfected and the filter(s) cleaned and disinfected.

1. For cartridge filters, the cartridge shall be replaced with a new, unused cartridge or a cleaned, disinfected cartridge and the filter housing physically cleaned, then disinfected.

2. For sand and diatomaceous earth filters, the filter shall be opened and the media and components cleaned and disinfected.

The spa may reopen when no coliform or *Pseudomonas aeruginosa* bacteria are detected in a spa water sample taken when the spa water meets the requirements of 15.51(2)*"a," "b"* and *"c."*

(2) The facility management shall notify the local inspection agency of the positive bacteriological result within one business day after the facility management has become aware of the result.

e. Test frequency. The results of the tests required below shall be recorded in the spa records.

(1) The disinfectant residual in the spa water shall be tested or the ORP of the spa water checked each day before the spa is opened for use and at intervals not to exceed two hours thereafter until the spa closing time. For a spa at a condominium complex, an apartment building, a housing cooperative, or a homeowners association with 25 or fewer living units, the disinfectant level in the spa water shall be tested or the ORP of the spa water checked at least twice each day the spa is available for use.

The operator may make visual readings of ORP in lieu of manual testing, but the spa water shall be tested manually for disinfectant residual at least twice per day. Both ORP and disinfectant residual shall be recorded when manual testing is done. The operator shall specify in the spa records which results are from the manual tests.

(2) The pH of the spa water shall be tested each day before the spa is opened for use and at intervals not to exceed two hours thereafter until the spa closing time. For a spa at a condominium complex, an apartment building, a housing cooperative, or a homeowners association with 25 or fewer living units, the pH of the spa water shall be tested at least twice each day the spa is available for use.

If the spa is equipped with an automatic controller with a readout or local printout of pH complying with the requirements of 15.51(2)*"f"*(5), the operator may make visual readings of pH in lieu of manual testing, but the spa water shall be tested manually for pH at least twice per day. The operator shall specify in the spa records which results are from the manual tests.

(3) The spa water temperature shall be measured whenever a manual test of the spa water is performed.

(4) If a chlorine compound is used for disinfection, the spa water shall be tested for combined chlorine at least once a day.

(5) If cyanuric acid or a stabilized chlorine is used in a spa, the spa water shall be tested for cyanuric acid at least once a day.

(6) At least once in each month that a spa is open for use, a sample of the spa water shall be submitted to a laboratory certified by the department of natural resources for the determination of coliform bacteria in drinking water and the sample analyzed for total coliform and *Pseudomonas aeruginosa*.

f. Test equipment. Each facility shall have functional water testing equipment for free chlorine and combined chlorine or total bromine, pH, total alkalinity, calcium hardness, and cyanuric acid (if cyanuric acid or a stabilized chlorine is used at the facility) that meets the following criteria:

(1) The test equipment provides for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm or less over the full range.

(2) The test equipment provides for the measurement of spa water pH from 7.0 to 8.0 with at least five increments in that range.

(3) A controller readout used in lieu of manual disinfectant residual testing shall be a numerical analog or digital display with an ORP scale with a range of at least 600 to 900 mV with increments of 20 mV or less.

(4) A controller readout used in lieu of manual pH testing shall be a numerical analog or digital display with a range at least as required in 15.51(2)*"f"*(2) with increments of 0.2 or less over the full range.

g. Operator availability. A person knowledgeable in testing water and in operating the water treatment equipment shall be available whenever a spa is open for use.

15.51(3) *Disinfection systems and cleaning.*

a. Disinfectant system.

(1) Equipment for continuous feed of a chlorine or bromine compound to the spa water shall be provided and be operational. The equipment shall be adjustable in at least five increments over its feed capacity. Where applicable, the chemical feeder shall be listed by NSF or another listing agency for compliance with Standard 50.

(2) The disinfectant equipment shall be capable of providing at least 10 ppm of chlorine or bromine to the spa water based on the recirculation flow rate.

(3) Equipment and piping used to apply any chemicals to the water shall be of such size, design, and material that they may be cleaned. All material used for such equipment and piping shall be resistant to the action of chemicals to be used.

(4) The use of chlorine gas is prohibited.

b. Cleaning and superchlorination.

(1) A spa shall be clean.

(2) A spa containing 500 gal of water or less shall be drained, cleaned and refilled a minimum of once a week. A spa containing over 500 gal to 2,000 gal of water shall be drained, cleaned and refilled a minimum of one time every two weeks. A spa with a water volume greater than 2,000 gal shall be drained, cleaned and refilled a minimum of one time every three weeks.

(3) The inspection agency may require that a spa be drained, cleaned, and superchlorinated prior to further usage.

15.51(4) *Safety.*

a. Chemical safety. Spa chemical safety shall meet the following criteria:

(1) If chemicals are added to the spa over the top, the spa is not occupied for a period of at least 30 minutes. The operator tests the spa water as appropriate before allowing use of the spa. The chemical addition and the test results are recorded in the spa records.

(2) Spa chemicals are stored and handled in accordance with the manufacturer's recommendations.

(3) SDS for the chemicals used in the spa are at the facility in a location known and readily accessible to the facility staff.

(4) Chemical containers are clearly labeled.

(5) A chemical hazard warning sign is placed at the entrance of a room where chemicals are used or stored or where bulk containers are located.

b. Stairs, ladders, recessed steps, and ramps. Spa stairs, ladders, recessed steps, and ramps shall meet the following criteria:

(1) When the top rim of a spa is more than 24 inches above the surrounding floor area, stairs or a ramp are provided to the top of the spa.

(2) Stairs, ladders, ladder rungs, and ramps are slip-resistant.

(3) Where stairs and ramps are provided, they are equipped with a handrail.

(4) Ladders and handrails are constructed of corrosion-resistant materials or provided with corrosion-resistant coatings. They have no exposed sharp edges.

(5) Ladders, handrails and grabrails are securely anchored.

c. Water temperature. The spa shall be closed if the water temperature exceeds 104°F.

(1) A thermometer shall be available to measure temperatures in the range of 80° to 120°F.

(2) Water temperature controls shall be accessible only to the spa operator.

d. Emergency telephone. Each facility where lifeguards are not provided shall have a designated emergency telephone or equivalent communication system that can be operated without coins. The communication system shall be available to users of the spa whenever the spa is open. If the emergency communication system is not located within the spa enclosure, management shall post a sign(s) indicating the location of the emergency telephone. Instructions for emergency use of the telephone shall be posted near the telephone.

e. Water level. Water level shall be maintained at the skimming level.

f. Fully submerged outlets. Spas and fully submerged outlets shall meet the following criteria:

(1) Each fully submerged outlet is designed to prevent user entrapment. A spa is closed if the cover/grate of a fully submerged outlet is missing or broken.

(2) For a spa constructed prior to May 13, 1998, each pump that draws water directly from a fully submerged outlet is connected to two or more outlets or a single outlet with an area of at least 144 in^2.

(3) Each fully submerged outlet has a cover/grate that has been tested for compliance with the requirements of the ASME/ANSI standard by a testing agency or that is certified for compliance by an engineer licensed in Iowa.

1. The cover/grate for an outlet system with a single fully submerged outlet has a flow rating of at least 100 percent of the maximum system flow rate. The combined flow rating for the cover/grates for an

outlet system with more than one fully submerged outlet is at least 200 percent of the maximum system flow rate.

The maximum system flow rate is the design flow rate for the pump(s) directly connected to the outlet(s) in an outlet system. In the absence of better information, the maximum system flow rate is the capacity of the pump(s) at 50 feet TDH, based on the manufacturer's published pump curves.

2. Fully submerged outlet cover/grates are not removable without the use of tools.

3. Purchase records and product information that demonstrate compliance are maintained by the facility for the life of the cover/grate. If a field fabricated cover/grate is certified for compliance to the ASME/ANSI standard by an engineer licensed in Iowa, a copy of the certification letter is kept at the facility for the life of the cover/grate.

(4) A spa with a single fully submerged outlet that is not unblockable and that is directly connected to a pump is closed if the outlet does not have a cover/grate that complies with the ASME/ANSI standard.

If a spa has two or more fully submerged outlets on a single surface that are all less than 3 ft apart on center, are not unblockable, and are directly connected to a pump, the spa is considered to have a single fully submerged outlet.

(5) A spa with a single fully submerged outlet that is not unblockable and that is directly connected to a pump is closed if the outlet system is not equipped with a safety vacuum release system that is listed for compliance with ASME/ANSI A112.19.17-2002 or ASTM F2387-04 (2012) by a listing agency.

1. Purchase records and product information that demonstrate compliance are maintained by the facility for at least five years from the time the SVRS is purchased or another approved system is installed.

2. An SVRS is installed in accordance with the manufacturer's instructions.

3. An SVRS is tested for proper function at the frequency recommended by the manufacturer, but at least once in each month the spa is operated. The date and result of each test are recorded.

(6) In lieu of compliance with 15.51(4)*"f"*(3), (4) and (5) above, a fully submerged outlet in a spa may be disabled with the approval of the department, except that an equalizer in a skimmer may be plugged without department approval if the management of the spa submits to the department information including but not necessarily limited to:

1. The area and volume of the spa;

2. Detailed information about the inlet system, including the location of the inlets and the type of inlet fitting;

3. The number of skimmers and pipe sizes;

4. Pump information and flow rates for the outlet system; and

5. Filter type, number of filters, the size of the filter(s), and whether multiple filters are backwashed together or separately.

If the department approves the application to disable the outlet, the outlet valve is closed and the valve secured by removing the handle, by locking the handle closed, or by another method approved by the department. The outlet may be physically disconnected from the pump system.

g. Spa walls and floor. Spa walls and floor shall be smooth and easily cleanable.

h. Decks. Spa decks shall meet the following criteria:

(1) The deck has a slip-resistant surface.

(2) The deck is clean and free of debris.

(3) A hose bib is provided for flushing or cleaning of the deck.

(4) Glass objects, other than eyeglasses and safety glass doors and partitions, are not permitted on the deck.

i. Projections or obstructions. There shall be no underwater or overhead projections or obstructions that would endanger user safety or interfere with proper spa operation.

j. Electrical. Spa electrical systems and components shall meet the following criteria:

(1) Each electrical outlet in the deck, shower room, and pool water treatment equipment areas is equipped with a properly installed GFCI at the outlet or at the breaker serving the outlet. Electrical outlets energized through an ORP/pH controller are not required to have a separate GFCI if the controller

is equipped with a GFCI or is energized through a GFCI breaker. Ground fault circuit interrupter receptacles and breakers are tested at least once in each month the spa is operating. Test dates and results are recorded in the spa records.

(2) There are no outlets located on, or within 5 ft of, the inside wall of a spa.

(3) An air switch within reach of persons in the spa and its connecting tube are constructed of materials that do not conduct electricity.

(4) Lighting.

1. Artificial lighting is provided at all spas that are to be used at night or that do not have adequate natural lighting so all portions of the spa, including the bottom and main drain, may be readily seen.

2. Underwater lights and fixtures are designed for their intended use. When the underwater lights operate at more than 15 volts, the underwater light circuit is equipped with a GFCI. When underwater lights need to be repaired, the electricity is shut off until repairs are completed.

3. No electrical wiring extends over an outdoor spa.

k. Enclosure. Spa enclosure shall meet the following criteria:

(1) A spa is enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The spa enclosure is constructed of durable materials. A spa may be in the same room or enclosure as another spa or a swimming pool.

(2) A fence, wall, or other means of enclosure has no openings that would allow the passage of a 4-inch sphere and is not easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from outside the facility, or between the two lowest horizontal supports accessible from outside the facility, is at least 45 inches. A horizontal support is considered accessible if it is on the exterior of the fence relative to the spa or if the gap between the vertical members of the fence is greater than 1¾ inches.

(3) At least one gate or door with an opening of at least 36 inches in width is provided for emergency purposes. When closed, gates and doors comply with the requirements of 15.51(4)*"k"*(2) above. Gates and doors are lockable. Except where lifeguard supervision is provided whenever the spa is open, gates and doors are self-closing and self-latching.

(4) If there are sleeping rooms, apartments, condominiums, or permanent recreation areas that are used by children and that open directly into the spa area, the spa is enclosed by a barrier at least 3 ft high. No opening in the barrier permits the passage of a 4-inch sphere. The barrier is not easily climbable by toddlers. There is at least one 36-inch-wide gate or door through the barrier. Gates and doors are lockable. Except where lifeguard supervision is provided whenever the spa is open, gates and doors provided are self-closing and self-latching.

l. Agitation system control. The agitation system control shall be installed out of the reach of persons in the spa. The "on" cycle for the agitation system shall be no more than ten minutes.

15.51(5) *Management, notification, and records.*

a. Certified operator required. Each spa facility shall employ a certified operator. One certified operator may be responsible for a maximum of three facilities.

b. Spa rules sign. A "Spa Rules" sign shall be posted near the spa. The sign shall include the following stipulations:

(1) Persons with a medical condition, including pregnancy, should not use the spa without first consulting with a physician.

(2) Anyone having a contagious disease shall not use the spa.

(3) Persons shall not use the spa immediately following exercise or while under the influence of alcohol, narcotics, or other drugs.

(4) Persons shall not use the spa alone or without supervision.

(5) Children shall be accompanied by an adult.

(6) Persons shall not use the spa longer than ten minutes.

(7) No one shall dive or jump into the spa.

(8) The maximum patron load of the spa. (The maximum patron load of a spa is one individual per 2 lineal ft of inner edge of seat or bench.)

c. Spa depth. The maximum depth of a spa shall be posted at a conspicuous location near the spa in numerals or letters at least 3 inches high.

d. Glass prohibited. Glass objects other than eyeglasses, safety glass doors, and partitions shall not be permitted in a spa enclosure.

e. Operational records. The operator of a spa shall have the spa operational records for the previous 12 months at the facility and shall make these records available when requested by a swimming pool/spa inspector. These records shall contain a day-by-day account of spa operation, including:

(1) ORP and pH readings; results of pH, free chlorine or total bromine residual, cyanuric acid (if used), combined chlorine, total alkalinity, and calcium hardness tests; and any other chemical test results.

(2) Results of microbiological analyses.

(3) Water temperature measurements.

(4) Reports of complaints, accidents, injuries, or illnesses.

(5) Dates and quantities of chemical additions, including resupply of chemical feed systems.

(6) Dates when filters were backwashed or cleaned or a filter cartridge(s) was changed.

(7) Draining and cleaning of spa.

(8) Dates when ground fault circuit interrupter receptacles or circuit breakers were tested.

(9) Dates of review of material safety data sheets.

(10) If applicable, dates and results of tests of each SVRS installed at a facility.

f. Submission of records. An inspection agency may require facility management to submit copies of readings of ORP and pH, chemical test results and microbiological analyses to the inspection agency on a monthly basis. The inspection agency shall notify the facility management of this requirement in writing at least 15 days before the reports are to be submitted for the first time. The facility management shall submit the required reports to the inspection agency within ten days after the end of each month of operation.

g. Operations manual. A permanent manual for operation of a spa shall be at the facility and include instructions for routine operations at the spa, including but not necessarily limited to:

(1) Maintaining the chemical supply for the chemical feed systems.

(2) Filter backwash or cleaning.

(3) Water testing procedures, including the required frequency of testing.

(4) Procedures for draining, cleaning and refilling the spa, including chemical adjustments and controller adjustments.

(5) Controller sensor maintenance, where applicable.

(6) Superchlorination.

h. Schematic drawing. A schematic drawing of the spa recirculation system shall be posted in the swimming pool filter room or in the operations manual. Clear labeling of the spa piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.

i. Safety data sheets. Copies of material SDS for the chemicals used at the spa shall be kept at the facility in a location known and readily accessible to facility staff with chemical-handling responsibilities. Each member of the facility staff with chemical-handling responsibilities shall review the SDS at least annually. The facility management shall retain records of the SDS reviews at the facility and shall make the records available upon request by a swimming pool inspector.

j. Emergency plans. A written emergency plan shall be provided. The plan shall include but not be limited to actions to be taken in cases of drowning, hyperthermia, serious illness or injury, chemical-handling accidents, weather emergencies, and other serious incidents. The emergency plan shall be reviewed with the facility staff at least once a year, and the dates of review or training shall be recorded. The written emergency plan shall be kept at the facility and shall be available to a swimming pool inspector upon request.

15.51(6) *Reports.* Spa operators shall report to the local inspection agency, within one working day of occurrence, all deaths; near drowning incidents; head, neck, and spinal cord injuries; and any injury that renders a person unconscious or requires immediate medical attention.

641—15.52(135I) Construction and reconstruction. A spa that is constructed or reconstructed shall comply with the following standards. Nothing in these rules is intended to exempt spas and associated structures from any applicable federal, state or local laws, rules or ordinances. Applicable requirements include but are not limited to handicapped access and energy requirements, fire and life safety requirements, the rules of the department of workforce development, and the rules of the department of natural resources.

15.52(1) *Construction permits.*

a. Permit required. No spa shall be constructed or reconstructed without the owner or a designated representative of the owner first receiving a permit from the department. Construction shall be completed within 24 months from the date the construction permit is issued unless a written extension is granted by the department.

b. Permit application. The owner of a proposed or existing spa or a designated representative of the owner shall apply for a construction permit on forms provided by the department.

c. Plan submission. Three sets of plans and specifications shall be submitted with the application. A nonrefundable plan review fee shall be remitted with the application for each spa as required in 15.12(4).

d. Exception. After receiving a construction permit application, the department may authorize construction on a project to start before issuance of a permit. The authorization will be in writing to the owner or the owner's authorized representative.

e. Notification of completion. The owner of a newly constructed or reconstructed facility or the owner's designated representative shall notify the department in writing at least 15 business days prior to opening the spa.

15.52(2) *Plans and specifications.*

a. Plan certification. Plans and specifications shall be sealed and certified in accordance with the rules of the engineering and land surveying examining board or the architectural examining board by an engineer or architect licensed to practice in Iowa.

(1) This requirement may be waived by the department if the project is the addition or replacement of a chemical feed system, including a disinfection system, or a simple replacement of a filter or pump or both.

(2) If the requirement for engineering plans is waived, the owner of the spa assumes full responsibility for ensuring that the construction or reconstruction complies with these rules and with any other applicable federal, state and local laws, rules, and ordinances.

b. Content of plans. Plans and specifications shall contain sufficient information to demonstrate to the department that the proposed spa will meet the requirements of this chapter. The information shall include but not be limited to:

(1) The name and address of the owner and the name, address, and telephone number of the architect or engineer responsible for the plans and specifications. If a contractor applies for a construction permit, the name, address and telephone number of the contractor shall be included.

(2) The location of the project by street address or other legal description.

(3) A site plan showing the spa in relation to buildings, streets, any swimming pool within the same general area, water and sewer service, gas service, and electrical service.

(4) Detailed scale drawings of the spa and its appurtenances, including a plan view and cross sections. The location of inlets, overflow system components, main drains, deck and deck drainage, the location and size of spa piping, and the spa steps and handrails shall be shown.

(5) A drawing(s) showing the location, plan, and elevation of filters, pumps, chemical feeders, ventilation devices, and heaters, and additional drawings or schematics showing operating levels, backflow preventers, valves, piping, flow meters, pressure gauges, thermometers, the make-up water connection, and the drainage system for the disposal of filter backwash water.

(6) Plan and elevation drawings of bathhouse facilities including dressing rooms; lockers; showers, toilets and other plumbing fixtures; water supply and drain and vent systems; gas service; water heating equipment; electrical fixtures; and ventilation systems, if provided.

(7) Complete technical specifications for the construction of the spa, for the spa equipment and for the spa appurtenances.

c. Deviation from plans. No deviation from the plans and specifications or conditions of approval shall be made without prior approval of the department.

15.52(3) *General design.*

a. A spa shall be constructed of materials that are inert, stable, nontoxic, watertight, and durable.

b. The maximum water depth for a general-use spa shall not exceed 4 ft measured from the overflow level of the spa. The maximum depth of any seat or sitting bench shall not exceed 2 ft measured from the overflow level. A special-use spa may be deeper than 4 ft with written approval from the department.

c. A spa shall be designed and constructed to withstand anticipated structural loading for both full and empty conditions.

d. A spa may be immediately adjacent to a swimming pool or maintain the minimum required deck width for a swimming pool. The distance shall be measured from the outside edge of a ladder support or handrail on the deck, a lifeguard stand, a swimming pool slide, or a similar obstruction.

e. The water supplied to a spa shall comply with 15.51(1)*"g."*

f. No part of a spa recirculation system may be directly connected to a sanitary sewer. An air break or an air gap shall be provided.

15.52(4) *Decks.* A spa shall have a deck around at least 50 percent of the spa perimeter. The deck shall be at least 4 ft wide and meet the following criteria:

a. Deck materials. The deck is constructed of stable, nontoxic, and durable materials.

b. Deck drainage. The deck drains away from the spa at a slope of at least 1/8 inch/ft, but no more than ½ inch/ft to deck drains or to the surrounding ground surface. The deck is constructed to eliminate standing water.

c. Deck surface. The deck is provided with a slip-resistant, durable, and cleanable surface.

d. Deck covering. A deck covering may be used provided that:

(1) The covering allows drainage so that the covering and the deck do not remain wet or retain moisture.

(2) The covering is inert and will not support bacterial growth.

(3) The covering provides a slip-resistant surface.

(4) The covering is durable and cleanable.

e. Steps or ramp required. When the top rim of a spa is more than 24 inches above the surrounding floor area, stairs or a ramp shall be provided to the top of the spa. Stairs or a ramp shall be designed in accordance with the state building code or the building code adopted by the jurisdiction in which the spa is located.

15.52(5) *Recirculation.*

a. Separate recirculation required. A spa shall have a recirculation system separate from another spa or any swimming pool.

b. Recirculation flow rate. The recirculation system shall be capable of processing one spa volume of water within 30 minutes. For spas with skimmers, the recirculation flow rate shall be at least 3.8 gpm per lineal inch of skimmer weir or the flow rate required above, whichever is greater.

c. Recirculation pump. The recirculation pump(s) shall be listed by NSF or by another listing agency as complying with the requirements of Standard 50 and shall comply with the following requirements:

(1) The pump(s) supply the recirculation flow rate required by 15.52(5)*"b"* at a TDH of at least that given in "1," "2" or "3" below unless a lower TDH is shown by the designer to be hydraulically appropriate. A valve for regulating the rate of flow is provided in the recirculation pump discharge piping.

1. 40 feet for vacuum filters; or
2. 60 feet for pressure sand filters; or
3. 70 feet for pressure diatomaceous earth filters or cartridge filters.

(2) A separate pump or pumps is provided for the spa agitation system.

(3) For sand filter systems, the pump and filter system are designed so that each filter can be backwashed at a rate of at least 15 gpm/ft^2 of filter area.

(4) If a pump is located at an elevation higher than the spa water surface, it is self-priming or the piping is arranged to prevent the loss of pump prime when the pump is stopped.

(5) Where a vacuum filter is used, a vacuum limit control is provided on the pump suction line. The vacuum limit switch is set for a maximum vacuum of 18 in Hg.

(6) A compound vacuum-pressure gauge is installed on the pump suction line as close to the pump as practical. A vacuum gauge may be used for pumps with suction lift. A pressure gauge is installed on the pump discharge line as close to the pump as practical. Gauges are of such a size and located so that they may be easily read by the operator.

(7) On pressure filter systems, a hair and lint strainer is installed on the suction side of the recirculation pump. The hair and lint strainer basket is readily accessible for cleaning, changing, or inspection. A spare strainer basket is provided. This requirement may be waived for systems using vertical turbine pumps or pumps designed for solids handling.

d. Water heaters. Spa water heaters shall meet the following criteria:

(1) A heating coil, pipe, or steam hose is not installed in a spa.

(2) Gas-fired spa water heaters comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004.

(3) Electric spa water heaters comply with the requirements of UL 1261 (2017) and bear the UL mark.

(4) A spa water heater with an input of greater than 400,000 BTU/hour (117 kilowatts) has a water heating vessel constructed in accordance with ASME Boiler Code, Section 8 (2007). The data plate of the heater bears the ASME mark.

(5) A thermometer is installed in the piping to measure the temperature of the water returning to the spa. The thermometer is located so that it may be read easily by an operator.

(6) Combustion air is provided for fuel-burning water heaters as required by the state plumbing code, 481—Chapter 425, or as required by local ordinance.

(7) Fuel-burning water heaters are vented as required by the state plumbing code, 481—Chapter 425, or as required by local ordinance.

(8) Fuel-burning water heaters are equipped with a pressure relief valve sized for the energy capacity of the heater.

e. Flow meters. Spa flow meters shall meet the following criteria:

(1) Each spa recirculation system is provided with a permanently installed flow meter to measure the recirculation flow rate.

(2) A flow meter is accurate within 5 percent of the actual flow rate between ±20 percent of the recirculation flow rate specified in 15.52(5)*"b"* or the nominal recirculation flow rate specified by the designer.

(3) A flow meter is installed on a straight length of pipe with sufficient clearance from valves, elbows or other sources of turbulence to attain the accuracy required by 15.52(5)*"e"*(2). The flow meter is installed so that it may be easily read by the facility staff, or a remote readout of the flow rate is installed where it may be easily read by the staff.

15.52(6) *Filtration.* A filter shall be listed by NSF or by another listing agency as complying with the requirements of Standard 50 and comply with the following requirements:

a. Each pressure filter has a pressure gauge on the inlet side. Gauges are of such a size and located so that they may be read easily by the operator. A differential pressure gauge that gives the difference in pressure between the inlet and outlet of the filter may be used in place of a pressure gauge.

b. An air relief valve is provided for each pressure filter.

c. Backwash water from a pressure filter discharges through an observable free fall, or a sight glass is installed in the backwash discharge line.

d. Backwash water is discharged indirectly to a sanitary sewer.

e. Rapid sand filter.

(1) The filtration rate does not exceed 3 gpm/ft^2 of filter area.

(2) The backwash rate is at least 15 gpm/ft^2 of filter area.

f. High-rate sand filter.

(1) The filtration rate does not exceed 15 gpm/ft^2 of filter area.

(2) The backwash rate is at least 15 gpm/ft^2 of filter area.

(3) If more than one filter tank is served by a pump, the designer demonstrates that backwash flow rate to each filter tank meets the requirements of 15.52(6)*"f"*(2), or an isolation valve is installed at each filter tank to permit each filter to be backwashed individually.

g. Vacuum sand filter.

(1) The filtration rate does not exceed 15 gpm/ft^2 of filter area.

(2) The backwash rate is at least 15 gpm/ft^2 of filter area.

(3) An equalization screen is provided to evenly distribute the filter influent over the surface of the filter sand.

(4) Each filter system has an automatic air-purging cycle.

h. Sand filter media complies with the filter manufacturer's specifications.

i. Diatomaceous earth filters.

(1) The filtration rate is not greater than 1.5 gpm/ft^2 of effective filter area except that a maximum filtration rate of 2.0 gpm/ft^2 may be allowed where continuous body feed is provided.

(2) Diatomaceous earth filter systems have piping to allow recycling of the filter effluent during precoat.

(3) Waste diatomaceous earth is discharged to a sanitary sewer. The discharge may be subject to the requirements of the local waste water utility.

j. Cartridge filters.

(1) The filtration rate does not exceed 0.38 gpm/ft^2.

(2) A duplicate set of cartridges is provided.

15.52(7) *Piping.*

a. Piping standards. Spa piping shall conform to applicable nationally recognized standards and be specified for use within the limitations of the manufacturer's specifications. Spa piping shall comply with the applicable requirements of NSF/ANSI Standard 61 (2020), "Drinking Water System Components—Health Effects." Plastic pipe shall comply with the requirements of NSF/ANSI Standard 14 (2016b), "Plastic Piping Components and Related Materials," for potable water pipe.

b. Pipe sizing. Spa recirculation piping shall be sized so that water velocities do not exceed 6 ft/sec for suction flow and 10 ft/sec for pressure flow.

c. Skimmer pipe capacity. The piping for the skimmer system shall be designed to convey 100 percent of the recirculation flow rate.

d. Main drain pipe capacity. The main drain piping shall be designed to convey 100 percent of the recirculation flow rate. If the spa agitation system uses the same suction piping as the recirculation system, the piping shall be designed for the combined flow within the requirements of 15.52(7)*"b."*

e. Separate piping required. The piping from the spa agitation system pump to the spa shall be separate from the recirculation system piping.

15.52(8) *Inlets.* Spa inlets shall meet the following criteria:

a. Wall inlets are provided for a spa.

b. The inlets are adequate to ensure effective distribution of treated water and the maintenance of a uniform disinfectant residual throughout the spa. At least two recirculation inlets shall be provided.

(1) Inlets are located at least 6 inches below the design water surface.

(2) Inlets are directional flow-type inlets. Each inlet has a fitting with an opening of 1 inch diameter or less.

c. Each agitation system opening has a fitting with an opening of 1 inch diameter or less.

15.52(9) *Skimmers.* A recessed automatic surface skimmer shall be listed by NSF or by another listing agency as complying with the requirements of Standard 50, except that an equalizer is not required for a skimmer installed in a spa equipped with an automatic water level maintenance device. Spa skimmers shall meet the following criteria:

a. A spa has at least one skimmer for each 100 ft^2 of surface area or fraction thereof.

b. Each skimmer is designed for a flow-through rate of at least 3.8 gpm per lineal inch of weir. The combined capacity of all skimmers in a spa is not less than the total recirculation rate.

c. Skimmers have weirs that adjust automatically to variations in water level of at least 4 inches.

d. Skimmers are equipped with a device to control flow through the skimmer.

e. If a spa is not equipped with an automatic water level maintenance device, each skimmer has an operational equalizer. The equalizer opening in the spa is covered with a fitting listed by a listing agency as meeting the requirements of the ASME/ANSI standard.

f. The skimmer(s) is or are not connected to the agitation system.

15.52(10) *Main drain system.* Each spa shall have a convenient means of draining the water from the spa for service. Spa main drains may be on the sidewall of a spa near the spa bottom.

a. If a spa pump is directly connected to a main drain or another fully submerged outlet, the pump shall be connected to two or more fully submerged outlets or to a single fully submerged outlet that is unblockable. The recirculation system and the agitation system may use the same fully submerged outlet(s).

(1) Two fully submerged outlets that are directly connected to one or more pumps in the same outlet system shall be at least 3 ft apart on center or on different spa surfaces. If three or more fully submerged outlets that are all directly connected to one or more pumps in the same outlet system are installed, the distance between the outlets farthest apart shall be at least 3 ft on center or the outlets shall be installed on different spa surfaces.

(2) If there is only one fully submerged outlet in an outlet system, the flow rating of the outlet cover/grate, sump and the associated piping shall be at least 100 percent of the maximum system flow rate. If two or more fully submerged outlets are installed in an outlet system, the combined flow rating of the cover/grates, the sumps and the associated piping shall be at least 200 percent of the maximum system flow rate. Multiple outlets in an outlet system shall be plumbed in parallel.

The maximum system flow rate for the recirculation system is the flow rate specified in 15.52(5)*"b"* or the design flow rate, whichever is greater. The maximum system flow rate for the agitation system is the specified design flow rate. If a flow rate is not specified, the maximum system flow rate shall be the flow capacity of the pump(s) at 50 feet TDH, based on the manufacturer's published pump curves.

b. If a main drain is connected to the recirculation system, there shall be a control valve to adjust the flow between the main drain and the overflow system.

c. Each main drain or other fully submerged outlet shall be covered with a cover/grate that is listed as complying with the requirements of the ASME/ANSI standard by a listing agency. A listed cover/grate shall be used in accordance with its listing.

(1) The flow rating for the cover/grate(s) shall comply with 15.52(10)*"a"*(2).

(2) The mark of a listing agency shall be permanently marked on the top surface of each manufactured cover/grate.

(3) Field fabricated cover/grates shall be certified for compliance to the ASME/ANSI standard by a professional engineer licensed in Iowa. A certificate of compliance shall be provided to the spa owner and to the department.

(4) The fully submerged outlet cover/grate shall be designed to be securely fastened to the spa so that the cover/grate is not removable without tools.

d. For outlet systems with manufactured sumps, the sumps shall be listed by a listing agency for compliance with the ASME/ANSI standard. Field fabricated sumps shall be designed in accordance with the ASME/ANSI standard and be certified by an engineer licensed in Iowa.

15.52(11) *Disinfection and pH control.*

a. A spa recirculation system shall be equipped with an automatic controller for maintenance of the disinfectant level and pH in the spa water. The control output of the controller to the chemical feed systems shall be based on the continuous measurement of the ORP and the pH of the water in the spa recirculation system.

b. No disinfection system designed to use di-chlor or tri-chlor shall be installed for an indoor spa.

c. A continuous feed disinfectant system shall be provided. The disinfectant feed system shall have the capacity to supply at least 10 mg/L chlorine or bromine based on the recirculation flow rate required in 15.52(5)*"b."*

d. A disinfectant feeder shall be listed by NSF or by another listing agency as complying with the requirements of Standard 50.

e. Gas chlorine shall not be used as a disinfectant for a spa.

f. Where a metering pump is used to feed a solution of disinfectant, the disinfectant solution container shall have a capacity of at least one day's supply at the rate specified in 15.52(11)*"c."*

g. The storage capacity of an erosion feeder shall be at least one day's supply of disinfectant at the rate specified in 15.52(11)*"c."*

h. Each spa shall have a metering pump for the addition of a pH control chemical to the spa recirculation system or a CO_2 gas feed system. A metering pump shall be listed by NSF or another listing agency as complying with the requirements of Standard 50.

i. The chemical feed systems shall be designed so that chemical feed is automatically and positively stopped when the recirculation flow is interrupted.

15.52(12) *Safety.*

a. Spa entry. A spa shall have at least one stairway, ramp, ladder, or set of recessed steps designating a point of entry and exit for every 50 ft of perimeter or fraction thereof.

(1) Stair steps leading into a spa shall be at least 12 inches wide, the tread depth shall be no less than 10 inches, and the riser height shall be no more than 12 inches. If a bench or seat is used as a part of the stair, the first riser height from the bottom of the spa to the seat or bench shall be no more than 14 inches. Except for the first riser, the riser height shall be uniform.

1. Stair steps shall be provided with a slip-resistant surface.

2. The stair steps shall be provided with two handrails or grab rails, one on each side of the steps.

(2) Ladders.

1. Ladders shall be provided with a handrail that extends from below the water surface to the top surface of the deck on each side of the ladder.

2. Ladders shall be of a color contrasting with the spa walls.

(3) Recessed steps.

1. Recessed steps shall have a tread depth of at least 5 inches, a tread width of at least 12 inches, and a uniform rise of no more than 12 inches.

2. Recessed steps shall be provided with a handrail or with deck-level grab rails on each side of the recessed steps.

3. Recessed steps shall drain to the spa.

(4) Ladders, handrails and grab rails.

1. Ladders, handrails, and grab rails shall be designed to be securely anchored and so that tools are required for their removal.

2. Ladders, handrails, and grab rails shall be of corrosion-resistant materials or provided with corrosion-resistant coatings. They shall have no exposed sharp edges.

b. Agitation system control. The agitation system start control shall be installed out of the reach of persons in the spa. The "on" cycle for the agitation system shall be no more than ten minutes.

c. Electrical. New construction or reconstruction shall meet the requirements of the state electrical code, 481—Chapter 404, including Article 680 of the adopted National Electrical Code.

d. Lighting. Artificial lighting shall be provided at indoor spas and at outdoor spas that are to be used after sunset, in accordance with the following:

(1) Underwater lighting of at least 60 lamp lumens/ft^2 or 0.5 watts/ft^2 of water surface area and area lighting of at least 10 lumens/ft^2 or 0.6 watts/ft^2 of deck area.

(2) If underwater lights are not provided, overhead lighting of at least 30 lumens/ft^2 or 2.0 watts/ft^2 of spa water surface area shall be provided.

e. Spa enclosure. Spa enclosure shall meet the following criteria:

(1) A spa is enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The spa enclosure is constructed of durable materials. A spa may be in the same room or enclosure as another spa or a swimming pool.

(2) A fence, wall, or other means of enclosure has no openings that would allow the passage of a 4-inch sphere and is not easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from the outside of the facility, or between the two lowest horizontal supports accessible from outside the facility, is at least 45 inches. A horizontal support is considered accessible if it is on the exterior of the fence relative to the spa, or if the gap between the vertical members of the fence is greater than 1¾ inches.

(3) At least one gate or door with an opening of at least 36 inches in width is provided for emergency purposes. When closed, gates and doors comply with the requirements of 15.52(12)*"e"*(2). Gates and doors are lockable. Except where lifeguard or structured program supervision is provided whenever the spa is open, gates and doors are self-closing and self-latching.

(4) For indoor spas, if there are sleeping rooms, apartments, condominiums, or permanent recreation areas used by children that open directly into the spa area, the spa is enclosed by a barrier at least 3 ft high. No opening in the barrier permits the passage of a 4-inch sphere. There is at least one 36-inch-wide gate or door through the barrier. Gates and doors are lockable. Except where lifeguard supervision is provided whenever the spa is open, gates or doors are self-closing and self-latching.

These rules are intended to implement Iowa Code chapter 135I.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9499C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to licensure standards for substance use disorder and problem gambling treatment programs

The Department of Health and Human Services hereby rescinds Chapter 155, "Licensure Standards for Substance Use Disorder and Problem Gambling Treatment Programs," Iowa Administrative Code, and adopts a new Chapter 155 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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; 2024 Iowa Acts, House File 2673; and 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This chapter provides licensure requirements for substance use disorder/problem gambling (SUD/PG) treatment programs throughout the State of Iowa. The 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 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9376C**. Public hearings were held on the following date:

- July 15, 2025

No one attended the public hearings. No public comments were received. Minor changes from the Notice have been made to update Iowa Code references.

Adoption of Rulemaking

This rulemaking was adopted by the Department on July 30, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking will become effective on October 1, 2025.

The following rulemaking action is adopted:

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 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 that outlines for each patient attainable short-term treatment goals that are mutually acceptable to the patient and the opioid treatment program and that 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 137F.

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.

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ARC 9500C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to administration

The State Public Defender hereby rescinds Chapter 1, "Administration," Iowa Administrative Code, and adopts a new Chapter 1 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9359C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9501C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to petitions for rulemaking

The State Public Defender hereby rescinds Chapter 2, "Petitions for Rule Making," and adopts a new Chapter 2, "Petitions for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted 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 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9360C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

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ARC 9502C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to declaratory orders

The State Public Defender hereby rescinds Chapter 3, "Declaratory Orders," Iowa Administrative Code, and adopts a new Chapter 3 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9361C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

[Filed 7/30/25, effective 9/24/25]
[Published 8/20/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9503C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to public records and fair information practices

The State Public Defender hereby rescinds Chapter 4, "Public Records and Fair Information Practices," Iowa Administrative Code, and adopts a new Chapter 4 with the same title.

Legal Authority for Rulemaking

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

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9362C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

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ARC 9504C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to agency procedure for rulemaking

The State Public Defender hereby rescinds Chapter 5, "Agency Procedure for Rule Making," and adopts a new Chapter 5, "Agency Procedure for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted 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 section 25B.6.

Purpose and Summary

This 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9370C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

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ARC 9505C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to uniform waiver rules

The State Public Defender hereby rescinds Chapter 6, "Uniform Waiver Rules," Iowa Administrative Code, and adopts a new Chapter 6 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9363C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

[Filed 7/30/25, effective 9/24/25]
[Published 8/20/25]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9506C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to definitions

The State Public Defender hereby rescinds Chapter 7, "Definitions," Iowa Administrative Code, and adopts a new Chapter 7 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9364C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

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ARC 9507C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to eligibility guidelines for court-appointed counsel

The State Public Defender hereby rescinds Chapter 10, "Eligibility Guidelines for Court-Appointed Counsel," Iowa Administrative Code, and adopts a new Chapter 10 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 rulemaking includes revised 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9367C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

[Filed 7/30/25, effective 9/24/25]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9508C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to attorney fee contracts

The State Public Defender hereby rescinds Chapter 11, "Attorney Fee Contracts," Iowa Administrative Code, and adopts a new Chapter 11 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 rulemaking includes revised 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9365C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

[Filed 7/30/25, effective 9/24/25]
[Published 8/20/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9509C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to claims for indigent defense services

The State Public Defender hereby rescinds Chapter 12, "Claims for Indigent Defense Services," Iowa Administrative Code, and adopts a new Chapter 12 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9368C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

[Filed 7/30/25, effective 9/24/25]
[Published 8/20/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9510C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to claims for other professional services

The State Public Defender hereby rescinds Chapter 13, "Claims for Other Professional Services," Iowa Administrative Code, and adopts a new Chapter 13 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 rulemaking includes revised 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9366C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9511C

STATE PUBLIC DEFENDER[493]

Adopted and Filed

Rulemaking related to claims for attorney fees in 600A terminations

The State Public Defender hereby rescinds Chapter 14, "Claims for Attorney Fees in 600A Terminations," Iowa Administrative Code, and adopts a new Chapter 14 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 rulemaking includes revised 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.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9369C**. A public hearing was held on the following date(s):

- July 16, 2025
- July 23, 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 State Public Defender on July 30, 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.

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 September 24, 2025.

The following rulemaking action is adopted:

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.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9512C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to special permits for operation and movement of vehicles and loads of excess size and weight

The Transportation Department hereby rescinds Chapter 511, "Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight," Iowa Administrative Code, and adopts a new Chapter 511 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j," 321.457(2)"n" and 321E.15.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 321E and sections 29C.6, 312.2, 321.12, 321.122, 321.454, 321.456, 321.457, 321.463 and 321.492.

Purpose and Summary

This rulemaking repromulgates Chapter 511 in compliance with Executive Order 10. Chapter 511 complies with Iowa Code chapter 321E by outlining the application and eligibility requirements to obtain special permits for operation and movement of vehicles and loads of excess size and weight. A special permit is required before overweight or overdimensional vehicles may operate on Iowa roadways unless the movement is specifically exempted. The chapter also implements designation of economic export corridors as authorized by Iowa Code section 321.457.

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 9184C**. 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 July 8, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking will become effective on September 24, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 511 and adopt the following **new** chapter in lieu thereof:

CHAPTER 511
SPECIAL PERMITS FOR OPERATION AND MOVEMENT OF
VEHICLES AND LOADS OF EXCESS SIZE AND WEIGHT

761—511.1(321E) Definitions. As used in this chapter, unless the context otherwise requires:

"Compacted rubbish vehicle" means any vehicle hauling rubbish that has been mechanically compacted with a hydraulic, electric, or air-operated ram.

"Dimensions" or *"size"* means length, width or height limits.

"Emergency interstate permit" means a permit issued under Iowa Code section 321E.29B.

"Fluid milk product" means the same as defined in Iowa Code section 321E.29B(3).

"Indivisible load" means any load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would:

1. Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;
2. Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or
3. Require more than eight work hours to dismantle using appropriate equipment. The applicant for an indivisible load permit has the burden of proof as to the number of work hours required to dismantle the load.

"Overdimensional" or *"oversize"* means the exceeding of statutory length, width or height limits.

"Permit" means a permit issued under Iowa Code chapter 321E for the movement of an overdimensional or overweight vehicle, combination of vehicles, or vehicle with load. The term includes any additions or supplements thereto issued by the permit-issuing authority.

"Permit-issuing authority" means the:

1. Department's motor vehicle division for permits for movement on the primary road system.
2. Authority responsible for the maintenance of a nonprimary system of highways or streets for permits for movement on that system. However, the motor vehicle division may issue single-trip permits on primary road extensions in cities in conjunction with movement on the rural primary road system.

"Primary roads" or *"primary road system"* means the same as defined in Iowa Code section 306.3. The primary road system includes the interstate road system.

"Raw forest products" means the same as defined in Iowa Code section 321E.26.

"Rubbish" means any unwanted or useless material that has no commercial or practical value or use and that would normally be discarded.

"Special or emergency situation" means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
2. Circumstances where the movement is necessary to cooperate with national defense officials.
3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to an event such as but not limited to pollution of natural resources, a potential fire or an explosion.
5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.
6. Circumstances where the movement involves emergency-type vehicles.
7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazards to the safety of the traveling public or undue damage to private or public property.

8. Other unique circumstances that warrant the issuance of a permit as determined by the permit-issuing authority.

"Stafford Act" means the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. §5121 et seq.

"Statutory" when used with size or weight limits refers to those limits found in Iowa Code chapter 321.

This rule is intended to implement Iowa Code sections 321E.9, 321E.15, 321E.26, 321E.29, 321E.29B, 321E.30 and 321E.34.

761—511.2(321E) General information.

511.2(1) Permits may be obtained electronically upon making application to the motor vehicle division at www.iowadot.gov/mvd/motorcarriers/oversize-overweight-trip-permits. Applications, forms, instructions and restrictions are also available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at 515.237.3264; or by facsimile at 515.237.3257.

511.2(2) No overdimensional or overweight vehicle, combination of vehicles, or vehicle with load shall be moved on the highways of this state without permit except as provided in Iowa Code section 321.453.

511.2(3) Except as provided in rule 761—511.10(312,321,321E) or 761—511.18(321,321E), permits may be issued only for the transporting of a single article that exceeds statutory size or weight limits, or both, and that cannot reasonably be divided or reduced to statutory size and weight limits. However, permits may be issued for the transporting of property consisting of more than one article when:

a. The statutory weight limits are not exceeded,

b. One of the articles exceeds the statutory size limits, and

c. The inclusion of other articles does not cause the statutory size limits to be exceeded by an additional amount.

511.2(4) Nothing in the permit shall be construed as waiving any load limits that have been or that might be established on any bridge or any road that is posted with embargo signs unless specifically stated on the permit.

511.2(5) The state of Iowa, the department, and any other permit-issuing authority assume no responsibility for the property of the permit holder. Permit holders shall hold permit-issuing authorities harmless of any damages that may be sustained by the traveling public, adjacent property owners or the highways of this state on account of movements made under permit.

This rule is intended to implement Iowa Code sections 321E.2 and 321E.15.

761—511.3(321E) Movement under permit.

511.3(1) During the movement of a vehicle or object under permit, the permit holder shall comply with the terms and conditions of the permit and take all reasonable precautions to protect and safeguard the lives and property of the traveling public and adjacent property owners.

511.3(2) Movement shall be made only when roads are clear of ice and snow and visibility is at least one-quarter mile. Snow removal equipment operating under permit is exempt from this restriction while snow removal operations are conducted. Nothing in this subrule shall be construed to mean that the movement of a compacted rubbish vehicle permitted under rule 761—511.12(321E) is subject to this restriction.

511.3(3) Movement will be permitted only during the hours from one-half hour before sunrise to one-half hour after sunset unless the permit qualifies for continuous movement under subrule 511.3(5) or it is established by the permit-issuing authority that the movement can be better accomplished at another period of time.

511.3(4) Except as provided in Iowa Code section 321.457, no movement will be permitted on the holidays of Memorial Day, Independence Day and Labor Day, after 12 noon on days preceding these holidays and holiday weekends, during holiday weekends, or during special events when abnormally

high traffic volumes can be expected. A holiday weekend occurs when the holiday falls on Friday, Saturday, Sunday or Monday. No movement will be permitted until one-half hour before sunrise on the day after the holiday or holiday weekend.

511.3(5) Vehicles and loads may travel by permit between one-half hour after sunset and one-half hour before sunrise if, in addition to the general provisions and general requirements specified by the permit, the following conditions are met.

a. Dimensions do not exceed:

(1) Width. 12 feet.

(2) Height. 14 feet, 6 inches.

(3) Length. 100 feet.

(4) Weight. Legal axle limits.

b. Travel occurs on roadways with a minimum width of 22 feet and minimum lane width of 11 feet.

c. Safety lighting is provided at the widest part of a load. The lamps may be placed at the outer ends of the load itself or on appurtenances that are equal in width to the widest part of the load and positioned at both the extreme front and rear of the vehicle or trailer as follows:

(1) One lighted red lamp on each side at the rear of the load.

(2) One lighted yellow or amber lamp on each side at the front of the load.

This rule is intended to implement Iowa Code sections 321E.2, 321E.11 and 321E.15.

761—511.4(321E) Permits. The department may issue permits in writing or in electronic format, including single-trip, multitrip, annual oversize, annual oversize/overweight, annual raw forest products, annual small crane, compacted rubbish, emergency interstate, annual fluid milk products, annual all-systems oversize, or annual all-systems overweight permits.

511.4(1) *Methods of issuance.* Permits for movement on the primary road system may be obtained in person, by facsimile, online, or by mail at the address in subrule 511.2(1).

511.4(2) *Forms.*

a. The department will accept applications for permits for movement on the primary road system online or in the form and manner prescribed by the department.

b. Other permit-issuing authorities receiving applications made upon department forms must deem the applications sufficient and properly made.

c. Subject to the preceding paragraph, permit-issuing authorities may adopt, amend or modify department forms provided that the amended or modified forms adequately identify the applicant, the hauling vehicle and load, the manner and extent that the vehicle with load exceeds the statutory size and weight limits, the route, and the authorization of the issuing authority. However, the load for a multitrip permit does not have to be identified but the vehicle and load cannot exceed either the weight per axle or the total weight identified on the multitrip permit. Axle spacings cannot change.

511.4(3) *Validity.*

a. Annual oversize, annual oversize/overweight, annual raw forest products, annual small crane, compacted rubbish, annual fluid milk products, annual all-systems oversize, and annual all-systems overweight permits expire one year from the date of issuance.

b. A single-trip permit is effective for five days.

c. The validity of a multitrip permit does not exceed 60 calendar days.

d. Emergency interstate permits issued under Iowa Code section 321E.29B are effective for 30 calendar days. However, the permit will not be valid past the expiration of the applicable governor's proclamation of disaster emergency issued under Iowa Code section 29C.6 in conjunction with the presidential declaration allowing interstate travel under the Stafford Act or the expiration of the declaration of major disaster under the Stafford Act, whichever expires first.

511.4(4) *Duplicate permit.* If a permit is lost or destroyed before it has expired, a duplicate permit may be issued at the discretion of the permit-issuing authority. The expiration date on the duplicate permit will be the same as on the original permit.

This rule is intended to implement Iowa Code sections 321E.2, 321E.3, 321E.8, 321E.9, 321E.15 and 321E.29B.

761—511.5(321,321E) Fees and costs.

511.5(1) *Issuance and payment.* A permit will not be issued until the required fees and costs are paid in the manner and format prescribed by the department.

511.5(2) *Special or emergency oversize permit for certain divisible loads.* The fee for each single-trip permit issued pursuant to Iowa Code section 321E.27 is $35.

511.5(3) *Permit transfers.* The department may allow transfer of the following permit types to a replacement vehicle when the original vehicle has been damaged in an accident, junked or sold:

a. Annual oversize/overweight.

b. Annual all-systems overweight.

c. Annual small crane.

511.5(4) *Duplicate permit.* The fee for a duplicate permit is $2.

511.5(5) *Registration fee.* A registration fee will be charged for vehicles transporting buildings, except mobile homes and factory-built structures, on a single-trip basis. The vehicle shall be registered for the combined gross weight of the vehicle and load, and the fee is 5 cents per ton exceeding the weight registered under Iowa Code section 321.122 per mile of travel. Fees will not be prorated for fractions of miles.

511.5(6) *Fair and reasonable costs.* Permit-issuing authorities may charge any permit applicant:

a. A fair and reasonable cost for the removal and replacement of natural obstructions or official signs and signals.

b. A fair and reasonable cost for measures necessary to avoid damage to public property including structures and bridges.

This rule is intended to implement Iowa Code sections 321.12, 321.122, 321E.8, 321E.9, 321E.14, 321E.15, 321E.29, 321E.29A and 321E.30.

761—511.6(321E) Insurance and bonds.

511.6(1) *Insurance.*

a. Permittees must maintain, and carry in the permitted vehicle a copy of the current insurance certificate as proof of, public liability insurance in the amounts of $100,000 bodily injury each person, $200,000 bodily injury each occurrence, and $50,000 property damage with an expiration date to cover the tenure of the annual oversize, annual oversize/overweight, annual raw forest products, annual small crane, annual all-systems oversize, annual all-systems overweight, multitrip, emergency interstate, annual fluid milk products or single-trip permit. Proof of liability insurance may be either in writing or in electronic format.

b. Notwithstanding paragraph 511.6(1)*"a,"* a carrier may act as a self-insurer if an application for self-insurance is filed with and approved by the department.

511.6(2) *Bond.*

a. The permit-issuing authority may require the applicant to file a bond, certified check or other assurance in an amount sufficient to cover the reasonably anticipated cost of damage or loss to private property, either real or personal, likely to be caused by or arising out of the movement of the vehicle and load or to ensure compliance with permit provisions.

b. The amount in the preceding paragraph may be reduced either in whole or in part by the applicant's submission to the permit-issuing authority of written permission from an affected third party stating in substance that the third party either owns or has the right of exclusive possession and control over the affected property, does by the party's signature consent to the move and that the applicant has in hand paid or secured the payment of the anticipated cost of loss or damage to the party's property.

This rule is intended to implement Iowa Code sections 321E.8, 321E.9, 321E.13, 321E.15 and 321E.29B.

761—511.7(321,321E) Annual oversize permits. Annual oversize permits are issued for indivisible vehicles or indivisible loads for travel when the dimensions of the vehicle or load exceed statutory limits

but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour and road embargo information may be found online at www.511ia.org or the department's website for the embargo bridge maps at www.iowadot.gov/mvd/motorcarriers/bridgemap.pdf. Annual oversize permits are issued for the following:

511.7(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded.

a. Width. 12 feet 5 inches including appurtenances.

b. Length. 120 feet 0 inches overall.

c. Height. 13 feet 10 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Movement is allowed for unlimited distance; routing through the motor vehicle division is not required.

511.7(2) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded.

a. Width. 14 feet 6 inches.

b. Length. 120 feet 0 inches overall.

c. Height. 15 feet 5 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Movement is restricted to 50 miles unless trip routes are obtained from the motor vehicle division or the route continues on at least four-lane roads. Trip routes are valid for five days.

511.7(3) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded.

a. Width. 16 feet 0 inches.

b. Length. 120 feet 0 inches.

c. Height. 15 feet 5 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Trip routes must be obtained from the motor vehicle division.

511.7(4) Truck trailers manufactured or assembled in the state of Iowa provided the following are met.

a. Width. Not to exceed 10 feet 0 inches.

b. Length. Overall combination length must comply with Iowa Code section 321.457.

c. Height. Statutory: Not to exceed 13 feet 6 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Roadway width. At least 24 feet 0 inches.

f. Limited movement. Only movement limited to the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state and on the most direct route necessary for the movement is allowed.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10, 321E.15 and 321E.29A.

761—511.8(321,321E) Annual oversize/overweight permits. Annual oversize/overweight permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. Travel is not allowed on the interstate. However, a carrier moving under this annual oversize/overweight permit may operate under the same restrictions as an annual oversize permit under rule 761—511.7(321,321E) when the vehicle meets the dimensions required by that rule. Routing is subject to embargoed bridges and roads and posted speed limits. Annual oversize/overweight permits are issued for the following:

511.8(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded.

a. Width. 13 feet 5 inches.

b. Length. 120 feet 0 inches.

c. Height. 15 feet 5 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Routing. The owner or operator shall select a route using a vertical clearance map, bridge embargo map, pavement restrictions map, and construction and travel restrictions map provided by the department. Route, detour and road embargo information may be found online at www.511ia.org or the department's website for the embargo bridge maps at www.iowadot.gov/mvd/motorcarriers/bridgemap.pdf.

511.8(2) Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.9 and 321E.15.

761—511.9(321,321E) Annual all-systems oversize permits. Annual all-systems oversize permits are issued by the motor vehicle division for indivisible vehicles or indivisible loads for travel on the primary road system and specified city streets and county roads when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The department will provide a map of the authorized city streets and county roads. Permit holders shall consult with local officials when traveling on county roads or city streets for bridge embargo, vertical clearance, detour, and road construction information. These permits are issued for the following:

511.9(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded.

a. Width. 12 feet 5 inches including appurtenances.

b. Length. 120 feet 0 inches overall.

c. Height. 13 feet 10 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Movement is allowed for unlimited distance; routing through the motor vehicle division and city and county jurisdictions is not required.

511.9(2) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded.

a. Width. 14 feet 6 inches.

b. Length. 120 feet 0 inches overall.

c. Height. 15 feet 5 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Movement is restricted to 50 miles unless trip routes are obtained from the motor vehicle division and city and county jurisdictions or the route continues on at least four-lane roads. Trip routes are valid for five days.

511.9(3) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded.

a. Width. 16 feet 0 inches.

b. Length. 120 feet 0 inches.

c. Height. 15 feet 5 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Trip routes must be obtained from the motor vehicle division and city and county jurisdictions.

511.9(4) Truck trailers manufactured or assembled in the state of Iowa provided the following are met.

a. Width. Not to exceed 10 feet 0 inches.

b. Length. Overall combination length complies with Iowa Code section 321.457.

c. Height. Statutory: Not to exceed 13 feet 6 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Roadway width. At least 24 feet 0 inches.

f. *Limited movement.* Only movement limited to the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state and on the most direct route necessary for the movement is allowed.

511.9(5) Necessary trip routes must be obtained from the appropriate city and county jurisdictions.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10 and 321E.15.

761—511.10(312,321,321E) Annual all-systems overweight permits.

511.10(1) *Issuance.* Annual all-systems overweight permits are issued by the department for indivisible vehicles or indivisible or divisible loads for travel on the primary road system and specified city streets and county roads when the weight of the vehicle or load exceeds statutory limits but the dimensions are within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The department will provide a map of the authorized city streets and county roads. Permit holders shall consult with local officials when traveling on county roads or city streets for bridge embargo, vertical clearance, detour, and road construction information. These permits are issued for vehicles with divisible or indivisible loads provided the following are not exceeded.

a. *Width.* Statutory: 8 feet 6 inches including appurtenances.

b. *Length.* Statutory: 75 feet 0 inches overall.

c. *Height.* Statutory: 13 feet 6 inches.

d. *Weight.* Information contained in rule 761—511.17(321,321E).

e. *Distance.* Movement is allowed for unlimited distance; routing through the motor vehicle division and city and county jurisdictions is not required.

511.10(2) *Distribution of monthly credit.* In accordance with Iowa Code section 312.2(18), the department will allocate the monthly credit as follows:

a. The department will maintain a list of participating counties. The list will be updated on a monthly basis as determined by the department after consultation with county officials through their representative organizations.

b. The monthly credit will be divided among the participating counties as determined by the department after consultation with county officials through their representative organizations.

c. The funds from the monthly credit will be distributed to each participating county based on the list of participating counties for the applicable month.

This rule is intended to implement Iowa Code sections 312.2, 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10 and 321E.15.

761—511.11(321,321E) Multitrip permits. Multitrip permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. The permit allows unlimited trips along a specific route between one point of origin and one point of destination. Additional routes will require a new permit. Multitrip permits are issued for the following:

511.11(1) Multitrip permits may be issued for vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded.

a. *Width.* 16 feet.

b. *Length.* 120 feet.

c. *Height.* 15 feet 5 inches.

d. *Weight.* 156,000 pounds total gross weight.

e. *Distance.* On routes specified by the permit-issuing authority.

511.11(2) Multitrip permits may be issued for all movements allowed under the single-trip permit provisions of rule 761—511.13(321,321E) provided the movement is within the size and weight limitations of subrule 511.11(1).

511.11(3) The dimensions listed on the permit are considered maximums. The movement is legal as long as the vehicle and load do not exceed these dimensions and the movement meets all other requirements of Iowa Code chapter 321E and this chapter.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.9A and 321E.15.

761—511.12(321E) Compacted rubbish vehicle permits. All compacted rubbish vehicle permits issued by the department are subject to the following criteria:

511.12(1) Permits are issued in writing or in an electronic format and are to be carried in the vehicle for which the permit has been issued and made available for inspection by any peace officer or authorized agent of any permit-granting authority.

511.12(2) Movements by permit are allowed day and night, seven days a week, including holidays.

511.12(3) Vehicles traveling under permit are registered for the gross weight or combined gross weight of the vehicle and load.

511.12(4) Vehicles under permit are in compliance with posted bridge and road embargoes and speed limits.

511.12(5) Maximum axle weight allowed on the interstate system is 20,000 pounds on a single axle and 34,000 pounds on a tandem axle.

This rule is intended to implement Iowa Code sections 321E.15 and 321E.30.

761—511.13(321,321E) Single-trip permits. Single-trip permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. The permit is for a specific route between an origin and destination. Single-trip permits are issued for the following:

511.13(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded.

a. Width. Limited to the maximum physical limitations and clearances of the roadway and infrastructure along the intended route of travel.

b. Length. Limited to the maximum physical limitations and clearances of the roadway along the intended route of travel.

c. Height. Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier is required to contact affected public utilities when the height of the vehicle with load exceeds 16 feet 0 inches. At the discretion of the permit-issuing authority, a written verification may be required from the affected utility.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Limited at the discretion of the permit-issuing authority. The following factors will be considered:

(1) Road conditions.
(2) Road width.
(3) Traffic volume.
(4) Weather conditions.
(5) Roadside obstructions, including bridges, signs and overhead obstructions.

511.13(2) Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.9 and 321E.15.

761—511.14(321,321E) Annual raw forest products permits. Annual raw forest products permits are issued for vehicles transporting divisible loads of raw forest products when the weight exceeds statutory limits. Travel is not allowed on the interstate. The owner or operator shall select a route using the vertical clearance map, bridge embargo map, pavement restrictions map, and construction and travel restrictions map provided by the department. The owner or operator must contact the appropriate local authority for route approval to use this permit on county roads or city streets. Detour and road embargo information may be found online at: www.511ia.org. Routing is subject to embargoed bridges and roads and posted speed limits. Annual raw forest products permits are issued for the following:

511.14(1) Vehicles with divisible loads of raw forest products provided the following are not exceeded.

a. *Width.* Statutory: 8 feet 6 inches.
b. *Length.* Limited to the maximum dimensions in Iowa Code section 321.457.
c. *Height.* Statutory: 13 feet 6 inches.
d. *Weight.* Information contained in rule 761—511.17(321,321E).
e. *Distance.* Unlimited.

511.14(2) Reserved.

This rule is intended to implement Iowa Code sections 321.463, 321E.2, 321E.3, 321E.15 and 321E.26.

761—511.15(29C,321,321E) Emergency interstate permit. Emergency interstate permits are issued for vehicles transporting divisible loads of relief supplies when the weight exceeds statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour, and road embargo information may be found online at www.511ia.org or the department's website for the embargo bridge maps at www.iowadot.gov/mvd/motorcarriers/bridgemap.pdf. The owner or operator must contact the appropriate local authority for route approval to determine if additional permits are necessary for county roads or city streets. Emergency interstate permits are issued for the following:

511.15(1) Vehicles with divisible loads of relief supplies, which may exceed the weight limits established under Iowa Code section 321.463 on the interstate highway system, provided the following are not exceeded.

a. *Width.* Statutory: 8 feet 6 inches including appurtenances.
b. *Length.* Limited to the maximum dimensions in Iowa Code section 321.457.
c. *Height.* Statutory: 13 feet 6 inches.
d. *Weight.* Information contained in rule 761—511.17(321,321E).
e. *Distance.* Movement is allowed for unlimited distance on the interstate for 30 days not to exceed the expiration of the applicable governor's proclamation issued in conjunction with the applicable declaration under the Stafford Act, or expiration of the applicable declaration under the Stafford Act, whichever expires sooner. In the event that more than one proclamation issued under Iowa Code section 29C.6 is in effect, only the proclamation issued in conjunction with the same event that caused the major disaster declaration under the Stafford Act governs the expiration date. Separate permits may be required for roads other than the interstate unless the governor, under the authority in Iowa Code section 29C.6, suspends applicable permitting provisions under proclamation for the same event.

511.15(2) Reserved.

This rule is intended to implement Iowa Code sections 29C.6, 321.457, 321.463, 321E.15 and 321E.29B.

761—511.16(321,321E) Annual fluid milk products permits. Annual fluid milk products permits are issued for indivisible loads of fluid milk products for travel when the weight of the vehicle or load exceeds statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour and road embargo for fluid milk products information may be found online at www.511ia.org or the department's website for the embargo bridge maps at www.iowadot.gov/mvd/motorcarriers/bridgemap.pdf. Annual fluid milk products permits are issued for the following:

511.16(1) Vehicles with indivisible loads of fluid milk products provided the following are not exceeded.

a. *Width.* Statutory: 8 feet 6 inches including appurtenances.
b. *Length.* Statutory: 75 feet 0 inches overall.
c. *Height.* Statutory: 13 feet 6 inches.
d. *Weight.* Information contained in rule 761—511.17(321,321E).

e. Distance. Movement is allowed for unlimited distance on the primary road system, including the interstate, provided the vehicle is transporting fluid milk products to or from a milk plant, receiving station, or transfer station; routing through the motor vehicle division is not required.

511.16(2) Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10, 321E.15 and 321E.29A.

761—511.17(321,321E) Maximum axle weights and maximum gross weights for vehicles and loads moved under permit.

511.17(1) *Annual oversize, annual all-systems oversize, and annual all-systems overweight permits.*

a. For movement under an annual oversize or annual all-systems oversize permit, the axle weight and combined gross weight cannot exceed the limits found in Iowa Code section 321.463(3).

b. For movement under an all-systems overweight permit, the axle weight cannot exceed the limits found in Iowa Code sections 321.463(3) and 321E.8. The combined gross weight cannot exceed the gross weight authorized under Iowa Code section 321E.8(2).

511.17(2) *Annual oversize/overweight permits or annual raw forest products permits.* For movement under an annual oversize/overweight permit or an annual raw forest products permit, the gross weight on any axle cannot exceed 20,000 pounds, with a maximum of 156,000 pounds total gross weight.

511.17(3) *Multitrip permits.* For movement under a multitrip permit, the gross weight on any axle cannot exceed 20,000 pounds with a maximum of 156,000 pounds total gross weight.

511.17(4) *Single-trip permits.*

a. For movement under a single-trip permit, the gross weight on any axle cannot exceed 20,000 pounds unless authorized under Iowa Code section 321E.9(2).

b. If the combined gross weight exceeds 100,000 pounds, a single-trip permit may be issued for the movement only if the permit-issuing authority determines that it would not cause undue damage to the road and is in the best interest of the public.

c. Cranes may have a maximum of 24,000 pounds per axle for movement under a single-trip permit. Routes must be reviewed by the permit-issuing authority prior to issuance.

511.17(5) *Emergency interstate permits.*

a. For movement under this permit, the gross weight on any axle cannot exceed 20,000 pounds with a maximum of 90,000 pounds total gross weight.

b. The maximum weight on any single axle cannot exceed by more than 12.5 percent the maximum axle weight limit in the nonprimary highway maximum gross weight table in Iowa Code section 321.463(6)*"b"* and must comply with posted limits on roads and bridges.

511.17(6) *Annual fluid milk products permits.* For movement under an annual fluid milk products permit, the gross weight on any axle cannot exceed 20,000 pounds with a maximum of 96,000 pounds total gross weight.

511.17(7) *Annual small crane permit.* For movement under an annual small crane permit, the gross weight on any axle cannot exceed 24,000 pounds with a maximum of 80,000 pounds total gross weight.

511.17(8) *Special mobile equipment.* Special mobile equipment may have a gross weight of 36,000 pounds on any single axle equipped with minimum size 26.5-inch by 25-inch flotation pneumatic tires and a maximum gross weight of 20,000 pounds on any single axle equipped with minimum size 18-inch by 25-inch flotation pneumatic tires, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of 80,000 pounds for movement under an annual oversize or all-systems oversize permit and 126,000 pounds for movement under a single-trip, multitrip or annual oversize/overweight permit.

For tire sizes and weights allowed between the maximum and minimum indicated, the following formula shall apply: Axle weight = 20,000 pounds + (tire width - 18) × 1,882 pounds.

511.17(9) *Permitted tandem axle weights.*

a. Vehicles operating under an annual oversize permit, annual oversize/overweight permit, annual raw forest products permit, single-trip permit, or multitrip permit may have a gross weight not to exceed 46,000 pounds on a single-tandem axle of the truck tractor and a gross weight not to exceed 46,000 pounds on a single-tandem axle of the trailer or semitrailer if each axle of each tandem group has at least four tires.

b. The maximum weight of any single axle within a permitted tandem axle group is 24,000 pounds.

c. A permitted tandem axle cannot be a part of a larger group of axles whose centers are greater than 96 inches apart.

This rule is intended to implement Iowa Code sections 321.463, 321E.7, 321E.8, 321E.9, 321E.9A, 321E.15, 321E.26, 321E.29B and 321E.32.

761—511.18(321,321E) Movement of vehicles with divisible loads exceeding statutory size or weight limits.

511.18(1) Vehicles with divisible loads exceeding statutory size or weight limits may be moved under a single-trip permit if the permit-issuing authority determines that a special or emergency situation warrants its issuance.

511.18(2) At the discretion of the permit-issuing authority, the combined gross weight may exceed the statutory weight, but the axle weights shall be subject to rule 761—511.17(321,321E).

511.18(3) Movement is subject to the routes established by the permit-issuing authority.

This rule is intended to implement Iowa Code sections 321.463, 321E.15 and 321E.29.

761—511.19(321,321E) Towing units. Only a truck or truck tractor with dual wheels and with a gross vehicle weight rating of at least 10,000 pounds is an acceptable towing unit for towing mobile homes or loads exceeding 10,000 pounds.

This rule is intended to implement Iowa Code sections 321.457 and 321E.15.

761—511.20(321E) Escorting.

511.20(1) *Escort qualifications.* To qualify as an escort or an escorting vehicle, the following requirements apply:

a. The escort is a person aged 18 or over who possesses a valid driver's license that allows driving unaccompanied and who carries proof of public liability insurance in the amounts of $100,000/$200,000/$50,000.

b. The escorting vehicle is a midsize automobile or motor truck with sufficient mobility to be able to assist in an emergency and designed to afford clear and unobstructed vision both front and rear. The escorting vehicle cannot be used to tow a trailer while performing escorting duties. In questionable cases, the permit-issuing authority is authorized to determine if a vehicle meets these conditions.

c. The escorting vehicle has a flashing or strobe amber light that is visible for at least 500 feet and provides 360° warning. While escorting a permit load, the light is mounted on top of the escort vehicle and is burning. Additional escort vehicle markings may be approved or required by the permit-issuing authority.

d. An 18-inch by 18-inch red or orange fluorescent flag is mounted on each corner of the front bumper of the escorting vehicle.

e. The escort remains a distance of approximately 300 feet in front or to the rear of the load. However, when traveling within the corporate limits of a city, the escort maintains a reasonable and proper distance consistent with existing traffic conditions.

f. A separate escort accompanies each load hauled under escort.

g. The escort obeys all traffic laws and provisions of the oversize permit for the load.

h. The escort shall not assume responsibility for stopping traffic. An on-duty peace officer, as defined in Iowa Code section 321.1, shall be contacted to provide any necessary traffic control.

i. Immediately prior to an escorting trip, the escort determines that the escorting vehicle is in a safe operational condition and that the dimensions of the vehicle and load are in compliance with the permit issued.

j. A pole used for measuring vertical clearances is mounted on the front escorting vehicle. The escort is required to measure all vertical clearances whenever the height of the permitted vehicle exceeds 14 feet 6 inches up to and including 20 feet.

511.20(2) *Minimum escort and warning device requirements.* The following chart explains the minimum escort and warning devices required for vehicles operating under permit.

Minimum Warning Devices and Escort Requirements
For Vehicles Operating Under Permit

	Flags/Signs	Lights	Escorts	
			4-Lane	2-Lane
Length				
75′1″ up to and including 85′	yes	not required	not required	not required
Over 85′ up to and including 120′	yes	yes	not required	not required
Over 120′	yes	not required	rear	rear
Projections				
Front: over 25′	not required	yes	not required	not required
Rear: over 4′ up to and including 10′	flags only	not required	not required	not required
Rear: over 10′	flags only	yes	not required	not required
Height				
Over 14′6″ up to and including 20′	yes	not required	front with a height pole	front with a height pole
Weight				
Over 80,000 lbs	not required	not required	not required	not required
Width				
Over 8′6″ up to 12′0″	yes	not required	not required	not required
Over 12′0″ up to and including 14′6″	yes	not required	rear *	front *
Over 14′6″ up to and including 16′6″	yes	not required	rear *	front
Over 16′6″ up to and including 18′	yes	not required	rear	front

*In lieu of an escort, a carrier can display an amber light or strobe light on the power unit and on the rear extremity of the vehicle or load.

yes = required

511.20(3) *Flags, lights and signs.* The following criteria apply to the required flags, signs and lights on an escorting vehicle:

a. Red or orange fluorescent flags at least 18″ square are mounted as follows: one flag at each front corner of the towing unit, one flag at each rear corner of the load, and a flag at any additional protrusion in the width of the load.

b. A sign reading "Oversize Load," which is at least 18″ high by 7′ long with a minimum of 10″ black letters, with a 1½″ stroke, on a yellow background is used. The sign is mounted on the front bumper and on the rear of the load unless a mobile home or factory-built structure, in which case, the rear sign is mounted at least 7′ above the highway surface, measuring from the bottom of the sign.

c. A flashing or strobe amber light that is visible for at least 500 feet and provides 360° warning is mounted on the towing unit and is visible from front and rear. More than one light may be necessary.

d. The flags, lights and signs are removed or covered when the vehicle is within legal dimensions.

511.20(4) *Additional escorts.* The permit-issuing authority may require additional escorts when deemed necessary.

This rule is intended to implement Iowa Code sections 321E.8, 321E.14, 321E.15, 321E.24 and 321E.34.

761—511.21(321,321E) Permit violations. Permit violations are to be reported to the permit-issuing authority by the arresting officer and the permit holder. If a permit holder is found to have willfully violated permit provisions, the motor vehicle division may, after notice and hearing, suspend, modify or revoke the permit privileges of the permit holder consistent with Iowa Code section 321E.20. If the

permit that is suspended, modified, or revoked is an emergency interstate permit that is issued for a fleet operating under the permit holder's interstate or intrastate motor carrier number, the department may issue emergency interstate permits to individual vehicles operating under the interstate or intrastate motor carrier number.

This rule is intended to implement Iowa Code sections 321.492, 321E.15, 321E.16, 321E.20 and 321E.29B.

761—511.22(321) Movement of combination vehicles on economic export corridors.

511.22(1) *Designation of economic export corridors.*

a. The department may in its discretion establish economic export corridors for the transportation of goods or products manufactured in Iowa to or through the state of South Dakota and for the return of unladen semitrailers or unladen full trailers used for the transportation of those goods or products. An economic export corridor does not include any segment of the interstate system or any part of the national network of highways identified pursuant to 23 CFR Part 658, effective April 1, 2024. However, if appropriate, the department may petition the Federal Highway Administration to remove a road or road segment from the national network of highways for the purpose of including it in an economic export corridor.

b. The department may initiate designation of economic export corridors, or a request for economic export corridor designation may be submitted to the department by an interested party. If a proposed economic export corridor includes any roads or road segments that are under the jurisdiction of a city or a county, a resolution from all relevant local jurisdictions is to be submitted to the department indicating jurisdiction support for economic export corridor designation. The resolution is to include a description of the proposed economic export corridor under local jurisdiction.

c. The department will exercise due regard for the safety of the traveling public and the protection of the highway surfaces and structures when establishing an economic export corridor. Factors to be considered include ability of the proposed economic export corridor to safely accommodate combinations of vehicles described in subrule 511.22(2), taking into account physical configurations and restrictions and traffic demands and capacity, as well as connection to markets that will benefit from the established economic export corridor.

d. The department will post established economic export corridors on the department's website.

511.22(2) *Combination vehicles that may be operated on an economic export corridor.*

a. In addition to combinations of vehicles lawful for operation on roads or road segments not designated as an economic export corridor, the following combinations of vehicles may be operated on an economic export corridor designated under subrule 511.22(1) if the combinations of vehicles meet the requirements in paragraph 511.22(2)*"b"*:

(1) A truck tractor-semitrailer-semitrailer converted to a full trailer by use of a dolly equipped with a fifth wheel that is considered a part of the trailer for all purposes, and not a separate unit.

(2) A truck tractor-semitrailer-full trailer.

(3) A truck tractor-semitrailer-semitrailer combination, where the semitrailers are connected by a rigid frame extension including a fifth wheel connection point attached to the rear frame of the first semitrailer.

b. The combination of vehicles shall meet all of the following requirements:

(1) The length of the combination of vehicles, excluding the length of the truck tractor, does not exceed 81½ feet.

(2) The length of either semitrailer or full trailer does not exceed 45 feet.

(3) The weight of the second semitrailer or full trailer does not exceed the weight of the first semitrailer by more than 3,000 pounds.

(4) The gross weight of the combination of vehicles does not exceed 80,000 pounds and the combination of vehicles does not exceed the gross axle weight limits of Iowa Code section 321.463(2).

(5) The load on each semitrailer or full trailer in the combination is an indivisible load. For the purpose of issuing permits for height or width under Iowa Code chapter 321E, the combination of

vehicles will be considered an indivisible load so long as the load on each semitrailer or full trailer in the combination remains an indivisible load.

c. The length of the frame extension is not included when determining the overall length of the first semitrailer in a truck tractor-semitrailer-semitrailer combination in which the semitrailers are connected by a rigid frame extension including a fifth wheel connection point attached to the rear frame of the first semitrailer.

d. For purposes of this subrule, "full trailer" means the same as defined in 49 CFR Section 390.5, effective October 1, 2024.

This rule is intended to implement Iowa Code section 321.457(2)*"n."*

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[Published 8/20/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9513C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to for-hire intrastate motor carrier authority

The Transportation Department hereby rescinds Chapter 524, "For-Hire Intrastate Motor Carrier Authority," Iowa Administrative Code, and adopts a new Chapter 524 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j," 325A.3A, 325A.7A, 325A.10 and 325A.13.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 325A and sections 321.515 and 321.519.

Purpose and Summary

This rulemaking repromulgates Chapter 524 in compliance with Executive Order 10. Chapter 524 complies with Iowa Code chapter 325A by outlining the application and eligibility requirements to obtain a for-hire intrastate motor carrier permit or certificate from the Department. A Department-issued motor carrier permit or certificate is required before a motor carrier may begin operations in Iowa.

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 9186C**. Public hearings were held on the following date:

- 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 July 8, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking will become effective on September 24, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 524 and adopt the following **new** chapter in lieu thereof:

CHAPTER 524
FOR-HIRE INTRASTATE MOTOR CARRIER AUTHORITY

761—524.1(325A) Purpose and applicability.

524.1(1) This chapter establishes requirements concerning for-hire intrastate motor carriers as authorized by Iowa Code chapter 325A.

524.1(2) This chapter applies to motor carriers of household goods, bulk liquid commodities, all other property, and passengers being transported for hire on any highway of this state other than a transportation network company or transportation network company driver as both are defined in Iowa Code section 321N.1 and provided for in 761—Chapter 540.

761—524.2(325A) General information.

524.2(1) *Information and location.* Applications, forms and information on motor carrier permits and motor carrier certificates are available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 515.237.3268; by facsimile at 515.237.3225; or by email at omcs@iowadot.us.

524.2(2) *Waiver of rules.* In accordance with 761—Chapter 11, the director of transportation or the director's designee (director) may, in response to a petition, waive provisions of this chapter. A waiver will not be granted unless the director finds that special or emergency circumstances exist.

"Special or emergency circumstances" means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
2. Circumstances where the movement is necessary to cooperate with national defense officials.
3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as but not limited to pollution of natural resources, a potential fire or an explosion.

5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.

6. Circumstances where movement involves emergency-type vehicles.

7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazards to the safety of the traveling public or undue damage to private or public property.

524.2(3) *Complaints.* Complaints against motor carriers pertaining to the provisions of this chapter can be submitted in writing to the motor vehicle division.

761—524.3(325A) Applications and supporting documents.

524.3(1) *Application and fee.* Application for a motor carrier permit or motor carrier certificate shall be made to the motor vehicle division on Form 441052, including the required safety self-certification, and accompanied by the statutory fee. Acceptable payment methods include credit card, cash, and check or money order made payable to the Iowa Department of Transportation.

524.3(2) *Supporting documents.* The following documents must accompany the motor carrier permit or motor carrier certificate application:

a. Proof of insurance.

b. A U.S. DOT number if required by the Federal Motor Carrier Safety Administration.

c. Financial statement if required by rule 761—524.10(325A).

d. Tariff, only for motor carriers of household goods.

e. All applicable documents identified in 761—subrule 380.4(2) and any other documentation, if required by the department, necessary to assess the operational capabilities of any driverless-capable vehicles the motor carrier intends to operate, including for the purpose of determining whether to impose operational restrictions as authorized under rule 761—400.18(307,321).

761—524.4(325A) Issuance of motor carrier permit or motor carrier certificate. When all requirements are met, the department will issue the motor carrier permit or certificate, a copy of which shall be carried in each motor vehicle at all times. The copy may be in either a physical or an electronic format and shall be available for display to any peace officer upon request.

761—524.5(325A) Duplicate motor carrier permit or motor carrier certificate. A motor carrier seeking a duplicate motor carrier permit or motor carrier certificate shall send a written request to the motor vehicle division and include the carrier name, the permit number, certificate number, or U.S. DOT number, and the statutory fee.

761—524.6(325A) Amendment to a motor carrier permit or motor carrier certificate.

524.6(1) *Update to a motor carrier permit.* A motor carrier seeking to change the commodities being transported under a permit shall submit an updated application to the motor vehicle division, including the permit number and statutory fee for a duplicate permit. Transporting of commodities not listed on the permit is not authorized until a new permit or temporary permit has been issued and is carried in the vehicle.

524.6(2) *Change of name or address for a motor carrier permit or certificate.* A motor carrier seeking to change the name or address shall submit an updated application to the motor vehicle division within 30 days after the change and include the permit or certificate number, old name or address, new name or address and the statutory fee.

761—524.7(325A) Insurance.

524.7(1) *Insurance.* Each motor carrier shall do the following:

a. At all times maintain on file with the department the effective certificate(s) of insurance or a surety bond on a form prescribed by the department.

b. Ensure the insurance or the surety bond is written for a period of one year or more.

c. Provide the department written notice 30 days prior to the cancellation of the insurance or the surety bond.

d. Submit all certificates of insurance to the department electronically in a format approved by the department.

524.7(2) *Self-insurance.* Except as otherwise provided in subrule 524.7(1), the department may allow a carrier to self-insure in lieu of maintaining insurance required under subrule 524.7(1) if the following criteria is met:

a. The intrastate carrier also operates interstate and has been approved by a federal agency to self-insure.

b. The carrier submits a written request to self-insure to the motor vehicle division that includes a copy of the federal agency's approval to self-insure and copies of any information required by that federal agency in approving the request to self-insure.

c. The motor carrier agrees to immediately notify the department if there is any change in the status of the self-insurance for interstate operation.

761—524.8(325A) Self-insurance for motor carriers of passengers.

524.8(1) *Applications for self-insurance.* A motor carrier of passengers with more than 25 motor vehicles may request self-insurance by submitting a written request to the motor vehicle division, including a copy of the carrier's most recent audited financial statement and a vehicle list.

524.8(2) *Review by the department.* The department may request additional information to evaluate the request to self-insure. A request to self-insure will be denied and an existing approval to self-insure will be suspended if the motor carrier fails to meet the self-insurance standard under 49 CFR 387.33T effective as of October 1, 2024. An approval to self-insure is continuous unless canceled. The motor carrier shall annually file audited financial statements with the motor vehicle division within 60 days after the end of the motor carrier's fiscal year.

524.8(3) *Cancellation of self-insurance approval.* The department, upon five days' notice prior to any hearing to cancel approval, may cancel approval of a carrier to self-insure if the carrier fails to file an audited financial statement as required under subrule 524.8(2) or for other reasonable grounds, including but not limited to the failure of the carrier to pay a final judgment within 30 days.

761—524.9(325A) Safety regulations. All motor carriers shall follow the applicable safety regulations in 661—Chapter 22 concerning operation, maintenance and inspection of vehicles.

761—524.10(325A) Financial statement. An application by a motor carrier of bulk liquid commodities (nondairy) or regular-route passengers must include, on a form prescribed by the department, a statement signed by an authorized agent of a lending institution or a certified public accountant attesting to the financial capability of that carrier.

761—524.11(325A) Safety education seminar.

524.11(1) *Requirement.* Except as provided in subrule 524.11(4), persons responsible for the safety records and driver training of applicable motor carriers are required to complete the safety education seminar under Iowa Code section 325A.3(5). Failure to attend an approved safety education seminar within the required time frame will result in suspension of the motor carrier permit or certificate.

524.11(2) *Availability.* The department provides an approved safety education seminar periodically. Information on how to access the seminar is available from the Motor Vehicle Division in person at 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at 515.237.3268; or by email at omcs@iowadot.us.

524.11(3) *Third-party safety education seminar approval.* The motor vehicle division may approve individuals outside the department to conduct safety education seminars. Only the department is authorized to approve the course curriculum. At a minimum, the safety course curriculum is to include the following information:

a. Commercial driver's license regulations.

b. A general overview of the U.S. DOT's motor carrier safety regulations and hazardous materials regulations adopted annually by the department of public safety.

c. Iowa Code sections 321.449 and 321.450 and all associated administrative rules.

d. Iowa Code section 321.463 and all associated administrative rules.

e. Out-of-service criteria.

f. A general overview of the U.S. DOT's Emergency Response Guidebook.

524.11(4) *Exemption.* Passenger carriers with vehicles not meeting the definition of a commercial vehicle as defined in Iowa Code section 321.1 are exempt from attending the safety education seminar and paying the seminar fee. A motor carrier certificate issued for such a carrier contains the following statement: "limited to noncommercial vehicles only." If a motor carrier wishes to start operating vehicles that meet the definition of a commercial motor vehicle, the motor carrier must update its authority with the motor vehicle division. Upon paying the seminar fee and attending the seminar within six months of updating the certificate, the department will issue a new motor carrier certificate removing the limitation.

761—524.12(325A) Lease of a vehicle.

524.12(1) *Lease defined.* "Lease," for the purpose of these rules, means a written document providing for the exclusive possession, control and responsibility over the operation of a vehicle by the lessee for a specific period of time as if the lessee were the owner. A copy of the lease must be carried in the leased vehicle at all times. No motor carrier may have more than one lease covering a specific vehicle in effect at a given time.

524.12(2) *Lease of a vehicle to a shipper or a receiver.* No motor carrier shall lease a vehicle with or without a driver to a shipper or a receiver.

524.12(3) *Marking of a motor vehicle.* Each lessee shall properly identify each motor vehicle during the period of the lease as specified in rule 661—22.9(325A).

524.12(4) *Lease requirements.* Any lease of a vehicle by any motor carrier except under the following conditions is prohibited:

a. Every lease must be in writing and signed by the parties or their regular employees or agents duly authorized to act for them.

b. Every lease shall specify the time that the lease begins and the time or circumstances on which it ends.

761—524.13(325A) Tariffs.

524.13(1) *Requirements.* All motor carriers of household goods shall maintain on file with the motor vehicle division a tariff stating the rates and charges that apply for the services performed under the permit.

524.13(2) *Maintenance.* All tariffs and amendments or supplements must be maintained in physical or electronic format and be legibly printed or produced. No alteration in writing, typing or erasure is to be made in any tariff or supplement.

524.13(3) *Filing date.* All changes to tariffs and supplements are to be filed with the motor vehicle division at least seven days prior to the effective date. Tariffs or supplements issued in connection with applications for motor carriers of household goods may become effective on the date the permits are issued.

524.13(4) *Copy to department.* To file a tariff with the motor vehicle division, motor carriers of household goods or their agents are to submit, including by electronic means, a transmittal letter listing all the enclosed tariffs and include one copy of each tariff, supplement or revised page.

524.13(5) *Title page.* The title page of every tariff and supplement shall meet the following requirements:

a. Each tariff shall be numbered in the upper right-hand corner, beginning with number 1 and shown as follows: Ia. DOT No. …

b. When a tariff is issued canceling a tariff previously filed, the Ia. DOT number of the canceled tariff shall be in the right-hand corner under the Ia. DOT number of the new tariff.

c. Supplements or changes to a tariff shall be numbered beginning with number 1 in the upper right-hand corner along with the number of any previous supplements canceled or changed by the supplement.

d. The name of each motor carrier of household goods must be the same as it appears on the permit. If the motor carrier of household goods is not a corporation and uses a trade name, the name of the individual or partners needs to precede the trade name.

e. Each tariff shall include a brief description of the territory or points from which and to which the tariff applies.

f. Each tariff shall contain the issue and effective dates.

g. Each tariff shall include the name, title and street address of the motor carrier of household goods or the agent by whom the tariff is issued.

524.13(6) *Contents of tariff.* Each tariff shall include the following:

a. A table of contents that is arranged alphabetically.

b. A complete index of all commodities, including the page number. However, no index or table of contents is needed in tariffs of less than five pages or if the rates are alphabetically arranged by commodities.

c. An explanation of all abbreviations, symbols and reference marks used.

d. All rates in the tariff explicitly stated in cents or in dollars and cents per one hundred pounds, per mile, per hour, per ton or two thousand pounds, per truck load (of stated amount) or other definable measure. Where rates are stated in amounts per package or bundle, definite specifications of the packages or bundles must be shown and ambiguous terms, rates, descriptions or plans for determining charges will not be accepted.

524.13(7) *Duplication of rates.* Motor carriers of household goods or their agents shall not publish duplicate or conflicting rates.

524.13(8) *Tariff changes.* All rates and charges that have been filed with the motor vehicle division must be allowed to become effective and remain in effect for a period of at least seven days before being changed, canceled or withdrawn. All tariffs, supplements and revised pages shall indicate changes from the previous tariff. Changes may be indicated by providing a summary or by use of the following symbols:

(R) to denote reductions

(A) to denote increases

(C) to denote changes, the result of which is neither an increase nor a reduction.

524.13(9) *Posting regulations.* Each motor carrier of household goods must post and file, in either physical or electronic format, at its principal place of business all of its tariffs and supplements. All tariffs must be kept available for public inspection.

524.13(10) *Application for special permission.* When making application for permission to establish rates, charges, or rules of the tariff on less than the statutory seven days' notice, motor carriers of household goods and their agents shall use the form prescribed by the department or other form containing all of the required information.

524.13(11) *Powers of attorney.* An agent or other motor carrier of household goods has the authority to file tariffs and supplements on behalf of a motor carrier if the motor carrier completes a power of attorney granting the agent or other motor carrier authority to act on the motor carrier's behalf, subject to the following requirements:

a. The original power of attorney is on file with the motor vehicle division and a copy has been sent to the agent or other motor carrier of household goods who was granted the authority to act by the power of attorney.

b. The motor carrier notifies the department in writing whenever the motor carrier wants to cancel the authority granted to an agent or other motor carrier of household goods by power of attorney. The notification may occur in writing to the department and state the power of attorney is revoked with 60 days' notice. For good cause, the department may authorize less than 60 days' notice. Copies of the notice must also be mailed to all interested parties by the motor carrier.

524.13(12) *Nonconforming tariffs.* The motor vehicle division will review tariffs that do not conform with subrules 524.13(1) through 524.13(11) to determine if the tariffs contain the necessary information and are acceptable. Tariffs that are unacceptable will be returned to the motor carrier with an explanation.

761—524.14(325A) Denial, suspension, revocation, appeal and reinstatement.

524.14(1) *Denial.* The department will deny an application if the applicant fails to meet the criteria for issuance of a permit or certificate under Iowa Code chapter 325A or this chapter.

524.14(2) *Suspension or revocation.* The department may suspend or revoke a motor carrier permit or certificate for a violation of Iowa Code chapter 325A or this chapter. The suspension or revocation shall continue until the motor carrier is no longer in violation.

524.14(3) *Appeal.* A person whose application for a motor carrier permit or certificate has been denied for a reason other than noncompliance with insurance requirements or whose motor carrier permit or certificate has been suspended or revoked for a reason other than noncompliance with insurance requirements may contest the decision in accordance with Iowa Code chapter 17A and 761—Chapter 13 by submitting an appeal request in writing to the director of the motor vehicle division. To be considered timely, the request must be submitted within 20 days after the date of the notice of suspension, revocation or denial and include, as applicable, the motor carrier's name, permit or certificate number; complete address; and telephone number.

524.14(4) *Reinstatement.* Once the suspension or revocation is ended and the statutory fee is paid, the department will issue a new permit or certificate.

These rules are intended to implement Iowa Code sections 321.515 and 321.519 and chapter 325A.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/20/25.

ARC 9514C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to for-hire interstate motor carrier authority

The Transportation Department hereby rescinds Chapter 529, "For-Hire Interstate Motor Carrier Authority," Iowa Administrative Code, and adopts a new Chapter 529 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 327B and section 307.27(8).

Purpose and Summary

This rulemaking repromulgates Chapter 529 in compliance with Executive Order 10. Chapter 529 complies with Iowa Code section 307.27(8) and chapter 327B. Iowa Code section 307.27(8) requires the Department to administer the registration of interstate authority of motor carriers pursuant to federal regulations. Iowa Code chapter 327B requires motor carriers authorized by the U.S. Department of Transportation to perform an interstate transportation service for compensation to register with the Department.

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 9189C**. Public hearings were held on the following date:

- 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 July 8, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking will become effective on September 24, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 529 and adopt the following **new** chapter in lieu thereof:

CHAPTER 529
FOR-HIRE INTERSTATE MOTOR CARRIER AUTHORITY

761—529.1(307,327B) Motor carrier regulations. The department adopts the Code of Federal Regulations, 49 CFR Parts 365 through 368 and 370 through 379, dated October 1, 2024, for regulating interstate for-hire carriers. Copies of this publication are available from the state law library or at www.fmcsa.dot.gov.

761—529.2(307,327B) Registering interstate authority in Iowa. Authorized methods to submit registration for interstate exempt and nonexempt authority to the department include by mail to the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivery in person to 6310 SE Convenience Boulevard, Ankeny, Iowa; or by facsimile to 515.237.3257.

761—529.3(307,327B) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation or the director's designee (director) may, in response to a petition, waive provisions of this chapter. A waiver will not be granted unless the director finds that special or emergency circumstances exist.

"Special or emergency circumstances" means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.

2. Circumstances where the movement is necessary to cooperate with national defense officials.

3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.

4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as but not limited to pollution of natural resources, a potential fire or an explosion.

5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.

6. Circumstances where movement involves emergency-type vehicles.

7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazard to the safety of the traveling public or undue damage to private or public property.

These rules are intended to implement Iowa Code sections 307.12(1)*"j"* and 307.27 and chapter 327B.

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